



WILDERNESS WATCHER

The Quarterly Newsletter of Wilderness Watch

Volume 18 • Number 3 • December 2007

Court Rules to Protect Sierra Wildernesses from Excessive Commercial Pack Stock Use

Wilderness Watch's seven-year legal battle to protect the John Muir and Ansel Adams Wildernesses from excessive and destructive commercial packstock use has taken a huge step forward. On October 30, 2007, federal judge Elizabeth Laporte ruled that the Forest Service's management plan violates the Wilderness Act's requirements to preserve wilderness character and limit commercial services to only those that are truly necessary.

The ruling came in response to a lawsuit originally filed in April 2000 by the High Sierra Hikers Association, Forest Service Employees for Environmental Ethics, and Wilderness Watch. The suit charged that the Forest Service was failing to properly regulate commercial packstock outfitters in the John Muir Wilderness and the Ansel Adams Wilderness. These areas are very popular for backcountry recreation, so much so that quotas were put in place three decades ago to limit the number of people that could visit at any one time.



Campsite denuded of vegetation, John Muir Wilderness, CA.

Commercial packstations, however, were allowed to evade the quotas. While public use was being limited, commercial outfitters' use was allowed to grow. Meanwhile, the Forest Service continued to renew the commercial permits without conducting any environmental analysis of the impacts caused by these operations.

In 2001, the court ruled that the Forest Service was violating the National Environmental Policy Act (NEPA) by failing to properly analyze and disclose the environmental harm caused by commercial packstock. Judge Laporte ordered the agency to prepare an environmental impact statement (EIS), that is the subject of the most recent decision.

In 2004, a three-judge panel of the Ninth Circuit Court of Appeals unanimously upheld Judge Laporte's 2001 order

In This Issue...

On the Watch: Tongass Helicopters & more...
Page 4

Yes Virginia, There is Wilderness.
By Roger Kaye. Page 8

Court Victory Blocks BWCAW-Edge Snowmobile
Trail with Possible National Precedent. Page 10

A New Twist in Light Fiction: The Enviro-Thriller!
Page 13

And Much More!

— Continued on page 3 —

insights

From the President

— By Kevin Proescholdt

I want to express my thanks to the Board of Directors, and especially to outgoing board president Howie Wolke, for the confidence expressed in me as I begin my term as the new President of Wilderness Watch. I have big shoes to fill, following in the footsteps of previous presidents of this great organization people like Bill Worf, Joe Fontaine, and Howie, people who have worked hard to build Wilderness Watch to the point it is today. I hope to prove myself worthy of their trust during my term.

I first became acquainted with Wilderness Watch in 1989, the year it formed, and with Bill Worf, who testified as an expert witness in litigation to stop military overflights above the Boundary Waters Canoe Area Wilderness in Minnesota. I've continued my involvement with Wilderness Watch since then, including serving in 2000 with Wilderness Watch executive director George Nickas on a national rulemaking panel dealing with fixed climbing anchors in Wilderness, and attending Wilderness Watch's first Wilderness Forum in 2002. I joined the Wilderness Watch board of directors in the fall of 2003.

Wilderness Watch is a great organization. It is the one national wilderness conservation organization focused on understanding and promoting proper stewardship of the 107-million-acre National Wilderness Preservation System. Wilderness Watch not only "talks the talk" but "walks the walk" for wilderness values. I have increasingly felt that our organization is the one that best upholds the values and principles enunciated by the founders of the wilderness movement, people like Bob Marshall, Howard Zahniser, David Brower, Olaus and Mardy Murie, Stewart Brandborg, and many others. This is an extraordinary legacy carried on by Wilderness Watch, one of which we should all be proud as members of this fine organization.

Our members have always been the backbone of the organization. You have been generous in your financial support, amazingly committed at renewing your memberships, and eloquent in your letters to federal agencies or policy makers. Together with our expert and dedicated staff, we have collectively made a huge difference on behalf of Wilderness. And, as Howie writes in his column elsewhere in this newsletter, the threats to Wilderness and the need for Wilderness Watch are greater than ever.

So thank you for your continued support. And please consider joining with me as we approach the end of 2007 in giving generously to support this wonderful organization. Please help launch the terrific work of Wilderness Watch into 2008 by making a generous year-end contribution. It's critically important that we continue to strengthen the vital work and legacy of this great organization. Thanks! 



The Wilderness Watcher is the quarterly newsletter of Wilderness Watch, a non-profit organization advocating the protection and responsible stewardship of the nation's designated Wildernesses and Wild & Scenic Rivers.

Board of Directors

Kevin Proescholdt, MN *President*
Jon Dettmann, MN *Vice-Pres.*
Francis Mauer, AK *Secretary*
Bill Worf, MT *Treasurer*
Stewart Brandborg, MT
Roberta Cross Guns, MT
Joe Fontaine, CA
Louise Lasley, WY
Gary Macfarlane, ID
Bob Oset, MT

Counselor
Stewart Udall

Executive Director
George Nickas

Membership & Development
Jeff Smith

Policy Analyst
Randy Tanner

Advisory Council
Magalen Bryant, Dr. Derek
Craighead, Bill Cunningham,
Dr. M. Rupert Cutler, Michael
Frome, Clifton Merritt,
Dr. Roderick Nash.

Wilderness Watch
P.O. Box 9175
Missoula, MT 59807
Phone: (406) 542-2048
Fax: (406) 542-7714
www.wildernesswatch.org
wild@wildernesswatch.org

regarding the NEPA violations. In addition, the appeals court concluded that the Forest Service had also violated the Wilderness Act by failing to preserve and restore the areas' wilderness character that had been damaged by the commercial enterprises. The Court of Appeals stated, "The Forest Service's decision to grant permits at their pre-existing levels in the face of documented damage resulting from overuse does not have rational validity." The appeals court then returned the case to Judge Laporte with instructions to ensure the agency placed reasonable limits on the commercial enterprises and to remedy the documented harm caused by the commercial packstock operations over the years.

Quite surprisingly, when the Forest Service completed the new plan in 2005, it not only didn't reduce commercial packstock use, it granted a substantial *increase* to the businesses.

In her most recent (October 30) ruling, Judge Laporte found that it was "irrational" for the Forest Service to approve a new plan that allows large increases in the commercial operations. She faulted the plan for lacking provisions to mitigate the harm caused by the increased use or restore areas previously damaged by the packstations. In addition, the judge ruled that several other elements of the 2005 plan were illegal because they violated the Wilderness Act, NEPA, or both. Other provisions in the 2005 plan that were ruled illegal included special privileges granted to commercial operators that allowed them to have campfires in areas where the general public cannot, and provisions that allowed commercial packstock to continue grazing in areas with badly eroded meadows, degraded streams, and in habitat for the imperiled Yosemite toad. "The Forest Service...allowed further degradation through increased grazing in already impacted areas in violation of the Wilderness Act," Judge Laporte ruled.

There are two particularly important components to the Judge's ruling that could have important implications for wilderness stewardship in many areas. The first is the court's determination that is unlawful to allow Wilderness conditions to be harmed in order to maintain or increase current levels of commercial use. As the court wrote:

"[The Wilderness Act] requires the Forest Service to limit public use of commercial services...to the extent necessary and only as consistent with the overall imperative of preserving and protecting the wilderness character of the land. Defendants must reconcile the use of commercial services...so as not to elevate recreation over longtime preservation of the wilderness character."

Second, the court found that the provisions in the Wilderness Act limiting commercial services to only the "extent



Red Slate Mountain, John Muir Wilderness, CA.

necessary for activities which are proper" for realizing the benefits of Wilderness do in fact preclude commercially supported activities that are not wilderness dependent, or that exceed what is necessary. For instance, the court found that commercial day rides are not necessary where non-wilderness national forest lands could serve the purpose.

It also found that the use of commercial packstock for carrying gear that is not necessary in Wilderness, such as large radios, heavy floats, and bulky furniture "that are unnecessary for wilderness travel and, indeed, incompatible with the wilderness experience of other people..." is not a lawful use of commercial services in Wilderness. Importantly, the court pointed out that a "desire" or "preference" to use commercial services does not equate to a "need" to use those services, and that the Forest Service's conflating of desire or preference with need was a fatal flaw in establishing the appropriate level of commercial stock use.

It remains for the court to decide what measures it will require to protect these areas from further harm, and to restore previous damage. Judge Laporte has scheduled additional briefings and hearings in the coming months to determine appropriate remedies. It is the final and most significant phase for these two Wildernesses, as it will determine how the legal victories we have gained over the past seven years will be implemented on the ground. 🌿

Stay tuned....

Many thanks to our attorneys, Pete Frost from the Western Environmental Law Center, and Julia Olson, from Wild Earth Advocates, for their determined and tireless efforts to protect the John Muir and Ansel Adams Wildernesses.

Sheephole Valley Wilderness, CA

Sheephole "Guzzler" Challenged Again - Wilderness Watch has joined with the California Wilderness Coalition and six other organizations to protest BLM's approval of the California Department of Fish and Game's proposal to construct a permanent new big game artificial water source ("guzzler") inside the Sheephole Valley Wilderness. The construction will consist of a concrete diversion dam across an ephemeral desert water course, as well as the permanent excavation and installation of a 10,000-gallon, 30-foot-long by eight-foot diameter fiberglass cylinder storage tank and a 2,500-gallon 16-foot-long by four-foot wide by eight-foot deep "drinker." In addition to these permanent structures, the proposed action would involve permanent motor vehicle incursion into the designated wilderness for water trucks to re-fill and maintain the guzzler. The guzzler is one of six new guzzlers the State hopes to build in the Sheephole Valley Wilderness. BLM has estimated that the six guzzlers will result in 37 miles of roads and the presence of maintenance vehicles in the Wilderness on one out of every four days.

This is the second time that Wilderness Watch has filed an appeal to stop construction of the guzzler. BLM withdrew the proposal after the first appeal in order to bolster its analysis of the project.

The Interior Board of Land Appeals has granted our request to stay any construction until it hears arguments on the merits of the appeal.

Tongass Nat'l Forest Wildernesses, AK

Helicopters Grounded on the Tongass? In 2006, Wilderness Watch alerted our members and other conservation groups to a Forest Service Draft Environmental Impact Statement (EIS) that proposed to allow more than 1,100 helicopter landings in 12 Wildernesses on the Tongass National Forest in Alaska. The landings were part of a proposed vegetation survey being conducted on national forests throughout the country. We noted that while we did not object to collecting information about vegetation in the areas, the landing of helicopters was inconsistent with the Wilderness Act and would significantly harm the remote and pristine character of the areas.



Tongass wilderness shoreline, AK.

We have some good news. After hearing our concerns, after reading the dozens of letters sent by Wilderness Watch members, and after hearing from some of his own wilderness staff, the regional forester in Alaska has made an about-face on the landing of helicopters for the inventory! In the recently released Final EIS, the agency is now proposing that all Wilderness survey plots must be accessed on foot. This is great news as it will spare the Wildernesses from an unprecedented invasion of motor vehicles.

We are still concerned that the proposed action authorizes low-level reconnaissance flights to determine hiking routes to 490 plots, and that each of the 913 plots will be "monumented" with small, permanent survey markers. Because the underlying purpose of the project is not necessary to preserve the wilderness character of these places, the impacts from the overflights and the installation of permanent structures is inconsistent with the provisions of the Wilderness Act. We have expressed our concerns to the regional forester in this regard. Nevertheless, the new "hike-only" proposal represents a tremendous step forward, and we're pleased that helicopter landings are no longer part of the preferred plan.

While the official comment period will likely expire by the time you read this article, it is never too late to express your support or concerns to the Forest Service. Wilderness Watch encourages all our members to contact the regional forester for Alaska and express your appreciation for his proposal to forego the use of helicopters for the vegetation survey. Send your comments to Denny Bschor, Regional Forester, USFS Alaska Region, P.O. Box 21628, Juneau, Alaska 99802.

Steens Mountain Wildernesses, OR

Vehicle Access Trumps Wilderness Protection - The Interior Board of Land Appeals (IBLA) has ruled against an appeal filed by Wilderness Watch and the Oregon Chapter of the Sierra Club challenging BLM's authorization of summertime motorized access on a faded route through 17 miles of the Steens Mountain Wilderness to access two undeveloped private inholdings. One of the authorizations was given to a commercial outfitter who held a permit to conduct outfitting in the wilderness and had leased one of the inholdings to set up a base camp.

Shortly after the Steens Mountain Wilderness was designated, BLM gave keys to the inholders so they could drive to their properties. This was several years before BLM ever completed an EA or rendered a decision on appropriate ac-



This logic suggests that BLM has discretion to allow any activity that was occurring prior to designation (snowmobiling, mountain biking, motor vehicle use, etc.) to continue after designation as long as the level of impact remains the same!

cess. We challenged BLM's action to continue allowing the status quo to continue prior to environmental evaluation and formal issuance of an access permit.

To our dismay IBLA ruled that, under NEPA, BLM can allow the status quo to continue after wilderness designation unless an action will result in new adverse impacts. IBLA reasoned that since the property owners and others had occasionally been driving on the route prior to designation, then allowing motor vehicle use to continue would not result in any new adverse impacts. This logic suggests that BLM has discretion to allow any activity that was occurring prior to designation (snowmobiling, mountain biking, motor vehicle use, etc.) to continue after designation as long as the level of impact remains the same! Basing this rationale on NEPA appears to ignore the fact that such activities are illegal under the Wilderness Act.

The implications of this decision for other Wildernesses is unclear. The language governing access to private lands that Congress used in the law designating the Steens as Wilderness veers slightly from the language used in the Wilderness Act.



Desert bighorn sheep, AZ.

The Wilderness Act provides that inholders will be afforded "adequate access." The language used in the Steens Act (and some other recent bills) uses the phrase "reasonable access" IBLA specifically noted this difference, ruling that "Congress articulated a different standard in the Steens Act" and "had Congress intended the same standard to apply, it would not have enacted the special provision" in the Steens Act.

The Judges then defined the difference between "adequate" access and "reasonable" access, citing to the 1973 Random House Dictionary: "Adequate means 'barely sufficient or suitable,' whereas reasonable means 'not exceeding the limit prescribed by reason.'"

Wilderness Watch and the Sierra Club have yet to decide whether to challenge the decision in federal court. IBLA's decision is available online at: <http://www.ibldecisions.com/Ibla/iblaindexes/IblaVols/172ibla.html>

Warm Springs Wilderness, AZ

Enough already...! Not to be outdone by their wilderness ethics-challenged colleagues in California, the Arizona Game and Fish Department is seeking permission to modify and expand a water development in the Warm Springs Wilderness. Known as the "Tipperary Tank Catchment No. 843" (A nice wilderness sounding name, wouldn't you say?), the artificial waterhole—built in 1980 prior to Wilderness designation—has proven to be somewhat unreliable because the rainwater it captures evaporates at a faster rate than it is replenished, and the steep sides of the tank make it hard for bighorn sheep to gain access to the water when the level is low.

The new proposed developments include a shade roof over the tank and constructing stairs on the steep sides. The proposal calls for using gas-powered generators, an electric

— Continued on page 6 —

welder, air compressor, rock drill, power washer, drills, screw guns, chop saw, and a gas-powered water pump. The proposal also calls 48 round-trip helicopter flights to haul workers and supplies to the site.

There are a dozen other water sources within four miles of the Tipperary Tank, providing adequate water for the naturally occurring desert bighorn sheep population. Rather than manage for a naturally regulating population of bighorns, the State treats the Wilderness like a game farm, using the herd as a transplant source herd for relocations throughout the Southwest, and to maintain a high number of animals for sheep hunting. Wilderness Watch has questioned the need for the project on several counts, including the appropriateness of manipulating natural conditions to promote artificially high numbers of game animals, the installation of additional structures in the Wilderness, and the use of motorized equipment and access.

The EA for the project can be downloaded at: http://www.blm.gov/az/st/en/info/nepa/environmental_library.html

Rainbow Mountain & La Madre Mountain Wildernesses, NV

What Next, a Hospital? In what has to be a precedent setting insult to Wilderness stewardship, BLM's Las Vegas Field Manager has authorized the Las Vegas Metropolitan Police Department Special Operations Division to conduct helicopter-assisted search and rescue training in the Rainbow Mountain and La Madre Mountain Wildernesses. The areas' cliffs are popular destinations for hikers, climbers and sight-seers. According to BLM, "occasional injury accidents from falls and disorientation for some who, during the course of exploring, find themselves stranded on remote ledges," lead to 15 to 20 helicopter-assisted rescues each year.

The decision authorizes about 400 helicopter landings per year in approximately 30 different locations in the two Wildernesses. The training would occur over a period of several months each year. BLM's environmental assessment states that, "Training would include landing of a helicopter, generally prohibited under the Wilderness Act of 1964 unless it is the minimum necessary for the administration of the area as wilderness," yet it doesn't explain how the training is the "minimum necessary." BLM's only rationale for the decision states, "Impacts to solitude in the wilderness areas is temporary and has no permanent or long-lasting affect on the values for which the area was designated."

Wilderness Watch is exploring our options to challenge the decision.



Nevada desert wilderness.

The Perfect Last Minute Gift: Wilderness Watch Coffee Mugs

These are beautiful, hand-thrown stoneware mugs made by Sunset Hill Pottery in Wisconsin. They are emblazoned with Wilderness Watch's logo: WILDERNESS WATCH: Keeping Wilderness Wild. You have a choice of two colors, a creamy southwestern red and a two-toned northwestern royal green. They hold a brawny 14 ounces and are safe in the dishwasher and microwave. They cost \$25 each.

To order them, call Jeff Smith, 406 542-2048, ext. 1, or email jsmith@wildernesswatch.org, and we'll package them right up and mail them off with a holiday greeting for your friend or relative.



From the Outgoing President

— By *Howie Wolke*

As the outgoing President of Wilderness Watch (term limits require me to leave the Board of Directors for at least a year), I leave with great confidence in our new President, Kevin Proescholdt. I also end my board terms knowing that our National Wilderness Preservation System has the good fortune to have Wilderness Watch working to keep it wild. That's the good news. The bad news is that real wilderness is in trouble wherever it still exists.

If global warming, habitat destruction and other manifestations of human overpopulation aren't bad enough, increasing numbers of our wilderness colleagues now view wilderness issues from the standpoint of desperation. Typically, they're willing to sacrifice hundreds of thousands of roadless land acres in exchange for a few small new wilderness designations. Equally bad, they're also quick to support various special provisions in new wilderness legislation, which allow uses in wilderness otherwise forbidden by the Wilderness Act or antithetical to the wilderness idea (water developments, motor vehicles, predator control, etc.).

All of this desperate compromising, by the way, is based upon the understandable concern that increasing numbers of humans and their all-terrain vehicles and mountain bikes -- plus who knows what else the future holds regarding not-yet-invented contraptions -- are a formidable political obstacle to protecting and maintaining real wilderness. According to this line of thinking, hoards of newcomers (witness today's radical population growth in much of the West) plus our increasingly well-organized traditional wilderness opponents, make the future political prospects for designating and maintaining big healthy wild wilderness increasingly poor. So in order to make wilderness palatable, many conservationists are willing to settle for wilderness without soul, wilderness that's smaller and less wild than it ought to be.

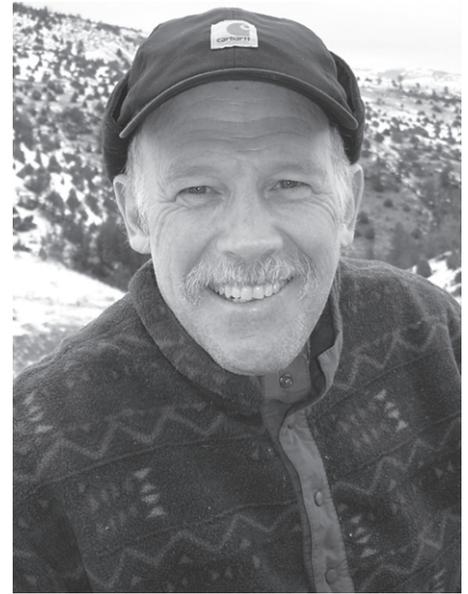


The irony is that as more of the planet becomes overcrowded, polluted and impoverished, real wilderness will gain value.

The irony is that as more of the planet becomes overcrowded, polluted and impoverished, real wilderness will gain value. That's a simple reality based upon the law of scarcity. When valuable things become rare or unique, people want them more than ever. In other words, now isn't the time to give up on the wilderness idea. Now it's more important than ever to keep the bar set at the highest possible level. That means instead of redefining wilderness so that it's more palatable to traditional opponents or even to folks who simply want a softer, more convenient experience, let's use more of our collective conservation energy to locate, educate and energize potential allies. Wilderness is wondrous! In my opinion, wilderness is the greatest idea of modern times! According to polls, folks who care about wilderness and the natural environment greatly outnumber those who selfishly whine for more access, more motors, more pavement, and other such conveniences and gadgets.

A couple of other thoughts. First, this won't be my final word in this fine publication. I intend to remain a part of this organization, simply because of the quality of the people involved and, of course, because of the vital importance of Wilderness Watches' mission to keep wilderness wild.

And finally (for now), please consider passing on your copy of Wilderness Watcher -- after you've read it cover to cover, of course -- to a thoughtful friend or relative who isn't yet a Wilderness Watch member. Tell her why this organization is so important, and ask her to please join and support its vital mission. Although we "wild preservatives" (as Ed Abbey once called himself) sometimes work hard to avoid coming across as "preachy", if we don't take it upon ourselves to spread the word about real honest-to-goodness big live wild natural uncompromised untrammelled wilderness, who will? The answer, quite obviously, is this: not a soul. We mustn't let that become our legacy. ♪



A Christmas Letter ~ Yes Virginia, there is Wilderness

— By Roger Kaye

Virginia asks:

Some academics, even some conservationists now, say that there is no real Wilderness. They support protecting some natural areas, but argue that the ideas and ideals associated with Wilderness are just “ideology” and not a real part of these areas’ function, value, or character. Please tell me, is there really wilderness?

Virginia, these people deny Wilderness because they don’t realize the varied purposes wilderness areas were intended to serve. They haven’t come to understand the underlying meaning of the wilderness concept, or the deeper intent of the Wilderness Act’s prescription to preserve wilderness character. Afflicted by the skepticism and pragmatism of a materialistic age, their understanding has been limited to the physical attributes of a landscape that can be counted, measured, plotted on a graph, or programmed into the latest computer model. They don’t realize how the tangible qualities of an area set apart to remain natural, wild, and free converge with the meanings humans find in it to shape its wilderness character.

Yes Virginia, Wilderness is real, as a physical environment and, importantly, as a symbolic landscape—a touchstone to the natural world of our origin, our embedded membership, and our obligation. Its reality transcends a designated landscape’s scenic condition, its service as a repository of wildlife habitat, clean water, biodiversity, natural processes, and its opportunities for adventurous recreation, inspiration, and restorative experiences.

Consider how the Wilderness Act defines Wilderness: “an area where the earth and its community of life are untrammelled by man.” The Act’s scholarly author, Howard Zahniser, purposely chose the uncommon keyword *untrammelled* because it best conveyed the notion of an area left wild. That is, left free from the human propensity to control, alter, and manipulate nature. Foremost, Wilderness was intended to be free—not just for the tangible benefits it provides us, but also for how an area we allow to be there for itself might enable us to see ourselves. The very existence of some areas that are allowed this freedom, Zahniser believed, would serve an increasingly important human need. “The need,” he wrote, is for “areas of wild nature in which we sense ourselves to be . . . dependent members of an interdependent community of living creatures . . .”



Olaus Murie, Howard Zahniser, and Adolph Murie in Denali Park, 1961. These leaders understood that Wilderness is real, as a physical environment and, importantly, as a symbolic landscape.

“To know the wilderness,” Zahniser eloquently explained, “is to know a profound humility, to recognize one’s littleness, to sense dependence and interdependence, indebtedness, and responsibility.” To elicit this humbling recognition, to awaken this sense of relation, and evoke this feeling of obligation is an underlying purpose of Wilderness; its capacity to do so is a function of its *character*.

I was reminded of how easily we can lose sight of such fundamental purposes last December while attending a Christmas Eve play at my hometown church.

The setting was a busy shopping mall. A young girl and her mother were walking down the glittered halls, caught up in the hubbub of holiday buying. All around them, signs screamed “Christmas Sale!” Laden with packages, they passed a long line of impatient children waiting to give Santa their orders. They slowed to watch an amusing display of animated elves making presents. They almost missed the nativity scene off to the side. Curious about this incongruity, a poor couple from the backwaters of Galilee with their baby in a dingy manger, the little girl paused, then pointed. “Mommy, what’s *that* got to do with Christmas?”

Mom was at a loss for words. She'd forgotten—and her daughter had never really learned—the original meaning of the holiday. Christmas, remember, was a day set aside to celebrate the humble arrival of a social reformer who, after wandering the desert wilderness for 40 days, returned with a mission: to remind us of our need to rise above the narrow confines of self interest and to tell us that the greater meaning of our life is only to be found in its relation to the larger community.

This, Virginia, is the core, not just of Christianity, but of all spiritual traditions. And it's implicit in the wilderness concept. As a place symbolically set apart from, and in contrast to, our individualistic, commodity-driven culture, Wilderness opens the receptive mind to, as Zahniser summarized, "an awareness of our human existence as spiritual creatures nurtured and sustained by and from the great community of life that comprises the universe, of which we ourselves are a part."

It's revealing that the Wilderness Act's author was neither a backcountry adventurer nor a scientist. The son of a minister whose four brothers were ministers, and the father of two ministers, Zahniser was grounded in this spiritual origin and vital force of the early wilderness movement.

He was an ardent student of Henry David Thoreau who found that being in wilderness enabled him to "cast off the baggage of civilization," and come to the humbling recognition that we are "an inhabitant, or part and parcel of nature." He earnestly studied the writings of John Muir who preached that wilderness enables "over-civilized" Americans to see themselves as not the purpose of this planet, but as "a small part of the one great union of creation."

In crafting the Wilderness Act, Zahniser also drew upon the insights of his biologist friends. One was Sigurd Olson, also the son of a minister who, foremost, saw wilderness as providing man with a "sense of close relationship, belonging, and animal oneness with the earth and the life around him." Another was Aldo Leopold, who described the wilderness idea as "an intelligent humility towards man's place in nature." A seminal influence was Zahniser's co-director at the Wilderness Society, Olaus Murie, who emphasized that wilderness served "our mental and spiritual needs—hard to define but of greatest importance."

The founders of the wilderness movement and framers of the Wilderness Act acknowledged that these innate components of our humanity defy ready definition. But they become more apprehensible through the medium of landscapes we dedicate to nature's freedom. Those few places defined by what *we refrain* from doing. Those places whose character, like that of a church or cathedral or temple to which Wilderness is so often compared, derives from the meaning we imbue to them and thus, the values they come to embody.

You see, Virginia, the character of wilderness is, ultimately, a reflection of our character. It's an expression of our willingness to yield our use, convenience, and profits to something beyond human utility. It reveals that better part of ourselves willing to subordinate our immediate interests to those of other species and future generations of our own.

"Humans realize their best welfare," Zahniser paraphrased Jesus, "by losing sight of themselves." Therein lies a paradox underpinning the wilderness concept, and, in fact, the wisdom of all spiritual traditions: In realizing our insignificance, we find greater significance. Humility is ennobling. When primacy of the self gives way to a sense of being part of a larger whole, a more purposeful, strengthened sense of self emerges.

The great prophets, and visionaries across cultures and throughout time, went to the wilds to penetrate this transcendent truth. But you needn't venture into the Wilderness to find meaning in what it represents. Wilderness is also there for you as a symbol. Call it, as some do, the embodiment of an ideology or, as Wallace Stegner preferred, as our "geography of hope," Wilderness is there to serve, as all symbolic places do, as a touchstone to our ideals and aspirations.

And if our nation truly aspires to provide for an undiminished future, then Wilderness is there as a point of reference. It is there as an encouraging reminder of our capacity to limit our effect upon the natural world. It's there as an inspiring demonstration of our willingness to accept restraint. Wilderness is there as a legacy, even there as a precedent for placing the notion of environmental humility in law. Limitation, restraint, and humility—they've never come easily to distracted Americans. But never has our need for them been greater. Never before has it been so imperative that we, as individuals and as a nation, rethink our relationship with the biosphere we jointly inhabit.

"Perhaps, indeed, this is the distinctive ministrations of wilderness to modern man," Zahniser concluded, "the characteristic effect of an area which we most deeply need to provide for in our preservation programs." If you can see why Zahniser chose the word *ministration*, meaning to minister to, to serve ultimate needs, then you will understand why the mandate to preserve wilderness *character* resonates through the Wilderness Act.

So Virginia, don't let the wilderness skeptics and secularists convince you to replace *Wilderness* with sterile terms that strip these designated—consecrated—areas of their central symbolism. Don't let them distract you from understanding that the concept of Wilderness, like the real message of Christmas, was born of the universal human need for meaning outside and beyond our individual selves.

— Continued on page 10 —

Don't let the forces working to commercialize and commodify either obscure their common, profound purpose. Caught up in the rush toward more and more consumption and an ever, ever higher standard of living, we need these affirmations of our capacity to rise above the materialism and utilitarianism that rule the major part of our lives. At a time when our profligacy is fundamentally altering this shared planet, we need places and times to remind us that, as Zahniser said, "the real source of all our life is not in ourselves . . . we live only as members of a community."

Yes Virginia, Wilderness is real. Wilderness exists as certainly as those remnants of natural beauty and wholeness its designation protects, and as certainly as the altruism and hope for the future its character embodies.

So this holiday season, stand back for a moment and consider the common message of Christmas and Wilderness, the time and the place set apart to enlarge our perspective. Each, so understood, offers some much needed Joy to the *world*, (not just to us), peace on *Earth*, and goodwill to *all*—those people and creatures, of the present and future—with whom we share this conflicted globe. ❧

REFERENCES

Zahniser, Howard. 1957. The need for wilderness areas. *Living Wilderness* (Winter-Spring, 1956-57). All references to Zahniser are from this article.

Thoreau, Henry David. 1906. Walking. In *Excursions and Poems, vol 5, The Writings of Henry David Thoreau*. Boston: Houghton Mifflin.

Muir, John. 1918. *A Thousand Mile Walk to the Gulf*. Boston: Houghton Mifflin.

Olson, Sigurd. 1966. The spiritual need. In Bruce M. Kilgore, ed. *Wilderness in a Changing World*. San Francisco: Sierra Club.

Leopold, Aldo. 1987. *A Sand County Almanac, and Sketches Here and There*. (originally published in 1948). New York: Oxford University Press.

Murie, Olaus. 1960. Testimony Before the Merchant Marine and Fisheries Subcommittee on S. 1899, A Bill to Establish the Arctic Range, 1959, 86th Congress, 1st session, part 1, 1959; Washington, D.C.:GPO.

Stegner, Wallace. 1966. Wilderness idea. In Stegner, *The Sound of Mountain Water*. Garden City, NY: Doubleday and Company.

Court Victory Blocks BWCAW-Edge Snowmobile Trail with Possible National Precedent

— By Kevin Proescholdt

In a two-part decision released first in August and later at the end of September, U.S. District Judge John Tunheim enjoined the U.S. Forest Service from building a new snowmobile trail at the eastern tip of Minnesota's 1.1 million-acre Boundary Waters Canoe Area Wilderness (BWCAW) pending completion of a full environmental impact statement (EIS). His ruling also may set a national precedent that could help protect Wilderness areas across the country.

Wilderness Watch joined with the Izaak Walton League of America, Sierra Club North Star Chapter, and Northeastern Minnesotans for Wilderness in filing a suit in August 2006 to block the Forest Service from building a new 2.2-

mile snowmobile trail along a cliff just barely outside the border of the BWCAW overlooking Royal Lake, which lies within the Wilderness. Snowmobiles on the proposed trail would be heard and seen far within the Wilderness. The trail would run from McFarland Lake, which lies outside the Wilderness, eastward just south of the Wilderness boundary, to South Fowl Lake, which sits astride the international boundary.

We argued several main points in this case. First, the plain language of the 1978 BWCAW Act (P.L. 95-495) clearly indicates that the waters of South Fowl and North Fowl Lakes lie within the BWCAW boundaries (and the new snowmobile trail would provide access to a lake on which



Seagull Lake in the Boundary Waters Canoe Area Wilderness.

snowmobiling should be prohibited). Secondly, inadequate environmental review was done on the project and a full EIS is needed. And next, that building a new snowmobile trail would violate Forest Plan standards designed to protect Canada lynx. Of these claims, the judge agreed with only the environmental review claim, though this one count was enough to block the trail at least in the short run.

But the most important claim from a national perspective, and the principle focus for Wilderness Watch in the case, was the claim that the new trail would degrade the wilderness character of the BWCAW in violation of Section 4(b) of the 1964 Wilderness Act:

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.

The Forest Service admitted in its environmental assessment and during the court proceedings that the new trail would send snowmobile noise echoing off the cliff far into the BWCAW, but the agency argued that it need not comply with the Wilderness Act's mandate cited above because the new trail would run just outside the Wilderness boundary. The agency argued that it needs only preserve wilderness character from its actions inside the Wilderness, but could, in effect, degrade the area's wilderness character at will from just outside the boundary.

Wilderness Watch and the other plaintiffs strongly disagreed with this narrow interpretation of the agency's responsibilities, and noted that neither the Wilderness Act nor the Forest Service's own regulations provides such narrow geographic or spatial limitations on the mandate to protect wilderness character.

Judge Tunheim completely agreed with Wilderness Watch on this point. He wrote:

The Court finds that the plain language of § 4(b) makes no distinction based on the source of the allegedly degrading agency activity. Rather, § 4(b) mandates that any agency administering the wilderness area "shall be responsible for preserving the wilderness character of the area." 16 U.S.C. § 1133(b). The text of § 4(b) indicates that the agency's duty to preserve the wilderness is wholly independent of the source or location of that activity.

The judge's ruling, however, did not forever prohibit the construction of the trail, nor did he agree that any new impact, no matter how small, would degrade wilderness character. To determine the impacts on wilderness character, he ordered the Forest Service to conduct an EIS and denied our claim "without prejudice," meaning that we can raise this issue later after the EIS has been completed. Though Judge Tunheim left open the possibility that the agency could conceivably do the EIS and again choose the cliff trail route closest to the Wilderness, he also indicated how he would likely analyze the situation should the conservation organizations later challenge such a decision in court:

In other words, where the agency activity does not increase or exacerbate the existing sound impact on the wilderness area, such activity would not degrade the wilderness character of the area. On the other hand, agency activity that results in noise that is louder, more constant, more frequent, or of a different quality, is more likely to degrade the wilderness character from its present condition and thus violate § 4(b).

This court victory has the potential to set a national precedent that may allow Wilderness Watch and other wilderness advocacy organizations to protect Wildernesses across the country from agency impacts just outside the wilderness boundaries (though many wilderness designation laws have included anti "buffer zone" language that would preclude similar protections for those areas). It is with this type of careful and strategic court challenge that Wilderness Watch continues to engage in order to win court rulings and precedents to help protect the entire National Wilderness Preservation System.

Many thanks to the Minneapolis law firm of Faegre and Benson for representing the conservation organizations in this important case, and to the terrific team of attorneys there who worked on the case: Kristen Gast, Jon Dettmann (Wilderness Watch's Vice President), Rick Duncan, and Brian O'Neill. 🌿

Kevin Proescholdt works as the Wilderness and Public Lands Director of the Izaak Walton League of America, and serves as the President of Wilderness Watch.

Judge Rules Against Wilderness and Public Access in the Grand Canyon

On November 27th, Federal Judge David Campbell ruled against a lawsuit that sought to eliminate motorboat use on the Colorado River in Grand Canyon National Park, and to force the park service to develop a more fair process for allocating use between self-guided rafting parties and commercial outfitters. The suit was brought by River Runners for Wilderness, Rock the Earth, Living Rivers and Wilderness Watch.

The lawsuit contended the 2006 Colorado River Management Plan violates the National Park Service's own policies that call for protecting and managing all recommended and proposed wilderness within the national parks as though the area's were designated as Wilderness.

The lawsuit claimed that the plan violates the park service's Organic Act because it essentially allows private companies to determine who has access to the park, and because motorboats impair the park's soundscape. Historically, those seeking to float the canyon on a self-guided trip had to wait up to a decade or more on a waiting list before getting access to the river. Conversely, those willing to pay to go on a commercially outfitted trip could go every year, no waiting required. The new plan replaced the waiting list with a lottery system that still guarantees self-guided users will have significantly less chance to float the river than will paying customers.

The suit also claimed the plan violated the Concessions Act, which limits commercial use to that which is necessary and appropriate and "consistent to the highest practicable degree with the preservation and conservation of the resources and values" of the Park.

Judge Campbell ruled that the park service is not bound by its own policies, and therefore is not required to manage the park service-recommended wilderness in a manner consistent with the Wilderness Act. He noted that this issue has been interpreted differently in another federal court case, but chose to "respectfully disagree" with that contrary ruling. With regard to the Concessions Act, he held that the agency has broad discretion to determine what amount of use is necessary and appropriate. He conceded that that current plan might not be consistent with protecting the resource to high-



Grand Canyon Nat'l Park, AZ. Photo by Tom Martin.

est practicable degree, but determined that the law should be read to allow any type and level of use that the park service deems appropriate, and then to manage that level of use to the highest practicable degree of protection.


"If we can't find peace and solitude in the wild heart of Grand Canyon National Park, then soon there won't be anywhere in the country where one could go to experience natural quiet."

With regard to the Organic Act, the court seemed to be satisfied that the current plan provides fair access to the self-guided boater. The judge based this conclusion largely on the fact that a private boating group, the Grand Canyon Private Boaters Association, collaborated with the park service and the Grand Canyon River Outfitters Association, the con-

cessionaire group that runs motorized tours, in crafting the current plan. The judge also ruled that that human-made noise from backpackers, non-motorized rafters, and aircraft overflights all contributed to the diminishment of the Park's natural quiet, and thus it was okay to allow the additional degradation caused by motorboats.

Rock the Earth's president and executive director Marc Ross responded to the ruling, "If we can't find peace and solitude in the wild heart of Grand Canyon National Park, then soon there won't be anywhere in the country where one could go to experience natural quiet."

The plaintiff organizations are contemplating appealing Judge Campbell's ruling to the Court of Appeals. 🐾

A New Twist in Light Fiction: The Enviro-Thriller!

— By Jeff Smith

Thrillers usually give short shrift to environmentalists, uniformly conceiving them as antisocial egomaniacs who want to rid the earth of the virus of their fellow human beings. We never really know why they want to destroy the rest of us. They just do.

Such a doomsday scenario is at the core of Wyoming resident Kyle Mills' new novel, *Darkness Falls*, with two new twists: the environmentalists, with a few exceptions, are honorable people and the detective, Mark Beamon, recognizes them as partners in solving the crime.

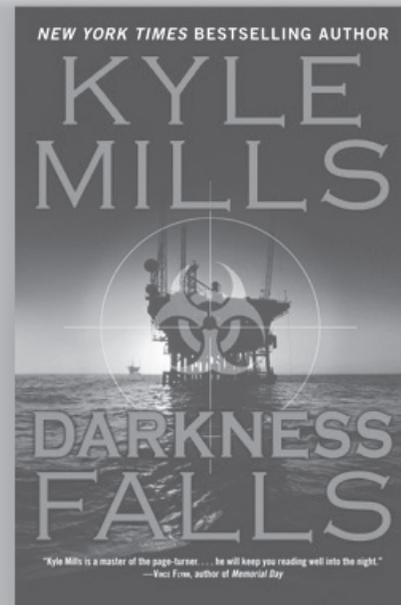
Darkness Falls isn't going to get to the top of the best literature shelf, but it's a good airport read. If you read these thrillers in the closet like me – don't tell anyone – you'll be relieved not to have to suffer another one-dimensional portrayal of environmentalists.

Here's the setup. After the virulent bacteria gums up production in oil wells in Saudi Arabia and Northern Alaska, federal investigators summon the world's expert in such organisms, biologist Erin Neal. Head of his own oil spill clean-up company, Neal has made a fortune, enough to retire at 37 to a solar powered retreat where he's mourning the loss of the love of his life, Jenna Kalin, who has apparently been killed in a Greenpeace-styled action.

The mysterious bacteria prove extremely effective, spreading throughout the Saudi's largest oil field. Before you know it, the bacteria become the nation's number one national security issue, with a bumbling president and his steroidal cabinet slamming fists on conference room tables and knocking heads to find a scapegoat. They center their attention on Neal.

Neal realizes that someone has purposely released the bacterial infection – sabotage! -- and that it's genetically engineered, matching a bacterial strain he had designed but chose not to manufacture. There was only one person who knew about his formula . . . Jenna! Neal disappears before the FBI's most iconoclast agent, Beamon, can get the handcuffs on him.

We soon meet the mastermind of the plot, the wealthy villain Michael Teague, who thinks the swift destruction of the oil economy and the death of half of the world's population are good things, as long as his sustainably powered getaway in the wilderness remains viable. Two misanthropic brothers, Germans named Jonas and Udo, are willing to do anything Teague asks, and they've tricked Jenna (She's alive!)



Darkness Falls

Author: Kyle Mills

Hardcover: 301 pages

Publisher: Vanguard Press (October 23, 2007)

Starred Reviews: Publishers Weekly, Booklist

into disabling the oil wells desecrating the Arctic National Wildlife Refuge.

Darkness Falls is the author's eighth book, and can he pace the plot, taking us to the wilds of Alaska, Saudi Arabia's Ghawar desert, and Alberta's tar sands. I liked the way he imagined the average American adapting to an oil-is-precious economy. He's an optimist. We can stop this incessant whining and come together with toughness and imagination. The rough spots in Mills' writing appear during some of the action sequences, where kitchen knives and pistols and too many doorways and light switches prolong and confuse what should be straight-forward fight scenes. I also didn't like when the FBI agent, Beamon, exchanges his hardboiled exterior for a more slothful persona, swilling Scotch and relying on Neal and Jenna to do the heavy lifting.

But the author sets an elaborate table. Politicians are completely corrupt and selfish. The CIA is full of torturing thugs. The average American is overweight but willing to adapt when gas climbs to six-fifty a gallon. And it's a treat that the big brains belong to the environmentalists, heroes saving the planet just in time. ♪

Gift Memberships Make A Very Merry Wilderness!

Here's the thing. You love wilderness. You have relatives and friends who love wilderness. Why not give them a membership to Wilderness Watch?

We'll do our part, discounting the membership to \$10 and sending your relative / friend(s) a card announcing your gift. The card will have the magnificent photo of Denali.



Everybody wins!

Just fill out the form below. (Copy it if you want to give memberships to more than one person.) You can also go to our website, www.wildernesswatch.org and follow the links to our recently improved donations page. Or call Jeff Smith, (406) 542-2048, ext. 1.

We'll get the announcement to the chosen person(s). Thank you in advance!

Your Name: _____

Yes, please give a \$10 gift membership to Wilderness Watch to:

Name: _____

Address: _____

City: _____

State/Zip: _____ / _____

Phone: _____

Special Message: _____

Mail completed form to: Wilderness Watch
 P.O. Box 9175
 Missoula, MT 59807

Bequests, Endowment, & Charitable Annuities: Wilderness Watch unveils a Legacy for Wilderness Campaign

There's no doubt that Wilderness Watch members are quite extraordinary. A significant percentage of this organization's income comes from members' renewals and donations, and your calls, letters and activities in the field make all the difference "on the ground" where it really counts. We couldn't do what we do without you.

It's also true that Wilderness Watch is blessed with members who think long-term. Our members are well-informed about wilderness. They know what the Wilderness Act says, and they know how critical the role of citizens is to make the dream of the National Wilderness Preservation System come true. Our members do what they do and Wilderness Watch does what it does knowing that our efforts will outlast each of us and our short time here on Earth.

So Wilderness Watch has created a new way for our existing members to support the long-term interests of wilderness protection—our Legacy for Wilderness campaign.

- Bequests are gifts of personal property passed on to Wilderness Watch through a will at the end of life. The donor can tailor these contributions to a specific program

or leave them open for general operating expenses. Adding Wilderness Watch to a will is as simple as adding a statement such as: "I give the sum of \$_____ to Wilderness Watch, a charitable organization located in Missoula, Montana, to use as the board of directors determines." (Your attorney should review all statements.)

- Gifts to our Endowment are donations to a special permanent fund. Wilderness Watch invests its endowment, and, when authorized by the board, uses the interest to pay for programs to preserve and protect wilderness.
- Charitable Annuities are strategic gifts that both provide income to Wilderness Watch and guarantee payments to the donor and/or a spouse. Often annuities come with advantageous tax benefits. (This is particularly true in Montana, where legislators recently re-authorized the Montana Endowment Tax Credit.)

To learn more, call Jeff Smith, (406) 542-2048, ext. 1, or check the appropriate box on the form below, fill in your name and address, and send it back to us. Thanks for thinking ahead!

LOVE THE WILDERNESS? Help Us Keep It Wild!

Yes! I would like to make a contribution and help defend Wilderness!

Here is an extra donation to help protect Wilderness!

\$30 \$50 \$100 \$250 \$ _____

I would like to become a member!

\$15 \$30 \$50 \$500 \$ _____
Living Regular Contributor Lifetime Other
Lightly

My check or money order is enclosed.

Please charge my: Visa MasterCard

Card # _____

Exp. Date ____ / ____ / ____

Please send information about the **Wilderness Legacy Donor Program.**

Name: _____

Address: _____

City: _____

State/Zip: _____

Phone: _____

E-mail: _____

(to receive our monthly e-mail update)

Please make checks payable to: "Wilderness Watch"

Mail to:

P.O. Box 9175,
Missoula, MT 59807

You may also make a secure online donation at our website www.wildernesswatch.org



Happy Holidays!



Wilderness Watch
P.O. Box 9175
Missoula, MT 59807
p: (406) 542-2048
f: (406) 542-7714
www.wildernesswatch.org

NON-PROFIT
Organization
U.S. Postage
PAID
Missoula, MT
Permit No. 569

CHANGE SERVICE REQUESTED



Printed on 100% recycled,
unbleached paper