



# WILDERNESS WATCHER

A Voice for Wilderness Since 1989

The Quarterly Newsletter of Wilderness Watch

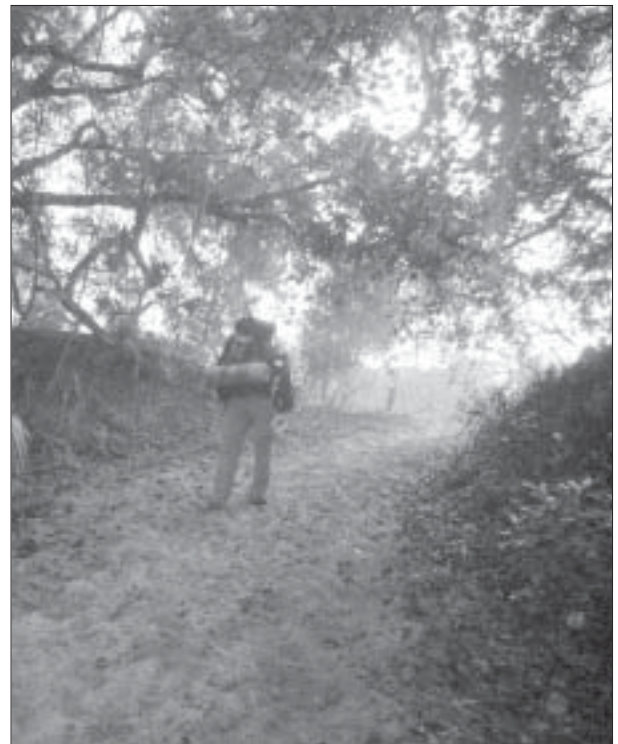
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## Court Rules Park Service Violates Wilderness Act End of motorized vehicle tours in Georgia's Cumberland Island Wilderness

— By George Nickas

**T**he U.S. Court of Appeals for the Eleventh Circuit recently slammed the door on the National Park Service's motorized sight-seeing tours through the Cumberland Island Wilderness. In one of the most detailed and powerful court opinions for Wilderness preservation, the three judge panel ruled that the motorized tours violate both the Wilderness Act and the National Environmental Policy Act.

The ruling puts a stop to the sight-seeing tours the park service initiated in 1999 as a part of an "agreement" between anti-wilderness factions on the island, Clinton administration officials, a local Congressman and some conservation groups. Wilderness Watch opposed the agreement arguing that motorized tours in Wilderness were illegal and damaging to the area's wilderness character. The



Cumberland hiker. WW file photo.

court agreed, writing that "The language of the ... Wilderness Act demonstrate[s] that Congress has unambiguously prohibited the Park Service from offering motorized transportation to park visitors through the wilderness area."

Cumberland Island contains historic structures dating from the late 1800s to mid-1900s. Most of the popular tour sites lie outside the Wilderness boundary on the south end of the island and will not be affected by the court's ruling. Congress recognized that the few sites within the wilderness boundary compromised the qualities of the area, but indicated its intent that natural processes should erase these impacts over time. Even Alaska's notoriously anti-environmental congressman Don Young supported the designation noting that the area "will change to pure wilderness status with the passage of time and the disappearance of facilities and activities which are contrary to wilderness."

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**Celebrate  
Wilderness**

40  
years

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# insights

## From the President's Desk

— By Joe Fontaine

This September we honor the 40th anniversary of the Wilderness Act, the visionary legislation that created the National Wilderness Preservation System in 1964. Though forty years is not a long time in the course of history, we can all be proud of the 106 million acres protected by the Act, comprising some of America's most vital and beloved wild lands. The Wilderness Act does a magnificent job of defining Wilderness and how it should be cared for and used. Indeed, all of us who care about Wilderness have much to celebrate, and yet there is also concern. Concern over the long-term preservation of the Wilderness resource, concern about the impacts of overuse and commercialization on our greatest wild areas. Concern that the rise of electronic gadgets and conveniences results in the decline of self-reliance and backcountry skills. And ironically, concern with the poor management practices utilized by the federal agencies entrusted with protecting the public's wilderness system.



Though these concerns are legitimate, they are only symptoms of an even larger problem. In spite of its grand eloquence, the Wilderness Act cannot protect Wilderness from the gradual erosion of attitudes about what Wilderness is and how it should be used. What we are facing is a cultural problem as old as civilization itself. How many institutions have survived the test of time as cultures emerge, evolve, and disappear? Our own constitution has survived reasonably well for over 200 years. Shouldn't wilderness advocates be looking at a time frame at least that long? Compare how we regard Wilderness today with the attitude of our forebears who considered Wilderness an obstacle to progress. How will the attitude of our children and grandchildren about Wilderness differ from ours?

Over the short run we must be sure that the Wilderness we have today does not suffer from degradation. We work hard to this end and, in spite of setbacks, we have achieved some remarkable successes. But over the long run the battle is for people's minds. If the concept of Wilderness is gradually lost in the overwhelming crush of modern life, all of our efforts will have been wasted. We must be on constant guard against seemingly innocuous compromises that can add up over time to a death of a thousand cuts. We must adhere to the tenets of the Wilderness Act and use the standards delineated there as a base line to prevent the erosion and eventual loss of the concept of Wilderness.

We cannot succeed if we talk only among ourselves. We must reach out to the larger public and remind them that in preserving Wilderness we preserve an important component of the culture that shapes our lives. The American public is predisposed to support wilderness preservation but it is up to us to take advantage of that opportunity. We must remind them that a Wilderness experience is not just an opportunity for people to say "been there, done that". It is a chance to experience freedom and challenge away from "civilized" life as well as an opportunity to feel part of a far larger community of life. In short, Wilderness is essential to reminding us what it means to be human, where we came from and where we are going.

Convincing the public to maintain its support of pristine wilderness and reminding them of its importance to the future of our culture is essential. Concurrently, protecting Wilderness and meeting the needs of people are not mutually exclusive. We know these statements to be true - it is up to us not to let the public forget them.



**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.

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# Court Blocks Forest Service from Increasing Motorboat Permits in Boundary Waters Canoe Area Wilderness

— By Kevin Proescholdt

In a clear victory for wilderness, Federal District Judge John Tunheim issued a ruling on August 26<sup>th</sup> that blocks the U. S. Forest Service from dramatically increasing the number of motorboats in Minnesota's 1.1 million-acre Boundary Waters Canoe Area Wilderness (BWCAW).

The Forest Service had raised the number of day-use motorboat permits for three "chains of lakes" from the previous level of 2,376 up to 6,892, a tripling of motorboats on these lake chains within the canoe country wilderness. Judge Tunheim's ruling will force the agency to reduce the motorboat permits to the previous lower level. The three lake chains are Moose-New Found-Sucker-Birch, Seagull River-Gull-Saganaga, and White Iron-Garden-Farm-South Farm.

The case stems in part from the 1978 BWCA Wilderness Act (P.L. 95-495) and in part the area's 1993 management plan. The 1978 law required the agency to establish entry point quotas for the BWCAW, the nation's most heavily visited unit of the National Wilderness Preservation System, and to cap motorboat use at the annual average that existed from 1976-78. Quotas were required for both overnight motorboat visitors (on those lakes where motorboats were still allowed) and overnight paddle-only visitors, and for day-use motorboats. On lakes that are partially within the wilderness boundaries, homeowners and resort owners and their guests (located on the portion of the lake outside the wilderness boundary) were exempted under the law from needing a permit to travel on that particular lake on which their homes or resorts were located.

But the 1993 plan continued the Forest Service practice of allowing these so-called "exempt users" to travel deep into the interior of the wilderness on chains of lakes that were accessible from the entry lake. In allowing this use, the agency permitted far more motorboat use within the wilderness than Congress intended, since these "exempt" visitors did not have to compete with the general public for the limited number of available motor permits. Wilderness advocates challenged this practice in an administrative appeal and subsequent litigation. In 1999 the Eighth Circuit Court of Appeals ruled that this Forest Service practice was unlawful.

Rather than abide by the appeals court ruling, the Forest Service decided to recalculate the required overall motorboat cap and raise the quotas to allow more motorboat use under the permit system, even though the appeals court did not direct the agency to recalculate the motorboat cap or quotas. It was this effort to recalculate the cap on motorboat permits and triple the motorboat quotas that was blocked by Judge Tunheim's ruling.



Boundary Waters Wilderness. WW file photo.

In his opinion, Tunheim wrote, "There is no indication that the [appeals court] fathomed that the USFS would use its decision as justification to take the rather extraordinary step of recalculating a statutory cap that had been set for nearly two decades." His ruling upholds this part of the 1978 law and blocks a dramatic increase in motorboat use within the wilderness.

The Minneapolis law firm of Faegre and Benson did a terrific job of representing the plaintiffs in this case: Friends of the Boundary Waters Wilderness, Sierra Club, Superior Wilderness Action Network, American Lands Alliance, Minnesota Canoe Association, American Canoe Association, and Minnesotans for Responsible Recreation. Thanks go to Betsy Schmiesing, Rick Duncan, Brian O'Neill, and Colette Routel from Faegre for their superb work. 🐾

*Kevin co-authored Troubled Waters: The Fight for the Boundary Waters Canoe Area Wilderness. He directed the Friends of the Boundary Waters Wilderness for 16 years, and is the Midwest Director for Wilderness and Public Lands for the Izaak Walton League of America.*

## Cumberland, continued from page 1

The ruling confirms that the primary mandate of the law is to preserve an area's wilderness character, a finding that is consistent with the history of the Act and the intentions of its authors, yet counter to the interpretation practiced by many present day managers and interest groups. The NPS argued that it has multiple mandates (recreational use, historic preservation, wilderness stewardship, etc.), and managers have discretion in determining the proper balance between these mandates. But the 11<sup>th</sup> Circuit shot down such reasoning. It pointed out that Wilderness designation provides an overlay of additional protection, and that within those lands the tenets of the Wilderness Act take precedence. Thus, while it might be appropriate within general park lands to trammel an area to preserve an historic structure or scene, within Wilderness such activities are banned. Under the park service's interpretation, Wilderness designation would have little meaning. Because so many managers and some interest groups have adhered to the park service's view, the importance of the Cumberland decision will reach well beyond the island.

It was with respect to park service's erroneous claims that the Wilderness Act requires preserving the structures and providing access to them that the Court reached some of its most important conclusions. "As an initial matter," the court wrote, "we cannot agree with the Park Service that the preservation of historical structures furthers the goals of the Wilderness Act." It went on to affirm that the historical values the Wilderness Act sought to protect include the natural history of the area and the natural setting of historical events. The court wrote, "Given...the laws explicit prohibition on structures, the only reasonable reading of 'historical use' in the Wilderness Act refers to natural, rather than man-made features." In short the court affirmed that the historical value of Wilderness reflects what the Act's author Howard Zahniser called "a piece of the long ago that we still have with us" rather than the human-built environment favored by the park service.

Jonathan Dettmann, the lead attorney representing Wilderness Watch explained, "The court's ruling is right in line with what Congress had in mind when it designated the island's wilderness area, and it will help the Cumberland Island Wilderness become one of the true gems of the nation's wilderness system."

Wilderness Watch extends its gratitude to the law firms of Faegre & Benson (Minneapolis, MN) and Stack and Associates (Atlanta, GA) for their *pro bono* representation.

### What's next?

While the 11<sup>th</sup> Circuit's ruling ended the NPS tours, the agency is still allowing Greyfield Inn, a commercial enterprise, to conduct motorized tours through the Wilderness. Wilderness Watch is engaged at the district court level to end Greyfield's illegal vehicle use.

The most immediate threat to the Wilderness, however, is legislation in Congress that seeks to de-designate the

Wilderness, then reestablish it with corridors for motorized access and with large natural and historic areas open to development (see *November 2003 Wilderness Watcher* or visit our website for details). As the *Watcher* goes to press the legislation is bottled up in both the House and Senate, but the likelihood is high that its supporters will attempt to attach the bill as a "rider" to an unrelated bill in the waning days of this Congress. Wilderness Watch will continue working to prevent that from happening. ☞

### Key findings from the 11<sup>th</sup> Circuit Court of Appeals Opinion in Wilderness Watch v. Mainella

- a) the Court "cannot agree with the Park Service that the preservation of historical structures furthers the goals of the Wilderness Act." but instead the agency's responsibilities for historic structures stem from the National Historic Preservation Act.
- b) "The need to preserve historical structures may not be inferred from the Wilderness Act nor grafted onto its general purpose."
- c) any obligation under the NHPA to preserve historical structures "must be carried out so as to preserve the 'wilderness character' of the area.
- d) given the "pairing of 'historical' with 'ecological' and 'geological' features [in the law's definition of Wilderness], and the laws explicit prohibition on structures, the only reasonable reading of 'historical use' in the Wilderness Act refers to natural, rather than man-made features."
- e) "In no ordinary sense of the word can the transportation of fifteen people through wilderness area be 'necessary' to administer the area for the purpose of the Wilderness Act."
- f) "The prohibition on motor vehicle 'use' in the Wilderness Act stems from more than just its potential for physical impact on the environment. The Act seeks to preserve wilderness areas 'in their natural condition' for their 'use and enjoyment as wilderness." (emphasis in original)
- g) "Under an ordinary, common sense reading, people 'use' motor vehicles when they ride in the Park Service van, thereby increasing the 'use of motor vehicles' beyond the minimum necessary for administration of the Wilderness Act."
- h) "The statute seeks to provide the opportunity for a primitive wilderness experience as much as to protect the wilderness lands themselves from physical harm."  
"Congress has unambiguously prohibited the Park Service from offering motorized transportation to park visitors through the wilderness area."

# Celebrating Wilderness in 2004



— By Roderick Frazier Nash

*Roderick Nash is the Professor Emeritus of History and Environmental Studies, University of California Santa Barbara; author of Wilderness and the American Mind and The Rights of Nature: A History of Environmental Ethics.*

**W**ilderness preservation is an American invention—a unique contribution of our nation to world civilization. As we approach the 40<sup>th</sup> anniversary of the Wilderness Act (September 3, 1964), Americans should renew their pride in and commitment to the National Wilderness Preservation System. It is one of the best ideas our country ever had.

One place to start the celebration is with the recognition that wilderness is the basic component of American culture. From the its raw materials we built a civilization. With the idea of wilderness we sought to give that civilization identity and meaning. Our early environmental history is inextricably tied to wild country. Hate it or love it, if you want to understand American history there is no escaping the need to come to terms with our wilderness past. From this perspective, designated Wilderness Areas are historical documents; destroying them is comparable to tearing pages from our books and laws. We can not teach our children what is special about our history on freeways or in shopping malls. As a professional historian I deeply believe that the present owes the future a chance to know its wilderness past. Protecting the remnants of wild country left today is an action that defines our nation. Take away wilderness and you diminish the opportunity to be American.

Of course our nation changed its initial wilderness environment. Early on we eliminated a lot of wild places along with the wild people who were there before us. But in this process of pioneering we also changed ourselves. In time Americans began to understand that the conquest of the wilderness could go too far for our own good. Now, many think, it is time to conquer a civilization notorious for its excesses. Unrestrained growth can be ironic; bigger is not better if the support systems are compromised. Wilderness is an anchor to windward in the seas of increasingly frightening environmental change.

The intellectual revolution that changed our attitude toward wilderness from a liability to an asset is one of the most profound in environmental history. In the beginning of the American experience wilderness was “howling”: feared and hated by European colonists who longed to bring order and security to uncontrolled nature. Their religious heritage taught them that god cursed wild places; the civilizing process was a blessing. Only gradually and incompletely did these old conquer-and-dominate biases give way first to wilderness appreciation and then to preservation.

Romanticism, with its delight in awesome scenery and noble savages, underlay changing attitudes. So did the concept that wilderness was the source of a unique American art, character and culture. The Adirondacks and the Grand Canyon were the American equivalent of the Acropolis and Buckingham Palace. By the 1850s Henry David Thoreau could celebrate the physical and intellectual vigor of the wild as a necessary counterpoint to an effete and stale civilization. He called for people and landscapes that were “half cultivated.” He realized that saving some wilderness from development would help keep the New World new.

Granted, few paused to read Thoreau’s essays at the height of westward expansion, but a half century brought significant physical and intellectual changes in the United States. Discontent with urban environments, and the perception that the frontier was vanishing, brought new popularity to wilderness. National parks (notably Yellowstone, the world’s first in 1872, and Yosemite, 1890) began a policy of protecting unmodified public land for its scientific, scenic and recreational values. John Muir organized the Sierra Club to defend the parks in 1892 and rallied the nation around the idea that wilderness was a valuable component of a diverse and strong civilization. In the early 20<sup>th</sup> century Theodore Roosevelt’s conservation movement included concern for protection of big wild country in which pioneer skills, such as hunting and camping, had meaning. By the 1920s the United States Forest Service was giving administrative recognition to large roadless areas of the national forests. Simultaneously, the growing science of ecology called importance to wildernesses as reservoirs of

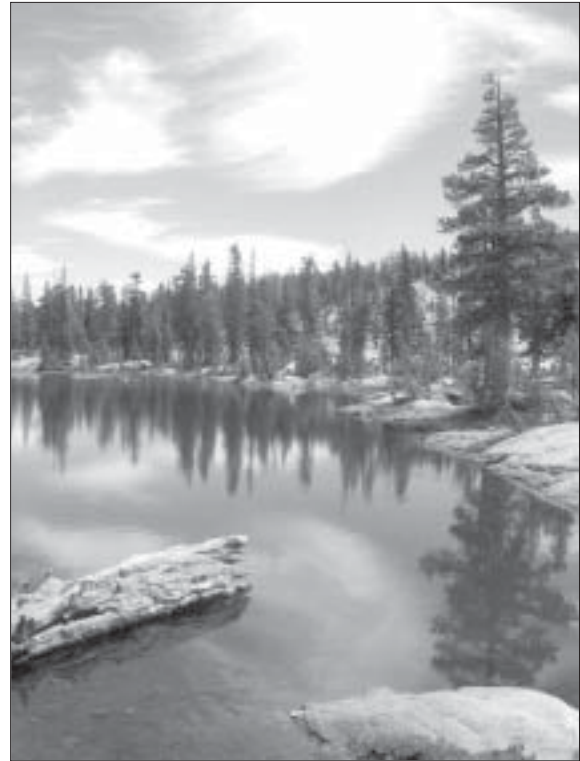
basic biological and physical processes. Understandably, Aldo Leopold, a forest ecologist, led the way in calling for wilderness preservation and defining an ethical, not merely an economic, relationship to land.

What was new about the Wilderness Act of 1964 was the way it gave specific, systematic and secure protection to wilderness qualities and the wilderness experience. The law spoke about the importance of securing “an enduring resource of wilderness” for the American people. The language itself was revolutionary. Traditionally Americans reserved the term “resource” or “natural resource” for hard-core economic stuff like lumber, oil, soil, minerals and hydropower. In describing wilderness as a “resource,” Howard Zahniser, who wrote most of the Act, and Congress enlarged the definition of that term to include space, beauty, solitude, silence and biodiversity. They created a framework for understanding wilderness protection as just a legitimate use of the public lands as the extractive industries.

As a professor I sometimes used a literary metaphor to explain the evolution of American wilderness policy. Think about individual national parks and forests as books. In time they were “shelved” in libraries such as the National Park System and the National Wilderness Preservation System. Rangers, who might be thought of as “librarians,” provided protective and custodial services. By the 21<sup>st</sup> Century the task of collecting and cataloging was largely over. Most of the wilderness we will ever have is identified and at least nominally protected. The challenge now, to continue the metaphor, is to improve our ability to read the books we have reserved. We need to become more environmentally literate. This task calls for a new generation of educators and interpreters who will help people realize full value of the preserved wilderness resource. Scientists are important, but so are poets, theologians, historians and philosophers. With their help we may realize the highest potential of our preserved wilderness: using it for instruction and inspiration in how to live responsibly and sustainably on this planet.

In 1964 the American public understood the Wilderness Act to be anthropocentric. Wilderness was protected as a scenic outdoor playground. Recreation and the economic gains that came from tourism justified the policy of preservation, and they served the cause well. But, as the Endangered Species Act of 1972 suggested, there were higher horizons for wilderness valuation. New philosophies called environmental ethics or ecocentrism gained credibility. If, as the ecologists claimed, nature was a community to which people belonged, didn't we have a responsibility to recognize the intrinsic value of its other non-human members and of natural processes? Wasn't it plausible to assume that nature had rights human ought to respect?

Wilderness figured importantly in this new ecocentric philosophy because it was uncontrolled environment. We didn't make it; we don't own it; and our use of it is not in the old utilitarian style. Indeed designated wilderness could be understood as not for people at all. As the Act states, humans are “visitors” who do not remain. Wilder-



*Emigrant Wilderness, CA. WW file photo.*

ness, then, was someone else's home. It was an environment in which to learn that we are members and not masters of the community of life. An environmental ethic, rules establishing fair play in nature, is the logical next step. Why not do for other species what we have tried to do for oppressed minorities within our species?

Restraint is at the core of the new valuation of wilderness as a moral resource. When we protect wilderness we deliberately withhold our power to change the landscape. We put limits on the civilizing process. Because we have not conquered and do not dominate wild nature, we demonstrate understanding of the basic ethical concept of sharing and fair play. In this case it's the rest of life on the planet that's involved! Thoreau realized that “wilderness is a civilization other than our own.” Respecting it by restraining our impact is the key to effective global environmentalism. The kind of ecocentrism wilderness teaches is not against humans at all; it transcends them and recognizes that their best interest is ultimately that of the larger whole.

The Wilderness System, then, is still a place to recreate; but it is also evidence of our capacity for badly-needed self restraint in our relationship to nature. Wildernesses are places to learn gratitude, humility and dependency; to put our species' needs and wants into balance with those of the rest of the natural world. Even if never visited them, Wilderness Areas have value as a symbol of unselfishness. Wilderness preservation is a gesture of planetary modesty by the most dangerous animal on Earth! On its 40<sup>th</sup> anniversary, let's celebrate the Wilderness Act as the dawn of a kinder, gentler and more sustainable relationship with our planet. Can anything really be more important? ☁

# Wild Anniversary

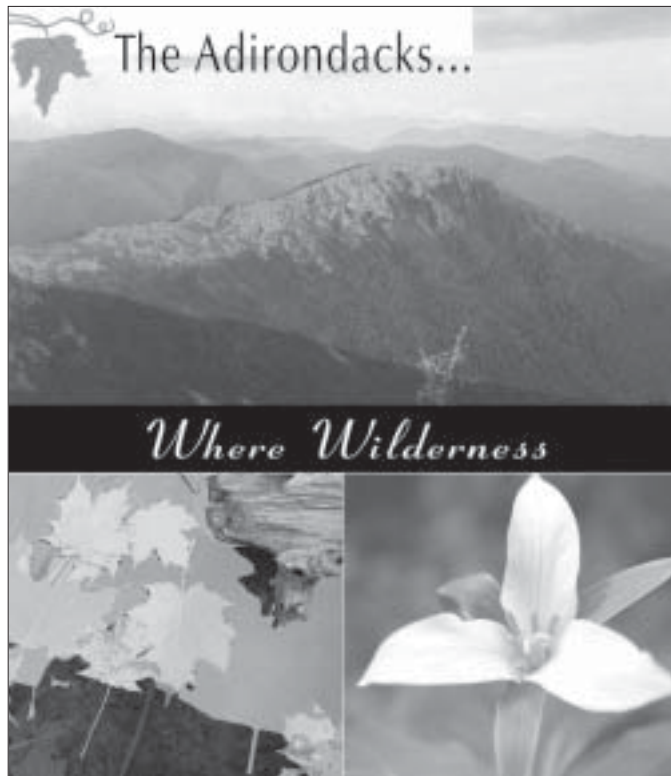
National Wilderness Conference celebrates & examines first 40 years of the Wilderness Act

A visit to the Adirondacks in fall provides insight into the passion and dedication of Wilderness visionaries like Howard Zahniser and Bob Marshall. It is not just the leafy blanket of orange and gold, but the ancient character of mountains worn smooth by the ages, their pocketed lakes a mark of long-vanished glaciers. There is a certain, unnamable *feel* to this area, a wildness and solitude far removed from the hustle and bustle of one of the world's largest cities to the south. It is the region where Wilderness began, where the words that shape the Wilderness Act were penned, and a perfect place to celebrate the 40<sup>th</sup> anniversary of this historic and invaluable legislation.

The 40<sup>th</sup> Anniversary National Wilderness Conference convened October 10 – 13 in Lake George, New York. Organized by the Association for the Protection of the Adirondacks, International Journal of Wilderness, Wilderness Watch, Sierra Club, Natural Resources Defense Council, Friends of the Clearwater, and The Wilderness Society, the conference strove to accomplish three main goals:

- ◇ To celebrate the first 40 years of Wilderness protection and reflect on the meaning of wilderness and the vision that brought us the Wilderness Act;
- ◇ To expand awareness and education regarding the issues, threats, and challenges facing wilderness qualities and values; and
- ◇ To identify needed strategies, solutions, and opportunities to protect wilderness qualities and values over the next 40 years, and build skills among wilderness advocates for implementing these steps.

The goals cited above served to structure a conference that not only celebrated the Wilderness Act and the idea of Wilderness, but also took a critical look at the current health of the National Wilderness Preservation System and examined steps we can take where action and improvement is needed. Wilderness Watch was instrumental in shaping the agenda, ensuring that stewardship issues took center stage. Indeed,



the conference marked the first time that the wilderness community gathered for a national conference to take a hard look at the threats facing our already-designated wild lands. These threats range from badly eroded campsites to motorized trespass, from fire suppression to the impacts on solitude of cellphones and GPS units. Though there have

been other wilderness conferences, they have primarily focused on protecting roadless lands and adding new areas to the system rather than the trend of steady degradation plaguing America's established Wilderness. The 40<sup>th</sup> Anniversary National Wilderness Conference strove to place the degradation issue on the national agenda of both the public and the wilderness community in the

*“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...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...”*

— *Wilderness Act of 1964*

hopes of finding workable solutions.

This ambitious agenda kicked off with a series of field trips on Sunday, allowing conference participants to get out and experience the Adirondack wilderness so beloved to Howard Zahniser and Bob Marshall. Overcast weather heightened the fall colors while still allowing views of the surrounding mountains and rolling countryside of fields, lakes and forests. The fieldtrips set the tone of the conference, reminding visitors of the vital and growing importance of primitive, self-willed land and the need to preserve these areas for future generations of humans and wildlife.

The conference began with a look at the Wilderness Act, the values it strove to preserve, and the primary visionaries who worked to make the National Wilderness Preservation System a reality. Jim Glover, author of *A Wilderness Original: The life of Bob Marshall*, spoke of the passion, innovative thought, and dedication of Wilderness pioneers such as Henry David Thoreau, Bob Marshall, and Howard Zahniser. He provided insight into their deep respect for the land and their shared wariness at the rapid growth of "civilization" and its impact on the human psyche.

Armed with an understanding of the core values of the Wilderness Act, conference attendees moved on to examine a wide range of threats and challenges facing the system. Wilderness Watch's own TinaMarie Ekker and George

Nickas served on Plenary panels examining the impacts of ecological manipulation and special exceptions in wilderness bills. Other topics included the unique challenges and threats facing Alaska, and the pros and cons of federal management agencies engaging in partnerships with private entities to mitigate the lack of funds resulting from budget cuts and poor prioritization. The US Fish and Wildlife Service and the US Border Patrol spoke of the troubles facing wilderness along the US-Mexico border in California and Arizona, and attendees heard discussion over concerns with special provisions in new wilderness bills.

In short, conference attendees ran the gamut of wilderness issues, hearing a wide range of perspectives and enjoying the opportunity to ask questions and join discussions. Though the threats facing Wilderness can appear overwhelming, the conference adjourned on a positive note as attendees were reminded that just the fact that the wilderness community had gathered to address these threats was a major victory. Wilderness enjoys vast public support, providing hope that once people know what is happening, they will take action to stop the trend of degradation facing our last wild lands. Now its time to make the next 40 years even better than the first! 🌿

## 40th Anniversary National Wilderness Conference

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# On the Watch



## High Sierra Wildernesses, CA

**Victory!** - The U. S. Court of Appeals for the 9<sup>th</sup> Circuit recently issued an important victory for Wilderness. The court overturned a lower court ruling that would have allowed the Forest Service to permit commercial packstock operations in two Sierra Nevada Wildernesses at levels that continue to damage the wilderness character of the protected areas. The appeals court upheld the lower court's determination that the Forest Service needed to reduce the amount of commercial use while it prepares an environmental impact statement that fully analyzes the impacts of the commercial operations.

The ruling came in response to a lawsuit filed in April 2000 by the High Sierra Hikers Association, Wilderness Watch, and Forest Service Employees for Environmental Ethics. The groups cited the Forest Service's failure to protect the wilderness character of the John Muir and Ansel Adams Wildernesses from degradation arising from overuse by commercial pack operations.

In the opinion, the court stated that "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....Given the Wilderness Act's repeated emphasis of the administering agency's responsibility to preserve and protect wilderness areas, this decision cannot be reconciled with the Forest Service's statutory responsibility."

The case was remanded back to the district court to determine appropriate remedies that will correct past damage and prevent future harm.

## Olympic Wilderness, WA

**Sheltered Wilderness** - The National Park Service (NPS) recently approved a plan to helicopter two newly constructed shelters into remote subalpine areas in the Olympic Wilderness (see *February 2003 Wilderness Watcher*). The new shelters were constructed to replace two 1930s-era shelters that collapsed in 1999 due to snow. The new shelters were constructed - at no small expense - before the NPS bothered to solicit public comments on the proposed plan as required by NEPA.

It is discouraging that the NPS, with its limited budget and staff time, deems it more important to preserve man-made structures than the Olympic's wilderness character.

That the structures occur in designated Wilderness appears to be of no concern to the NPS, nor does the fact that the original buildings were of dubious historical significance. In addition, the newly constructed replacements are definitely not historic (the two shelters are sided with milled lumber and fitted with constructed floors, both significant departures from the original earthen-floored, cedar shake-sided structures they are meant to replace).

The plan will require numerous heavy and light lift helicopter flights, chainsaws and power tools run off of a generator - all in the public's designated Wilderness. Wilderness Watch, along with Olympic Park Associates and Public Employees for Environmental Responsibility, plans to challenge the NPS' decision in court.



## Carson-Iceberg Wilderness, CA

**No to Poison** - In September, the California Regional Water Quality Control Board tabled a request by the California Dept. of Fish and Game (CDFG) to poison streams and lakes in the Carson-Iceberg Wilderness. The CDFG proposed to use rotenone, a chemical poison, to remove non-native fish from Wilderness streams and lakes (see *July 2004 Wilderness Watcher*).

CDFG hoped to eliminate fish species such as brown and rainbow trout (previously planted by CDFG) that compete with native Paiute cutthroat trout. The CDFG obtained permission from the U.S. Forest Service to conduct the poisoning, but needed a discharge permit from the Regional Water Board. The water board heard testimony from scientists who expressed concern that the poisoning was unnecessary to save the Paiute cutthroat, and that rotenone has significant adverse effects on other instream organisms such as amphibians and macroinvertebrates. The Regional Water Board formally tabled the issue (i.e., took no formal action) and instructed CDFG to conduct background surveys and better environmental analyses before it would consider permitting the project. Wilderness Watch submitted comments opposing the project, along with Californians for Alternatives to Pesticides, and concerned scientists.

# Playing God in the Bob Marshall

How do we mitigate the impacts of past ecological manipulation? For many, the answer is simple... more manipulation.

At over a million acres, the Bob Marshall Wilderness in Montana offers visitors a truly remote Wilderness experience. Hiking through dense forest, alpine meadows and towering peaks, it is not unusual to go days without sighting another human being. It is a Wilderness where it is still possible to experience solitude, where backcountry travel and self-reliance are necessary skills and the hectic buzz of modern life is replaced by a more ancient silence. Above all, the Bob Marshall is a place where the hand of man, so heavy in most places, is largely absent, a place Congress set aside to remain untrammelled for the health of flora and fauna ...and future generations of Americans.

In light of the critical importance of the Bob Marshall Wilderness, we were disturbed to learn that the Bonneville Power Administration (BPA) and Montana Fish, Wildlife and Parks (MFWP) are proposing to poison 11 alpine lakes with antimycin to remove hybrid trout and replace them with westslope cutthroat trout. The project proposes to use motorized rafts and electric pumps to spread the poison on all 11 lakes, and to use helicopters to deliver personnel and supplies to two lakes that are located a mile from the nearest trail. The scope of the project is mind-boggling; on George Lake alone, the "treatment" will require 2,695 units (10,106 lbs) of antimycin, 16 helicopter flights, 8 people, a potassium permanganate drip station, and stock animals.

Wilderness Watch supports the restoration of native fish populations to their historic range, though we believe that fishery programs must be administered in a manner that gives equal consideration to the entire aquatic ecosystem and that respects the Wilderness resource. The lakes in question are historically fishless, stocked at the behest of sportsmen in the early 1900s. The project seeks to address this past manipulation of natural systems with even further manipulation – a strategy that is clearly inappropriate in Wilderness. The Wilderness Act mandates that Wilderness remain untrammelled by man, that it retain its primeval character and influence, and that it be administered so as to preserve its natural conditions. If the non-native trout were to be removed, the lakes should revert to their natural state, not become yet another artificial trout pond for anglers.

Though antimycin is regarded to be safer than rotenone, both chemicals have documented effects on non-target organisms such as amphibians and aquatic biota. Recently, the New Mexico Game Commission voted to disallow the use of fish poisons as a management tool in Department of Game and Fish projects aimed at increasing the distribution of native fish. Additionally, a Regional Water Board in California tabled a request by the California Dept. of Fish and Game to poison streams and lakes in the Carson-Iceberg Wilderness pending further environmental analysis.



Early fish stocking in the Sierra, California.

The diversity, abundance and populations trends of many other aquatic species in the Bob Marshall Wilderness are not well known, nor are they discussed in any detail in the Draft Environmental Impact Statement (DEIS) conducted by the BPA. Before embarking on a project of this magnitude in a designated Wilderness owned by the American people, the BPA, Forest Service and MFWP should implement a long-term inventory and monitoring study so the irreparable harm is avoided.

Ironically, though antimycin is highly toxic, the overall success of the proposed project is highly debatable, as a single treatment of piscicides is unlikely to eradicate all of the non-native trout. Despite this fact, the DEIS does not address a follow-up treatment and instead focuses on a long-term stocking program. There is little doubt that even if the introduced westslope cutthroat population swamps the existing population, some hybridization will occur.

Last but certainly not least, the Wilderness Act prohibits the use of motorized equipment and mechanical transport "except as necessary to meet the minimum requirements for the administration of the area *for the purpose of this Act.*" (emphasis added). The stated purpose of the Act is to preserve the wilderness character of designated Wilderness. This project, which is designed to establish a westslope cutthroat fishery in naturally fishless lakes, fails to meet that test. The proposed use of motorized equipment is merely a matter of convenience for agency personnel, not of need.

In short, the proposed project not only poses serious concerns to the wilderness character of the Bob Marshall Wilderness, but is likewise unnecessary, huge in scope and expense, illegal in its use of motorized equipment, irresponsible in its use of piscicides, and unlikely to succeed. Wilderness Watch sees no purpose in continuing the destructive history of agencies "playing God" in our last wild lands and will do its best to continue to fight for one of our nation's premier Wildernesses. ♪



# Calling all Wilderness Lovers!

Wilderness Watch is the only conservation organization fighting day in and day out to protect our National Wilderness Preservation System and Wild and Scenic Rivers System - assuring a wild tomorrow for future generations. America's wildland heritage harbors our most sensitive wildlife while providing opportunities for solitude and primitive recreation found nowhere else. **What could be a better gift this holiday season than the gift of wilderness?**

Know anyone who shares your passion for Wilderness? Whether they are an avid hiker, horsepacker, wildlife watcher or someone who just appreciates knowing protected areas exist, a Wilderness Watch membership makes the perfect gift!

**As a supporter of Wilderness Watch, you are more than a member; you are part of our voice.**

For well over a decade, we have been working hard to assure that our irreplaceable Wilderness legacy endures. Thanks to the concern of individuals like you, our voice continues to grow. If you know someone who shares your love of Wilderness, please consider a gift membership this holiday season. New members will be sent a card alerting them of your gift, our quarterly newsletters, and occasional action alerts detailing how they can help. But best of all, a Wilderness Watch membership helps them speak up for Wilderness!

## Yes! I would like to give the gift of Wilderness!!!

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*(to receive our monthly e-mail update)*

*Thank you  
&  
Happy Holidays!*



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Please send a \$25.00 gift membership to: *(use separate piece of paper if necessary)*

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