



WILDERNESS WATCHER

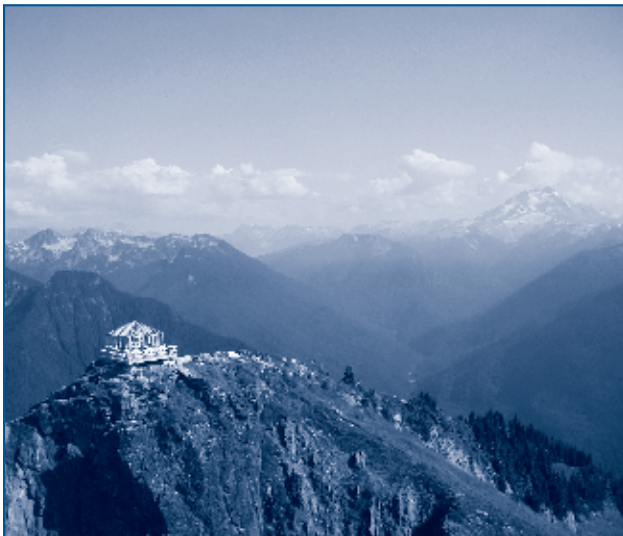
The Quarterly Newsletter of Wilderness Watch

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Court Orders Removal of New Lookout from Glacier Peak Wilderness; Congress May Overturn Ruling

By Kevin Proescholdt

On March 27th, Federal District Judge John Coughenour in Seattle ruled in favor of wilderness conditions in the Glacier Peak Wilderness in Washington State and ordered the U.S. Forest Service (FS) to remove its reconstructed lookout from Green Mountain. Wilderness Watch filed the lawsuit against the agency in 2010.



Aerial view of new Green Mountain lookout / visitor contact station under construction (U.S. Forest Service)

But three months later, on June 27th, U.S. Representative Rick Larsen (D-WA), whose district includes the Glacier Peak Wilderness, introduced a bill in Congress (H.R. 6039) to overturn the court

Glacier Peak Victory (continued on page 3)

Sportsmen's Heritage Act Would Effectively Gut Wilderness Act

By Kevin Proescholdt

On April 17, 2012, the U.S. House of Representatives passed H.R. 4089, the Sportsmen's Heritage Act, supposedly "to protect and enhance opportunities for recreational hunting, fishing, and shooting." But the bill is a thinly disguised measure to gut the 1964 Wilderness Act and protections for every unit of the National Wilderness Preservation System, pushed aggressively by powerful organizations like the National Rifle Association, Safari Club, and U.S. Sportsmen's Alliance. A longer Wilderness Watch analysis of just how the House-passed bill would eviscerate the Wilderness Act can be found on our website: www.wildernesswatch.org/pdf/HR4089AnalysisWW.pdf.

H.R. 4089 would give hunting, fishing, recreational shooting, and fish and wildlife management top priority in Wilderness, rather than protecting the areas' wilderness character, as has been the case for nearly 50 years. This bill would allow endless, extensive habitat manipulations in Wilderness under the guise of "wildlife conservation" or for providing hunting, fishing, and recreational shooting experiences. To facilitate such uses, it would allow the construction of roads,

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...and More

Gutting Wilderness (continued on page 5)

“What Percentage of My Donation Goes to ‘Field Work’?”

By Jeff Smith



We recently mailed a letter to about 1,500 people introducing Wilderness Watch and asking them to take the big step and become members. This is not a job done by a marketing firm. It’s an in-house effort printed on our office printer and assembled by volunteers. (Thanks Terry, Jerome, Michael, Dar and Talasi). In this age of frenetic communications, bulk mail is rather old-fashioned but can still be an effective way to recruit new members.

One person promptly emailed me wondering what percentage of our funding is used for “field work.” I believe this was a nice way of asking if we would use her donation well.

So I told her that we have a staff of five people—two of them part-time—and a cadre of members and volunteer activists to monitor management of over 750 Wildernesses in 44 states. As you can read elsewhere in this publication, there is no end to the strategic battles we undertake to make sure four federal agencies maintain the wilderness character of these priceless ecosystems we’ve set aside as Wilderness.

This year, more than in the past, we’ve also taken the lead role in alerting wilderness supporters about some nasty developments in Congress. We’ve seen bad wilderness proposals in Congress, but, for the first time in nearly 50 years, two proposals that would severely compromise Wilderness passed the U.S. House of Representatives! So we’re waging a vigorous, grassroots campaign to oppose these attacks that would permanently degrade the wilderness system.

There are no new Wilderness Watch office buildings in New York or Washington, D.C. If you were to come visit us, and we hope you do, you would find a practical third floor office we rent for a pittance in a turn-of-the-century building in Missoula, Montana. There are no receptionists or administrative assistants, no lobbyists, consultants, or marketing agents.

Every donated dollar goes into “field work” done by people who passionately defend the idea and the lawful implementation of the 1964 Wilderness Act.



The Wilderness Watcher is the quarterly newsletter of Wilderness Watch, America’s leading conservation organization dedicated solely to protecting the lands and waters in the National Wilderness Preservation System.

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ruling and retain the new building in the Wilderness. Larsen's problematic bill has not yet received a hearing in the House.

Wilderness Watch filed the case alleging the FS had violated the 1964 Wilderness Act by using helicopters to airlift out the remains of the old building and haul in the new one. The suit also alleged the agency had violated the National Environmental Policy Act (NEPA) by reconstructing the long-abandoned lookout without the required public notice or environmental review. The judge agreed with Wilderness Watch on every major point of contention in the suit.

"The record here establishes that the presence of the Green Mountain lookout detrimentally impacts on the wilderness character of the Glacier Peak Wilderness," wrote the judge in his carefully considered 25-page opinion. "In addition to finding that the Forest Service violated the substantive provisions of the Wilderness Act, the Court further finds that the Forest Service violated NEPA's procedural requirements."

Bernie Smith, a former FS resource assistant and wilderness ranger overseeing the Glacier Peak Wilderness, called the decision a "bittersweet victory." "On the one hand the judgment clearly states the Forest Service erred in its management of the Glacier Peak Wilderness by building a permanent structure using mechanical transport. Along with many recent similar judgments, it should help the Forest Service properly manage Wilderness in the future," said Smith. "The bitter side is that the Forest Service completely failed in its wilderness stewardship responsibilities and the agency misled volunteers and the community of Darrington by ignoring its responsibilities to protect Wilderness. The Forest Service through all of this has shown a disconcerting ignorance of or disdain for its wilderness management responsibilities."

One of the key issues involved with this case revolved around historic preservation of the lookout versus the Wilderness Act's mandate to preserve wilderness character. The FS alleged that its directives for the preservation of historic structures under the National Historic Preservation Act (NHPA) require it to ignore the Wilderness Act's mandate. Judge Coughenour, citing numerous legal precedents, including several Wilderness Watch court

cases, and the plain language of the Wilderness Act, repudiated the agency on this point.

The FS asked the Court to adopt an interpretation of the Wilderness Act that would have left Wilderness extremely vulnerable to all sorts of developments and motorized use. Fortunately for Wilderness' sake, the judge rejected the FS's arguments. Agencies like the FS and National Park Service often erroneously claim that the NHPA requires them to save or rebuild structures in Wilderness. But the judge got it right in this case—the Wilderness Act's requirements to preserve wilderness character trump the more general goals for historic preservation under NHPA. And in this case, the Green Mountain Lookout is not an old historic structure. What stands now was constructed anew in 2009, using all new wood for rafters, roof, wall joists, floor, footings, and more. Only a few pieces of siding from the older structure were re-used in the new building.

Rep. Larsen's new bill in Congress, however, seeks to legislatively overturn the judge's careful decision.

In addition to violating the Wilderness Act's prohibitions on structures and installations, the judge also ruled the agency had failed to make a finding that the reconstructed lookout was "necessary to meet the minimum requirements for the admin-

istration of the area" as Wilderness under the 1964 law. "The Forest Service erred egregiously by not conducting the required necessity analysis before embarking on such an aggressive course of action," the judge wrote.

Judge Coughenour granted Wilderness Watch's request for an injunction against the FS and ordered the agency to remove the new structure from Green Mountain. Peter Frost, of Western Environmental Law Center in Eugene, Oregon, represented Wilderness Watch in this case.

Rep. Larsen's new bill in Congress, however, seeks to legislatively overturn the judge's careful decision. H.R. 6039 would set a terrible national precedent. The bill would go back and amend the 1984 Washington State Wilderness Act nearly three decades after it passed to "grandfather in" a non-conforming structure. The bill could open the floodgates for many other bills grandfathering in non-conforming uses or structures long after wilderness bills passed. Wilderness Watch urges its members to write to their U.S. Representative and both U.S. Senators and ask them to oppose H.R. 6039. ♪

Wilderness in the Courts

FS Needs to Protect Upper Chattooga W & S River

This spring, Wilderness Watch joined Georgia ForestWatch (GFW) and the Georgia Chapter of the Sierra Club in filing an administrative appeal to challenge the U.S. Forest Service's (FS) decision to open the Upper Chattooga Wild and Scenic River in the Ellicott Rock Wilderness to boating. The Upper Chattooga is one of the Southeast's last free-flowing rivers and was one of the first rivers Congress designated Wild and Scenic. The FS banned all boating on this stretch of river more than 35 years ago to protect it from resource damage and to limit conflicts with other users. While the ban worked to limit conflicts, it has been insufficient to protect the area's solitude, natural conditions, and wilderness character due to its growing popularity for hiking, fishing, and other quiet pursuits. Wilderness Watch and our co-appellants have insisted the FS implement a plan to protect the area's wilderness character *before* the agency opens the area to additional uncontrolled use. The FS has granted our request for a stay of the decision pending a ruling on our appeal. To learn more about this issue, please visit GFW's website: http://gafw.org/news_feature.html 🌿

Litigation update: Fred Burr High Lake Dam

On June 19, Wilderness Watch and Friends of the Clearwater filed a complaint in federal district court against the Forest Service (FS) for its decision to approve two helicopter flights to rebuild a deteriorating catwalk and log boom at the Fred Burr High Lake Dam in the Selway-Bitterroot Wilderness (SBW) in Montana. The project is an example of the FS rubber-stamping the escalating use of motorized vehicles and equipment on

dam-related projects in the Selway-Bitterroot Wilderness. The district court denied WW's motion for a temporary restraining order because it didn't appear the helicopter flights were imminent, but the court also suggested WW is likely to succeed on the claims' merits. Subsequently, the government agreed to prohibit any helicopter use until the case is heard in court.

The Fred Burr High Lake Dam was built without the use of motorized equipment and has been operating under a special-use permit, which expired in 2003, since 1914. It lies in the upper Fred Burr Creek drainage of the SBW. The FS suggests in its Environmental Assessment (EA) only helicopter access would constitute reasonable access to the dam owners' occupancy in this context, even though it admitted a non-motorized alternative would provide the dam operator with "reasonable access to meet their legal responsibilities." The EA estimated a non-motorized alternative would require an additional seven-day "hitch" of work by a trail crew to maintain the trail to the dam for stock use and two additional trips into and out of the Wilderness by the FS packer with seven head of stock. In our EA comments, WW offered to carry the 700 pounds of materials to the dam site to obviate the need for additional trail work. Our offer wasn't accepted.

Helicopter use is illegal in the Wilderness because it damages wilderness character. The Forest Service shows a patent disregard for Wilderness by allowing helicopter access to fly in a catwalk and log boom that could easily be made on-site out of native materials (the existing ones are!) and that would require only a single additional hitch of trail work to be transported in! We will keep you updated as this case moves forward. 🌿

On the Road

Stanford Law School

In February, Wilderness Watch executive director George Nickas was invited to participate in a Stanford Law School discussion on the legal, scientific, and policy challenges of commercial outfitting in Wilderness. The gathering included agency land managers, researchers and planners, academics, attorneys, outfitters, and conservationists. Commercial pack stock use in the Sierra Nevada was used as a case study largely because of the successful litigation filed by Wilderness Watch and our co-plaintiffs against excessive commercial pack stock use in the John Muir and Ansel Adams Wildernesses. The federal land agencies shared their approaches for administering

commercial services in Wilderness, while much of the dialogue focused on determining the extent to which commercial services should be limited in order to comply with the limitations imposed by the letter and intent of the Wilderness Act.

In his presentation, Nickas stressed the need to address several factors: 1) what Congress intended when crafting the law; 2) how the types and degrees of commercial services permitted in Wilderness today fit within the law; and 3) what other factors must be weighed in crafting workable, lawful standards that realize the benefits of Wilderness and its long-term preservation.

On the Road (continued on page 11)

dams, buildings, or other structures and would remove Wilderness Act prohibitions against motor vehicle use in Wilderness for those purposes. Finally, H.R. 4089 would exempt all of these actions from National Environmental Policy Act (NEPA) review.

The Wilderness Act is widely considered America's foremost conservation law. It was a bipartisan masterpiece: introduced in the Senate by Hubert Humphrey (D-MN) and in the House by John Saylor (R-PA), the wilderness bill passed with nearly unanimous support—only one dissenting vote in the House and 12 in the Senate. The wilderness system has grown from nine million acres in 1964 to nearly 110 million acres today, but the wilderness law itself has remained virtually unchanged. Born in America, the wilderness idea has spread to dozens of countries around the globe, yet the Wilderness Act and the National Wilderness Preservation System remain the envy of the world. Sadly, H.R. 4089 would eviscerate the letter, spirit, and fundamental ideals expressed in this landmark law.

The Wilderness Act defines wilderness as “an area where the earth and its community of life are untrammelled by man...retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions.” The Act requires wilderness areas be “administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas [and] the preservation of their wilderness character.” In order to protect wilderness areas and preserve their wilderness character, the Act prohibits commercial enterprise and permanent roads, and “except as necessary to meet minimum requirements for administration for the purpose [wilderness preservation] of this Act” it states “there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.”

H.R. 4089 strikes at the heart of these Wilderness Act provisions. Whereas the Wilderness Act seeks to preserve areas untrammelled by man, where the forces of nature

are in control, H.R. 4089 puts the utilitarian, nature-modifying desires of managers and the special interests in charge. Whereas the Wilderness Act prohibits the use of motorized vehicles or equipment and the building of roads and other structures, H.R. 4089 essentially throws wilderness areas wide open to motorized use and a nearly unlimited variety of wilderness-damaging developments. Wilderness, as envisioned by its founders and congressional supporters and known by generations of Americans, will cease to exist if H.R. 4089 becomes law.


Fortunately, wilderness supporters and the public are becoming aware of the dangers posed by the Sportsmen's Heritage Act. News stories or opinion pieces highlighting its threats have recently appeared in *High Country News*, *St. Paul Pioneer Press*, *San Francisco Chronicle*, *Denver Post*, *Capitol Times* (Madison), and elsewhere.

And supporters of the House-passed bill continue to look for legislative vehicles onto which they could amend the bad language, such as an oft-mentioned potential public lands omnibus bill.

So far, the House-passed Sportsmen's Heritage Act has not begun to move in the U.S. Senate, but the bill is very much in play in this election year. For example, Sen. Jon Tester (D-MT), introduced his own package

of Sportsmen's Heritage amendments for inclusion in the federal Farm Bill (although he fortunately excluded the wilderness-damaging provisions) and Sen. Jim Risch (R-ID) introduced the bad House language as a competing amendment to that bill. Neither set of amendments was added to the Farm Bill, but parts of the House bill have been added to the House Interior Appropriations bill. And supporters of the House-passed bill continue to look for legislative vehicles onto which they could amend the bad language, such as an oft-mentioned potential public lands omnibus bill. The Wilderness Act will be at risk until after the November election and any potential lame-duck session that might follow.

WHAT YOU CAN DO

Write or email both of your U.S. Senators and ask them to oppose H.R. 4089, the Sportsmen's Heritage Act, especially the provisions that would gut the Wilderness Act. To find email or regular mail addresses for your Senators, visit www.congress.org/congressorg/directory/congdir.tt 

On the Watch

Like a “Road to Nowhere”



Photo: Christine Sowl (USFWS)

In May, Wilderness Watch joined 21 other conservation groups in opposing the U.S. Fish and Wildlife Service’s (FWS) plan to complete a land exchange and build 10.8 to 12.5 miles of road through the heart of the Izembek Wilderness. This Wilderness protects critically important wildlife habitat and is home to the famous Alaskan brown bear, rich salmon spawning areas, caribou, wolves, wolverine, seals, sea otters, and many other species.

Road building is prohibited in Wilderness, but Sen. Lisa Murkowski (AK) added special language to the Omnibus Public Land Management Act of 2009 requiring an environmental impact statement (EIS) for this proposed land exchange and road in what is now designated Wilderness.

This issue was previously debated and resolved more than a decade ago. When King Cove and Aleutians East Borough residents originally requested a road through the Izembek Wilderness, ostensibly for transportation to the Cold Bay airport for medical evacuation, Congress passed the King Cove Health and Safety Act. This provided \$37.5 million in federal funds to construct a marine/road link (including a hovercraft ferry) between King Cove (pop. 744) and Cold Bay (pop. 84), and avoided building a road through the Wilderness.

In our comments, we noted that:

- FWS’s proposed action erodes wilderness protection by “de-designating” and removing land from the Izembek Wilderness in an end-run around the Wilderness Act’s prohibition against permanent roads in designated Wilderness.
- The plan is not in the public’s interest as it sets a precedent for removing land from Wilderness to facilitate development, “relegating Wilderness to an ephemeral rather than permanent status.”
- The Refuge’s Comprehensive Conservation Plan directs the area to be managed to maintain wilderness resources and values and to preserve its wilderness character (95 percent of the Refuge is designated Wilderness). A road corridor is incompatible with these goals.

For more information, visit: www.wildernesswatch.org/issues/index.html#Izembek 🐾

Mine Will Harm Cabinet Mountains Wilderness



Photo: Steve Butcher

Wilderness Watch has let the Forest Service (FS) know of our concerns with the proposed Montanore copper/silver mine in the Cabinet Mountains Wilderness in northwestern Montana. We responded to the FS’s Supplemental Draft Environmental Impact Statement (SDEIS) with the following comments:

- The wilderness analysis in the SDEIS is inadequate due to unanswered questions, its failure to rely on data related to managing for wilderness character, and a lack of FS wilderness expertise to review its consultant’s assessment.
- The SDEIS fails to consider the combined effects of climate change and the mine on the Cabinet Mountains Wilderness and wildlife.
- The project will degrade water quality and decrease water availability in the Cabinet Mountains Wilderness.
- The mine will harm endangered species that live in the Wilderness, such as lynx, bull trout, and grizzly bears, and the proposed mitigation measures are likely inadequate.

To read WW’s comments and for more information, visit: www.wildernesswatch.org/issues/index.html#Cabinets 🐾

Not O.K.



Photo: Bob Herrmann

Wilderness Watch has been working to prevent the city of Tombstone, Arizona, from having further motorized access to the Miller Peak Wilderness (MPW). Earlier this year, the Forest Service (FS) authorized Tombstone to use excavators, road graders, dump trucks, and other heavy equipment to dig out Miller Spring and construct a pipeline within the Miller Peak Wilderness. The city bulldozed an artificial dike 240 feet long, 20 feet wide, and eight feet high as a water collection box. Gardner Spring in the MPW was also subjected to Tombstone's destruction, though not with all the heavy equipment used on Miller Spring.

Tombstone followed up by suing the FS for additional access with heavy equipment in the Wilderness, but two lower courts ruled against the city and the U.S. Supreme Court denied the city's request for an emergency order to use motorized equipment again in the MPW. U.S. District Judge Frank Zapata ruled that the city's water supply had been restored and "...cutting a path through a federally protected wilderness area with excavators and other construction equipment would have a significant impact."

Wilderness Watch continues to oppose Tombstone's destruction of the Miller Peak Wilderness and most recently sent the House Natural Resources Committee a letter strongly opposing H.R. 5791, the Emergency Water Supply Restoration Act. Rep. Jeff Flake (R-AZ) introduced this legislation to try to grant Tombstone unfettered access to the MPW. To read WW's letter, visit: www.wildernesswatch.org/pdf/HR5791ltr.pdf 🌿

No Place in the West Chichagof-Yakobi Wilderness



Photo: Forest Service

In June, Wilderness Watch filed an Administrative Appeal of the Forest Service's (FS) decision to rebuild the White Sulphur Springs Bathhouse in the West Chichagof-Yakobi Wilderness in Alaska. White Sulphur Springs is a natural warm springs located on Chichagof Island overlooking the Pacific Ocean. The Forest Service (FS) proposed in August 2011 to rebuild the bathhouse, but because of concerns raised by Wilderness Watch and others, the agency earlier made the right decision: To improve the area's wilderness character by removing the bathhouse. Those who wanted to rebuild the bathhouse filed administrative appeals to that decision, however, and the FS responded by changing its decision back to the original proposal—to replace the bathhouse.

Wilderness character, which the FS is required to preserve, is *per se* degraded by developments because the Wilderness Act defines wilderness as "without permanent improvements." In the agency's own words: "Structures are prohibited uses in wilderness that degrade [the undeveloped] quality." We hope the FS will recognize that developed spas have no place in Wilderness and will reconsider its unlawful decision. 🌿

Reining in Packstock in Sequoia-Kings Canyon Wilderness



Photo: George Wuerthner

In response to a lawsuit filed by the nonprofit High Sierra Hikers Association (HSHA), on May 29 a federal judge ordered the National Park Service (NPS) at Sequoia & Kings Canyon National Parks (SEKI) in California to take several actions to remedy the agency's ongoing violations of the Wilderness Act. The court ruled earlier that the NPS had violated the Act by adopting a General Management Plan (GMP) that would have allowed essentially unlimited commercial packstock services in SEKI's wilderness, and by issuing permits to numerous commercial packtrain outfitters without limiting commercial services to the extent necessary. (*HSHA v. USDI*, 2012 WL 214927, N.D. Cal. Jan. 24, 2012).

SEKI has long allowed commercial packstock outfits to operate with virtually no limits on the number of outfitters or the number of commercial trips. The hikers' group filed suit in 2009 after trying for nearly 20 years to persuade the

NPS to follow the law by adopting reasonable limits and controls on commercial packtrains.

In its May remedy order, the court struck down all portions of SEKI's GMP that would have allowed increased commercial stock use, and it ordered the NPS to complete a new wilderness management plan to determine the extent to which commercial packstock services are truly necessary in SEKI's wilderness. The court further ordered a 20 percent reduction in commercial packstock services until SEKI completes the new plan.

But the story doesn't end there. In March of 2012, without waiting to see what the court would order, SEKI notified all of its packstock outfits that their permits were suspended. The NPS essentially shut down the commercial packers, even though the HSHA had made very clear to the court that it did not seek to invalidate existing permits. The suspension caused a firestorm of hysteria, with many stock users falsely accusing HSHA of trying to ban all stock use at SEKI. Congress responded by passing H.R. 4849, the "SEKI Access Act," which required the NPS to lift its suspension and re-issue commercial permits in time for the 2012 summer season. H.R. 4849 took effect one week after the court issued its remedy order. At press time, the court has not yet ruled whether H.R. 4849 allows unlimited commercial packstock services at SEKI—as NPS argues—or whether the court-ordered 20 percent reduction will remain in effect until NPS completes its new wilderness plan.

For more information, visit www.highsierrahikers.org. (Case No. 3:09-cv-04621.)

Mountains Without Handrails

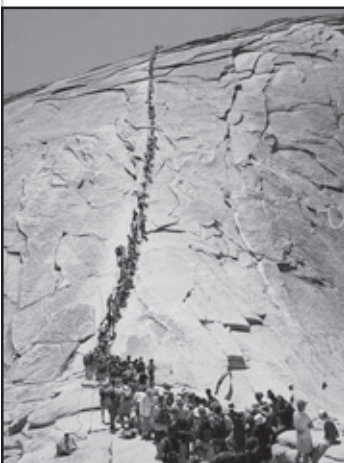


Photo: National Park Service

This spring, WW urged its members and supporters to ask the National Park Service (NPS) to remove the cables on Half Dome in the Yosemite Wilderness in California. The NPS environmental assessment's (EA) preferred alternative limits use to 300 people daily.

In our comments we noted:

- Removing the cables is the only option that upholds the Wilderness Act since their presence violates the legal definition of Wilderness and the Act's prohibition on structures/installations, and degrades wilderness character.
- The NPS must reduce visitor levels to those present at the time of wilderness designation in order to preserve opportunities for solitude.
- NPS's proposal to invite commercial enterprises violates the Wilderness Act and case law.

To read our comments and for background information, visit: www.wildernesswatch.org/issues/index.html#HalfDome

Boundary Waters Sacrifice Zone



Photo: Kevin Proescholdt

In a blow to the Boundary Waters Canoe Area Wilderness (BWCAW), the Minnesota Court of Appeals has overturned a Hennepin County District Court's decision that blocked the proposed construction of an AT&T cell phone tower near Fall Lake at the edge of the BWCAW. The court has decided to allow AT&T to build its 450-foot, 24-hour blinking light cell tower, stating in its ruling that the tower would be visible from less than one percent of the Boundary Waters Canoe Area Wilderness. The appeals court further justified its decision allowing part of the BWCAW to become a sacrifice zone by stating that signs of civilization, including a water tower, cabins, and other communication towers, are already visible in parts of the BWCAW.

As we reported in the Summer 2011 *Watcher*, Friends of the Boundary Waters Wilderness (FBWW) had challenged the tower construction under the Minnesota Environmental Rights Act, which allows citizens to challenge actions that would harm natural resources of the state. In ruling against the tower, Hennepin County Judge Philip Bush wrote, "The affected natural resource, broad scenic views with no visible signs of man, is not replaceable." The judge did rule that a shorter non-lighted tower under 200 feet could be built at the proposed site, since such a tower would not mar the BWCAW's scenic and aesthetic resources.

The appeals court ruling denies wilderness values and the need to protect them from such visual intrusion. On July 12, the Friends of the Boundary Waters Wilderness appealed the decision to the Minnesota Supreme Court.

For background information, visit: www.wildernesswatch.org/issues/index.html#Cell 🌿

A Compromised Plan



Photo: Kevin Proescholdt

In April, the Minnesota Pollution Control Agency (MPCA) approved a weakened rule for regional haze that degrades air quality over the Boundary Waters Canoe Area Wilderness (BWCAW) in Minnesota. The 1.1 million-acre BWCAW, along with Voyageurs and Isle Royale National Parks, suffers from air pollution from coal-fired power plants and taconite mining operations in the northeastern part of the state.

The Citizens Board of MPCA negotiated the plan after taconite producer, Cliffs Natural Resources, said it would be unable to meet stricter standards set by MPCA's original plan. The new plan's less stringent standards allow taconite producers to adjust their furnaces to reduce nitrogen oxide pollution rather than requiring them to install advanced, cleaner-burning furnaces, and the new limits are higher than current emissions levels. The Environmental Protection Agency must still approve this rule.

Rather than requiring best available retrofit technology, coal-fired power plants will be allowed to participate in an emissions trading program that both the Forest Service and National Park Service say won't clean up the air over BWCAW and Voyageurs National Park. The cap-and-trade program is being challenged in federal court.

To read Wilderness Watch's commentary on this issue, visit: www.wildernesswatch.org/newsroom/guardian/Minnesota_Delays_Decision_BWCAW_Haze.html 🌿

Wilderness in Congress

Constitution-Free Zones

On June 19, the U.S. House of Representatives passed the disingenuously entitled “National Security and Federal Lands Protection Act,” H.R. 1505, as part of a larger package of bills approved within H.R. 2578. Known as the Bishop border bill, H.R. 2578 would waive more than 15 federal laws within 100 miles of the Mexican and Canadian borders, to give the Department of Homeland Security (DHS) virtually unlimited power to do whatever it wants to achieve “operational control” over these lands. The 1964 Wilderness Act, the 1916 National Parks Organic Act, the National Environmental Policy Act, and the Endangered Species Act are among the laws H.R. 2578 waives. The bill allows DHS to build roads and structures such as border walls, fences, surveillance

towers, and forward operating bases. Wilderness Watch has calculated that 73 Wildernesses in 12 states, totaling more than 32 million acres, would be affected along the Canadian border alone.

Wilderness Watch went to D.C. in June to meet with members of Congress about H.R. 1505 and ask them to make sure it doesn't pass the Senate (please see our article on page 12). We urge you to ask your Senators NOW to oppose this bill and its equivalent in the Senate. For background information and information on contacting your Senators, visit: www.wildernesswatch.org/issues/congress.html 🌿

Trading Away Public Lands in Superior National Forest

On May 8, U.S. Rep. Chip Cravaack (R-MN) introduced a bill in Congress, H.R. 5544, mandating a land exchange between Minnesota (MN) and the federal government for 86,000 acres of state-owned lands inside the Boundary Waters Canoe Area Wilderness (BWCAW). Minnesota would transfer these school trust lands to federal ownership and, in exchange, receive federally-owned lands outside the BWCAW in Superior National Forest. The federal government gave MN these lands in 1858 when it became a state, but these lands do not provide MN's Permanent School Fund with revenue from logging or mining since they are within the Wil-

derness. Cravaack's bill ignores the work of a state panel that has spent two years drafting a hybrid plan that proposes the federal government purchase two-thirds of the lands and exchange only one-third. H.R. 5544, in part, is an effort to convert National Forest lands outside the Wilderness to less-protected state ownership in order to facilitate the development of new copper-nickel sulfide mines. The bill received a hearing in the House Natural Resources Committee on June 8. Wilderness Watch is communicating with the MN Congressional delegation and working with allies to stop this bill. 🌿

Legalizing Private Water Developments in Wildernesses in Idaho

H.R. 2050, introduced by Rep. Mike Simpson (R-ID), deals with water diversions and developments on Forest Service (FS) land within the Selway-Bitterroot Wilderness and the Frank Church-River of No Return Wilderness in Idaho. Private parties built these water facilities before wilderness designation, primarily for irrigation or small hydropower, but the water systems were built on or crossed over federal lands and serve only private inholdings within the Wildernesses. The

operators had no legal authority to repair or maintain these systems. This bill would authorize the FS to issue special use permits for such work to occur, but will allow degradation of wilderness character on publicly-owned Wilderness. There are approximately 25 such systems in the two Wildernesses. The Simpson bill passed the House on April 26th and is now on the Senate Calendar awaiting a floor vote. 🌿

Removing Wilderness Lands in Washington for Road Reconstruction

Rep. Doc Hastings (R-WA), the chair of the House Natural Resources Committee, initially introduced H.R. 2352 dealing with a realignment of the Upper Stehekin Valley Road immediately adjacent to the Stephen Mather Wilderness in North Cascades National Park in Washington. Approximately 10 miles of the road are now closed due to a road wash-out caused by flooding. The Hastings bill allows the Secretary of Interior to reduce the wilderness boundary up to 100 feet for the length of that 10-mile stretch of road to allow for road reconstruction,

but allows the Secretary to increase the wilderness boundaries elsewhere so no net loss of wilderness acres occurs.

The House added this bill as Title VI in a package of 14 bills included in H.R. 2578, which passed the House on June 19th. H.R. 2578 now awaits action in the Senate Energy and Natural Resources Committee. While we recognize the challenges of the washed-out road, this bill further chips away at the notion of Wilderness designation providing permanent protection. ❧

On the Road (continued from page 4)

Wilderness Ranger Academy

Mesa Verde National Park was the setting for a joint Forest Service/National Park Service Wilderness Ranger Academy in which Wilderness Watch was invited to participate. George Nickas spoke to the group about the challenges and threats facing Wilderness and the need to uphold the intent, letter, and spirit of the Wilderness Act. Nickas was awarded for the “best overall presentation,” but he notes his real reward was spending a week with a few dozen wilderness rangers and staff where the passion for wilderness still lives. ❧

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Wilderness Watch staff Kevin Proescholdt and George Nickas met with Sen. Al Franken (MN) to discuss a massive proposed land exchange in the Boundary Waters Canoe Area Wilderness.

Wilderness Watch Takes to the Hill

In late June, Wilderness Watch's George Nickas and Kevin Proescholdt spent a week in Washington, D.C., speaking with congressional staffers and members alike on current wilderness issues. Among the legislation they discussed were the Sportsmen's Heritage Act, the Bishop Border Bill, the Green Mountain Lookout, and the Boundary Waters Canoe Area Wilderness land exchange bill (all described elsewhere in this newsletter). They discussed the need for congressional oversight of and support for wilderness stewardship. They also found time to visit long-time wilderness

champion (and Wilderness Watch member) Brock Evans and his wife Linda Garcia, and with a couple dozen Sierra Club activists from around the country who were in D.C. for a Sierra Club lobby week. 

Save the Date

Wilderness Watch is part of a national planning effort to celebrate the 50th Anniversary of the Wilderness Act's passage. The national conference will be held in Albuquerque, NM on October 15 to 17, 2014. For more information and to stay updated: www.facebook.com/50thAnniversaryOfTheWildernessAct 