IMPASSE OVER MONTANA WILDERNESS:
AN ENVIRONMENTAL PERSPECTIVE

By

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CHAPTER 1

INTRODUCTION

A wilderness...an area where the earth and its community of life are untrammeled by man...retaining its primeval character...

Wilderness Act

Wilderness is whatever the U.S. Congress designates as wilderness.

Rupert Cutler

As we enter 1992, the U.S. Congress has failed to designate any wilderness additions in Montana since 1983. The fate of over six million acres of Forest Service roadless land continues to be debated much as it has been for more than a dozen years. Indeed, it seems the pitch is higher and the debate more frenzied than ever. Senator Max Baucus, with Senator Conrad Burns as a co-sponsor, recently introduced the "Montana National Forest Management Act of 1991," S. 1696, into this acrimonious climate. Several attempts at a statewide bill failed during the 1980s. S. 1696 is another attempt at a statewide bill, though originally based in part upon the Lolo-Kootenai Accords.\(^1\) The Baucus-Burns bill excludes certain areas, felt to be the most controversial, from consideration for wilderness status.
at this time. This paper discusses the history of the wilderness debate in Montana, how this history affects recent negotiations, and what it indicates for the future of roadless lands and wilderness designation in Montana.

PURPOSE

The paper explores the reasons behind the lack of resolution in Montana's ongoing wilderness debate. This will be a general review of the controversy, of use to those studying problems inherent in the wilderness designation process or members of the general public with an interest in this issue.

METHODS

This study entailed a review of the relevant literature, analysis of documents pertaining to the debate, and interviews with many of those people who have participated in the wilderness designation process in Montana. This includes people professionally involved with wilderness designation issues, as well as citizen activists.

BACKGROUND OF THE WILDERNESS DESIGNATION PROCESS

The concept of preserving lands in their natural state
was first advocated within the Forest Service in 1919. In 1924 the agency set aside the Gila Wilderness in New Mexico upon the quiet urging of Aldo Leopold, at that time a Forest Service employee. Wilderness preservation was made official in a vague policy directive by the Chief of the Forest Service in 1926. In 1929, the Forest Service promulgated "Regulation L-20," which allowed the administrative establishment of primitive areas for educational and recreational purposes. However, this regulation allowed logging and other consumptive uses in the primitive areas, so was not truly protective. When Bob Marshall, long a wilderness advocate, joined the Forest Service in 1937, he championed stricter regulations to protect wilderness. Approved by the Secretary of Agriculture in 1939, these were called the "U Regulations," and established three categories of land preservation: wilderness, wild, and roadless. The primitive areas created under L-20 were supposed to be reevaluated and put into the new U categories, but in fact many lands remained classified as primitive. The U regulations were felt to be stronger than the L-20 had been on two fronts: the lands were set aside by the Secretary of Agriculture, rather than the Chief of the Forest Service, and they were considered permanently preserved, whereas the L-20 classification had been widely thought of as temporary. The Forest Service adopted these regulations in part to head off a growing movement to carve National Parks
out of National Forests—a classic example of protecting turf and jurisdiction.

These administrative procedures for preserving wilderness were the only available mechanisms until the passage of the Wilderness Act in 1964, which created the National Wilderness Preservation System (NWPS). As part of the Act, Congress directed that all wilderness and wild areas become part of the NWPS automatically, while primitive areas were to be studied for later inclusion. In Montana, approximately one and a half million acres of wilderness was thus established: the Anaconda-Pintlar, Bob Marshall, Cabinet Mountains, Gates of the Mountains, and Selway-Bitterroot Wilderness Areas. Nationwide, there were 9.1 million acres of wilderness designated by the passage of the Wilderness Act.

Eleven more wilderness areas were added to the NWPS in Montana, in eight different pieces of legislation, between 1972 and 1983. This brought the total wilderness acreage in Montana to over 3.4 million. In addition, the Montana Wilderness Study Act was passed in 1977, which protected several areas by granting them wilderness study status. These areas are important because seven of the original nine retain wilderness study status, and are among the lands not addressed by S. 1696.

Other important developments in the wilderness designation process since 1964 are the two Forest Service
inventories of their roadless lands, known as the Roadless Area Review and Evaluations (RARE I and RARE II), during the 1970s. The results of RARE I were released in 1972, and were severely criticized by wilderness advocates. This inventory was eventually discredited, and in 1979 the results of RARE II were announced. This inventory was the basis for the switch to statewide wilderness bills, changing from the area-by-area bills of the 1970s. This change in legislative process is one of the most important results of RARE II.

The specific effects of the RARE inventories on the Montana designation process are examined in more detail in Chapter 2.

HISTORY - THE PARTICIPANTS AND THEIR POSITIONS

This controversy is yet another variation of an American theme common since the 19th century: preservation vs. development. The debate primarily has pitted "environmentalists" (preservers) vs. "industry" (developers). These labels each represent a broad range of views. The "environmentalists" incorporate everyone from The Wilderness Society to Earth First!, as well as numerous local and regional groups such as the Montana Wilderness Association. Outfitters are also allied with the wilderness advocates. The "industry" group includes representatives
from the wood products industry, extractive industries, and motorized recreationists, and are represented by such trade organizations as the Montana Wood Products Association and the Western Environmental Trade Association. Ranchers have often been associated with the "industry" group in the past, but in some cases have cut those ties as they realized that wilderness was not a threat to them. While the industrial groups seem to be more diverse on the surface, they speak with a more unified voice than does their opposition. Environmentalists' opinions range from designating all remaining roadless acres as wilderness to complete acceptance of "politically realistic" legislation (as S. 1696 is considered by some). Industry has only a token proposal for wilderness additions by environmental standards, and historically has concentrated on thwarting the designation process while seeking release of commercially desirable lands.

There are numerous environmental arguments in defense of further Wilderness System expansion. In the past, most wilderness areas were preserved primarily for their recreation potential. However, the Wilderness Act specifies several other values which may be considered in assessing an area for wilderness designation: ecological, geological, scientific, educational, scenic, and historical. Maintaining intact ecosystems for suitable wildlife habitat, especially for endangered or threatened species, has become
an important issue. Watershed protection, to provide high water quality both for aquatic animals and downstream human consumption, is another use which has gained in significance. Arguments also encompass such issues as Native American spirituality, and preservation for the sake of preservation, as these are some of the last remaining relatively intact ecosystems in the lower 48 states.

The wood products industry (the main participant in the wilderness debate among the industry groups at the local level) suggests numerous reasons for designating bare minimums of wilderness, while releasing most lands containing suitably harvestable timber. These include loss of employment in logging and milling operations, increasing need due to depletion of private timber supplies, and the growing importance of Montana timber reserves due to decisions (like that concerning the northern spotted owl) which decrease log supplies in other areas. These arguments are considered by many wilderness advocates to be tenuous at best, although refuting them is beyond the scope of this paper.

In addition, there are pleas from relatively small groups, such as motorized recreationists (primarily snowmobilers) and small miners with claims in roadless areas. They suddenly find their favorite areas or claims may possibly become inaccessible because those acres are included in a wilderness bill.
Take these groups and listen to the accusations flying among them and the wilderness debate begins to look intractable. The timber industry points to areas logged years ago which are now flourishing and accuses the environmental community of exaggerating the industry's excesses. The environmentalists find similar areas which have never recovered and claim that timber companies are miners of the timber base, rather than responsible managers interested in a renewable resource. Wildlife thrives in logged areas, say the timber management advocates, thinking of deer and elk, while environmentalists point at grizzly bears and wolves and wonder if there's currently enough land for them to survive on—and some ranchers see no need for either species. Environmental economists suggest that mechanization of both logging and milling operations has led to unemployment in the wood products industry, while the timber companies seem to have convinced their permanently laid-off workers that their jobs were lost due to lack of log supply, i.e. land tied up as roadless, hence inaccessible, hence the environmentalists' fault. The wilderness advocates point at the private land liquidated of its timber by large private landowners (primarily Plum Creek and Champion) and wonder why the remaining publicly owned roadless land should be used to help them when these companies were such poor stewards of their own lands. These arguments are representative of the polarization over the
arguments are representative of the polarization over the wilderness issue.

ROLE OF THE FOREST SERVICE

The Forest Service also plays a part in the wilderness designation process. When the Wilderness Act was passed, three agencies were generally understood to manage lands which may prove suitable for inclusion in the Wilderness System: the Forest Service, the Fish and Wildlife Service, and the National Park Service. This created resource conflicts for the Forest Service which were not issues for the other two agencies. The National Parks and Wildlife Refuges had already been removed from the resource base, while the Forest Service generally considered its National Forests as an integral part of the nation's resource base—thereby setting up an inherent conflict with wilderness designation. This historical role of the Forest Service forced it to have competing interests, as stated in the Multiple-Use Sustained-Yield Act of 1960 (MUSY): the National Forests were to be managed for "outdoor recreation, range, timber, watershed, and wildlife and fish purposes." Wilderness is not specified among these stated management purposes, but is mentioned in the Act: "The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act." This provision

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anticipated the eventual passage of the Wilderness Act, which had been debated in Congress since 1956. It is also an example of a usage still common today—that wilderness is not a form of multiple use, but a single use of the forest, even though a Wilderness Area can be managed for all of the specified "multiple uses" except timber.

The Multiple-Use Sustained-Yield Act is broadly discretionary, and some view it as a way for the Forest Service to claim professional expertise in most situations, including wilderness issues, with little fear of oversight from Congress or the public. And indeed, while these are federal—public—lands, they are managed by Forest Service employees, charged with interpreting agency policy and possessing personal biases.

The agency has its own recommendations for wilderness designation. These are considered unacceptable by most environmentalists, being primarily "rock and ice" wilderness, i.e. lands with little biological diversity. In the past, industry has implied it is willing to accept these recommendations in a spirit of "compromise." All of these topics add fuel to the dissension over wilderness additions in Montana.

SIGNIFICANCE OF WILDERNESS DESIGNATION TO PARTICIPANTS

The Forest Service would like to see this debate ended
so that these roadless lands can be included in the forest plans and managed for specific uses, such as wilderness, recreation, timber, mining, whatever the allocated use may be. Until then, the Forest Service does not truly know how to administer these unclassified lands, nor how much timber is in its timber base.

The timber and other industry groups have obvious reasons for wanting the wilderness issue resolved. Until it is, they cannot easily use those six million acres for any extractive, hence profitable, activity.

Those least needing immediate wilderness designation are the environmentalists. These lands currently are de facto wilderness, if not federally designated Wilderness. The environmentalists know that as long as these areas are in political limbo, they are, for the most part, protected and preserved. (However, it must be noted that with the approval of the final forest plans, it appears that the roadless lands are legally "released" even without the legislative release of a wilderness bill.) In addition, while time goes by, more ideas (such as wildlife habitat) become important issues in the wilderness designation process.
CHAPTER 2
WILDERNESS DESIGNATION IN MONTANA

Since 1964 and the establishment of the National Wilderness Preservation System (NWPS), six different legislative mechanisms have been proposed to designate wilderness areas:

1) single area bills;
2) multiple state, multiple area bills ("omnibus" bills);
3) single-state multiple area bills;
4) nationwide bills;
5) substate regional bills;
6) multistate bioregional bills.

As of 1992, the first three have resulted in successfully allocating wilderness nationally; only the first two have worked in Montana. The fourth was briefly considered following the second Forest Service Roadless Area Review and Evaluation (RARE II), but never very seriously. The last two are recent, innovative ideas which have yet to be proved.

This section outlines how the existing wilderness areas in Montana were added to the NWPS. Not all areas will be discussed in detail, only those which were unique and
presented new circumstances to the wilderness designation process at the time. Likewise, some non-Montana areas or issues are included here if they were of national significance to the designation process. The effects of the roadless inventories on the wilderness designation process in Montana are discussed. Finally, some of the statewide attempts to designate further wilderness in Montana, and subsequent "release" of roadless lands to non-wilderness uses, are presented.

THE GROWTH OF THE WILDERNESS SYSTEM IN MONTANA

Immediate Inclusions

As previously mentioned, five wilderness areas were established in Montana with the passage of the Wilderness Act in 1964. These wildlands had been administratively set aside under the Forest Service's U Regulations as "wilderness" (Bob Marshall, Selway-Bitterroot, and Anaconda-Pintlar) or "wild" (Cabinet Mountains and Gates of the Mountains), and included about 1.5 million acres. Four "primitive" areas, classified under the earlier L-20 Regulation and never reclassified, were also protected until the Forest Service evaluated them for inclusion in the Wilderness System and Congress subsequently acted: the Mission Mountains, Spanish Peaks, Absaroka, and Beartooth Areas, with a total of about 417,000 acres. In addition, there were millions of acres of unidentified roadless Forest
Service lands in Montana which met the definitions of wilderness as set forth in the Wilderness Act, but had no formal Forest Service classification. These unclassified, undeveloped lands were not specifically addressed by Congress in the Wilderness Act. Wilderness advocates commonly referred to these wildlands as "de facto wilderness." Though not an intent of the Wilderness Act, these lands were to become a source of conflict for the Forest Service for decades.

Conservationist strength and the de facto problem

Upon the passage of the Wilderness Act, the Forest Service suddenly found itself as the steward of 9.1 million acres of Congressionally designated wilderness, and was required to study an additional 34 primitive areas totalling 5.4 million acres during the next ten years. This Congressionally mandated evaluation of the primitive areas would turn out to be the relatively easy task for the Forest Service with regard to its wildlands. The unclassified lands, the de facto wilderness, which even the Forest Service did not know the extent of, would soon prove much more troublesome.

Within a few years of the Wilderness Act's passage, a series of events occurred which hinted at the situation looming on the horizon for the Forest Service. Only one of these events took place in Montana; the others, in
California and Colorado, are included here because they were of national consequence.

In 1965, California's San Rafael Primitive Area was the first in the country to be evaluated by the Forest Service as prescribed by the Wilderness Act. The furor which ensued upon the release of the agency's recommendations made it obvious that wilderness advocates were not going to allow Forest Service decisions to go to Congress unchallenged. The Forest Service's ultimate recommendations were followed by Congress, but had been heavily influenced by environmentalists. In 1968, the area became the first to be added to the Wilderness System. Though not a de facto wildland, it became clear that wilderness advocates were watching the Forest Service closely.  

Early versions of the Wilderness Act would have designated wilderness only by recommendation of the executive branch. As part of a compromise, Congress required wilderness to be established only by "affirmative action" of the House and Senate. The San Rafael debate was the first indication that affirmative action could prove more beneficial to environmentalists than executive recommendations would have been. In 1968, Stewart Brandborg, then Executive Director of The Wilderness Society, stated that the Wilderness Act "as it was passed, has opened the way to a far more effective conservation movement."
In fact, the first de facto wilderness bill was already being introduced in the Senate. It addressed an area which local residents had been trying to get protected administratively by the Forest Service even before passage of the Wilderness Act. The area, Montana's own "Lincoln Backcountry" ultimately became the first de facto wilderness added to the NWPS.

In response to Forest Service plans to build a system of logging and recreation roads in the Lincoln Backcountry, a few local residents formed the Lincoln Backcountry Protection Association in the early 1960s. A temporary moratorium on development was issued by the Forest Supervisor in 1963, even though the decision was "not well received" at the regional level.25 Upon the advent of the Wilderness Act, the local Association pushed for wilderness designation, and Senators Lee Metcalf and Mike Mansfield introduced the first bill to grant the Lincoln Backcountry wilderness status in 1965. Though it took several years, and several different bills, the Lincoln Backcountry was eventually protected as the Scapegoat Wilderness in 1972. It was the first wilderness addition in Montana, the first in the country that arose from lands previously unclassified by the Forest Service, and perhaps most importantly, the first "citizen" wilderness proposal.26 Significantly, the Scapegoat was designated as wilderness prior to the end of the mandated ten-year review of the primitive areas.27
Meanwhile in Colorado, the Forest Service approved a modified timber sale that had been planned in 1962—prior to the Wilderness Act. The sale involved undeveloped wildlands adjacent to a primitive area. A group of opponents to the timber sale sued the Forest Service under the provision of the Wilderness Act which stated “nothing herein contained shall limit the President in proposing...the addition of any contiguous area of national forest lands predominantly of wilderness value.”28 The wilderness advocates won the case, often referred to as the Parker decision, in 1970, and again on appeal in 1971.29 The Forest Service was enjoined from moving forward with the timber sale. The case was important because it proved that the Forest Service could not ignore the potential for wilderness status in millions of acres of unclassified lands, particularly those adjacent to primitive areas.30

These three seemingly unrelated situations in Montana, California, and Colorado had a common thread; the wishes of ordinary citizens were being heard, and followed, by both Congress and the courts. Especially in the area of the Forest Service unclassified lands, local citizens seemed to be better informed of the wilderness potential of many areas than the Forest Service itself. This prompted the Forest Service to initiate its first roadless inventory.
Roadless Area Review and Evaluation

As early as 1961, the Chief of the Forest Service recognized the need for some sort of inventory of those lands within the National Forests which were roadless, but did not carry any particular status. At that time, however, the Forest Service was just beginning its primitive area reviews, and was not in a position to begin a rigorous study of the unclassified lands. The original Roadless Area Review and Evaluation (RARE I) began in earnest in 1971, and was completed in summer, 1972. The study found 1,449 roadless areas, totalling 56 million acres nationwide. Only 274 areas, with 12.3 million acres of land, were ultimately suggested as "new study areas." Of these, 4.4 million acres were already under consideration for wilderness status. In Montana, there were 5.2 million acres of roadless lands identified, with 1.5 million acres, in 36 areas, to be studied for their wilderness potential.

Almost immediately both the RARE I process and its wilderness study recommendations were maligned by environmentalists on several fronts. Most of the study had taken place in the winter, not optimal field season in most of these areas; it unduly fragmented several areas, thereby lessening their true wilderness potential; and it relied heavily on the Forest Service "purity doctrine" which excluded numerous areas from wilderness consideration. Eventually, RARE I was so thoroughly discredited that a
second evaluation was ordered, but meanwhile other areas were becoming part of the Wilderness System in Montana.

Single area and omnibus bill additions

The Mission Mountains Primitive Area was finally included in the NWPS, as part of an omnibus bill which designated areas throughout the country, in 1975. The next additions in Montana were National Wildlife Refuge lands, not National Forests. The Red Rocks Lakes, Medicine Lake, and UL Bend areas were included in The Forest and Refuge Omnibus Act and added to the Wilderness System in 1976. The Great Bear and Elkhorn Wilderness Study Areas were also established at this time. In 1978, two of the old primitive areas were finally granted wilderness status when the Absaroka and Beartooth Areas were combined into a unified and greatly expanded Absaroka-Beartooth Wilderness. In addition, the Great Bear was granted wilderness status that year. The Rattlesnake National Recreation and Wilderness Area became Missoula's backyard wilderness in 1980. Near Yellowstone National Park, the Lee Metcalf Wilderness Area was designated in 1983. It consists of four separate components in the Madison Range. One of the components is the Bear Trap Canyon area, of interest because it was the country's first Bureau of Land Management Wilderness Area. Also included was the Spanish Peaks Primitive Area, the last Forest Service land of that
classification in the state. In addition to these
wilderness areas, several other Montana wildlands were
protected by legislation of special note. These are
discussed below.

The Montana Wilderness Study Act of 1977

Senator Lee Metcalf first sought wilderness study for
ten wild areas of Montana in 1974: the West Pioneers,
Taylor-Hilgard, Bluejoint, Sapphire, Elkhorn, Ten Lakes,
Middle Fork Judith, Big Snowies, Hyalite-Porcupine-Buffalo
Horn, and Mount Henry areas. These areas were among those
not recommended for wilderness study by RARE I. Senator
Metcalf considered the study bill to be a partial answer to
the Nixon administration's "cavalier treatment of a
priceless public resource." The Elkhorn area proved
particularly contentious and was protected in separate
legislation in 1976, as previously stated. The remaining
nine areas, totaling nearly one million acres, were granted
wilderness study status in 1977. (They are commonly
referred to as the "S. 393" lands after the bill number.)
Wilderness study status, in this case, allows for motorized
recreation, so is less protective than wilderness status.
Though it set time limits on how long the Forest Service and
the President could take to submit reports to Congress
regarding these lands, the Act set no time limit on Congress
itself: these lands retain wilderness study status "until
Congress determines otherwise."\(^6\)

A public debate displaying Senator John Melcher's less than enthusiastic embrace of the wilderness program took place concerning these lands. Senator Melcher's wariness was first evident when he was the Chairman of the House Subcommittee on Public Lands, and grudgingly held hearings on the bill. During a hearing he chaired in Helena in 1976, he stated "the term, study bill, might be misleading to some, since everything within the boundaries would have the restrictions of wilderness imposed.... The requirements of the wilderness provisions of this bill would continue indefinitely until and unless Congress acted."\(^7\) The bill failed during that session of Congress, and was reintroduced the following year. In the meantime, Senator Melcher had been elected to the Senate in 1976, taking Mike Mansfield's seat. When the bill passed the Senate in his absence, Melcher was infuriated and put a statement in the Congressional Record in May, 1977, implying that Metcalf had specifically planned it that way. The following month, Senator Metcalf refuted that statement, and went on to say that the Senators' had "fundamentally different opinions on wilderness. That differences occur should not be surprising. What is surprising is his effort, bordering on obsession, of attempting to deny that differences exist."\(^8\) This episode was another in a series of anti-wilderness activities, carrying over from his tenure in the House,
showing that Melcher was not the friend of wilderness legislation his predecessor had been.

Lastly, some of these lands are among those "controversial" areas which are not addressed by the Baucus-Burns bill, "The Montana National Forest Management Act of 1991," S. 1696. One of these areas, Mt. Henry, was removed from the wilderness study category when the Lee Metcalf Wilderness was set aside in 1983. Portions of the Taylor-Hilgard area were included in the Lee Metcalf Wilderness, with the remainder removed from wilderness study status. The remaining seven areas presently retain their status. Five of these study areas are not addressed by S. 1696. Part of the Sapphires would be designated wilderness, with the remainder released, and part of the Hyalite area would be placed in "special management."49

The Endangered American Wilderness Act

The Welcome Creek Wilderness Area was established as part of an omnibus bill entitled the Endangered American Wilderness Act of 1978.50 This act established wilderness and wilderness study areas in several states from wildlands which were not protected by any study provisions of RARE I. They were considered "endangered" because they were "immediately threatened by pressures of a growing and more mobile population."51 The fact that Congress passed a bill based upon this type of argument, coupled with the passage
of the Montana Wilderness Study Act (which also protected lands not considered for wilderness evaluation under RARE I) finally proved the inadequacy of RARE I to the wilderness designation process, thus providing the impetus for the second Forest Service roadless inventory, RARE II. In fact, RARE II was announced during hearings for the Endangered American Wilderness Act, in May, 1977.52

The second Roadless Area Review and Evaluation (RARE II)

The Forest Service's second inventory was better planned and more thorough than RARE I had been, and indeed, reported 6 million acres of additional roadless land in the National Forests when released in 1979.53 Unlike RARE I, which divided lands into further study and no study areas, RARE II divided roadless lands into three categories: recommended wilderness, further planning, and non-wilderness.54 The wilderness lands were to be proposed as additions to the NWPS. The lands in the further planning category were to be studied for their suitability for addition to the Wilderness System. Those areas in the non-wilderness category were to be immediately available for potential development and commercial use with their inclusion in the first generation of forest plans, which were being prepared at this same time, in accordance with The National Forest Management Act of 1976.55

The State of California questioned the adequacy of the
Environmental Impact Statement (EIS) which accompanied the non-wilderness category, and in 1980 sued the U.S. Department of Agriculture. The case which eventually resulted, California v. Block (1982), agreed with the state, and threw out the EIS, preventing development of the non-wilderness category of wildlands. Since this was decided at the 9th Circuit Court of Appeals, the results could apply not only to California, but also to several other western states, including Montana. Effectively, this decision became a tool for environmentalists to challenge proposed development in roadless lands.

The effects of RARE II, coupled with the California v. Block decision, fundamentally changed the wilderness designation process. By creating an inventory of existing roadless lands, it ushered in the era of statewide bills, with attendant "release" language. The days of single area bills, with local people ardently defending the wilderness characteristics of known areas, were now fading away. As of 1992, most western states have successfully completed their "first generation" statewide bills. Montana and Idaho remain the only states without statewide designations of their RARE II lands. As a result, the aforementioned six million acres of roadless wildlands, the de facto National Forest wilderness of Montana, still await Congressional action.
STATEWIDE LEGISLATION

Though there have been seemingly innumerable attempts to designate further wilderness in Montana, and release the undesignated lands, only three were extremely serious and advanced in the legislative process. Those three are briefly described here.

"Montana Wilderness Act of 1984"

In 1983 the Montana delegation held hearings in Montana to gather information for a statewide wilderness bill. This bill was drafted under the "consensus" approach: any member could veto the inclusion of any area. Two bills, one in each chamber, were introduced in June, 1984. They would have designated 747,000 acres of wilderness (slightly more than the Forest Service recommendations), and released over five million acres to non-wilderness multiple use. It also included 500,000 acres in a controversial "special management" category. The bill died during that session of Congress.  

Further negotiations continued in 1985 and 1986, but the consensus process fell apart, primarily due to disagreements between Senator Baucus and Representative Marlenee. Although Senator Melcher introduced a bill addressing the areas which had been agreed to, little action was taken, and no Montana wilderness legislation passed
"Montana Natural Resources Utilization Act of 1988"

This bill resulted from bills introduced by Pat Williams and Max Baucus in 1987. Congressman Williams introduced his own bill due to the breakdown of the consensus process, and Senator Baucus followed suit a few months later with a similar bill. Both bills would have designated about 1.3 million acres of wilderness. Baucus wanted Senator Melcher to also submit a bill, but Melcher resisted at first, saying he still believed the consensus approach should be used. By 1988, the three democrats were negotiating on changes in the bill, and Pat Williams' bill had been passed by the House.60

One holdup was the acreage. In negotiations over the bills, the acreage had increased to about 1.4 million acres, though John Melcher wanted only 1.3 million in a final bill. Williams contended that the figure "isn't the important thing. The important thing is what we protect and what we release."61 These acreage caps are often referred to as the "shoe box" approach. Though time was short, Senator Melcher began a determined drive to push the bill through Congress in October, 1988, just prior to the November election, in which he was running for re-election. Melcher was actually able to pass the bill in both houses of Congress on an extremely tight time schedule, only to have it pocket-vetoed
by President Reagan in early November, as part of a political strategy days before the Senate election.\textsuperscript{62} It would have designated nearly 1.43 million acres of wilderness, and released acreages similar to the 1984 bill.

Melcher was defeated in that election, and a different delegation, with Conrad Burns as the new member, would have to address this issue. No serious attempts at wilderness legislation were promoted in 1989 or 1990.

"Montana National Forest Management Act of 1991"

The current Baucus-Burns bill can be traced back to the first proposed Lolo-Kootenai Accords legislation in 1990. Burns and Baucus discussed a statewide bill early that year, but the talks were never substantive.\textsuperscript{63} Senator Baucus submitted a bill based on the Lolo-Kootenai Accords, but promised it would not become an election issue, meaning that if the bill failed to move during the summer, it would not be dealt with during the fall campaign. The bill died during that session of Congress. Baucus reintroduced it in 1991, and even held a Senate field hearing in Missoula in June. The bill led to some rousing debate in Western Montana that year.\textsuperscript{64} When the Accords became embroiled in too much controversy, particularly the Kootenai Accord, Baucus introduced a statewide bill in September, 1991, incorporating much of the Lolo Accord. In November, after compromising with Senator Burns, the current version of the
(During the debate over the 1988 bill, Pat Williams said "I got this process halfway finished now because I passed a bill through the House. If the Senate can't get a bill out, I'm going to back away from the process in the next Congress and let the Senate go first and alone with no consensus help from me." He has proved true to his word, and is waiting for the legislation to be passed by the Senate, rather than introducing parallel legislation as is often the case.) The Baucus-Burns bill designates about 1.2 million acres, while releasing about four million acres, and changes the standard release language. As previously mentioned, it does not affect five of the seven "S. 393" wilderness study areas. As of this writing, the bill awaits action in the Senate. The controversial release language is discussed in Chapter 3.
CHAPTER 3
FACTORS AFFECTING WILDERNESS DESIGNATION

Ultimately, the wilderness designation process is not one which is governed by hard, cold facts. Wildlife biologists may theorize over how many grizzlies represent a sustainable population, and timber industry economists argue over how many jobs are lost when timber supply is threatened, but these are not facts. Rather, wilderness designation is based upon public perception, emotion, philosophy, confusion and, especially, politics. The numerous Montana wilderness bills proposed and introduced in recent years have only one fact in common: a failure to reach an elusive consensus. This chapter discusses some of the major themes leading to this lack of consensus, as cited by people who have participated in the wilderness debate in Montana.

MAJOR THEMES
Geography

Montana is a big state—over 93,000,000 acres, with almost 17,000,000 in the National Forests. Of those, 3.4 million acres are already Congressionally designated
wilderness, and about 6.2 million acres are inventoried as roadless. Following the release of RARE II and the ensuing shift to statewide bills, wilderness designation became a different type of problem than it was during the days of single area efforts. There are so many roadless lands that Dr. Arnold Bolle, a highly respected Montana conservationist, states that almost "no one knows all of these areas." He suggests that this immense amount of land led to the "acre" discussions now common to the wilderness debate, succeeding the earlier "area" discussions. The resulting "acreage caps" for wilderness legislation are often mentioned by Congressmen when discussing this issue. Bill Cunningham and Doris Milner, both long time wilderness advocates, suggest that the statewide approach necessitated the founding of the Montana Wildlands Coalition, an organization which brought together groups throughout the state with an interest in wilderness preservation. Mrs. Milner remarked upon the inherent difficulty of maintaining coalitions, and the need to still watch over your particular area of interest. This change in circumstances did not enhance the role of the environmentalist in wilderness politics.

Another aspect of Montana's geography is the traditional division between east and west in the state. Most of these wildlands are in western Montana--very few are in the east. Tucker Hill, former assistant to Senator
Melcher and now Public Affairs Director for Champion International, points out that the east has ranching, open spaces, more private ownership, and tends to be politically conservative. The west has logging, mining and, increasingly, tourism, mountain peaks, more publicly owned lands, and tends to be more liberal. These two different geographies incorporate many different constituencies, resulting in a wide range of philosophies within a Congressional delegation that has only four members. This philosophy range, reflecting the inherent differences within the state, has helped to hold up wilderness legislation for years.

Organizations

Numerous groups have interests in wilderness legislation. They generally fall into two camps: environmentalists trying to preserve public lands with wilderness values, and industry groups hoping to develop public lands. As mentioned in Chapter 1, the motorized recreationists are also aligned with the industry group. It should be noted that many industry groups are trade organizations, made up of member businesses rather than individuals.

These entities may be referred to as "special interest groups" or "activist organizations," but they all have one goal in common: influencing Congress. Several of the
environmental groups involved with wilderness bills in Montana, such as the Sierra Club and The Wilderness Society, boast national followings and testified during hearings for the Wilderness Act in the late 1950s and early 1960s. Likewise, the mining and timber lobbies also testified thirty years ago, fighting for fewer inclusions and longer compromise periods, for example, and remain active in wilderness politics. In fact, the current debate over Montana wilderness does not sound substantially different from the arguments over the Wilderness Act itself. One change is the number and type of organizations which have continued to form during the past few decades.

The Alliance for the Wild Rockies was founded in 1988, and has brought together nearly thirty different local organizations in Montana alone. The Alliance includes such grass roots groups as the Swan View Coalition and the Beaverhead Forest Concerned Citizens. The Alliance advocates a new approach to the wilderness morass, with a proposal, not yet introduced in Congress, which it calls the "Northern Rockies Ecosystem Protection Act" (NREPA). It suggests that the old "shoe box" approach be abandoned in favor of wilderness designation based on ecosystems and wildlife needs. These ecosystems extend across state lines and, as such, this approach represents a new direction in the wilderness designation process by proposing wilderness in a five-state bioregion. Several prominent wildlife
biologists, including Drs. Charles Jonkel and John Craighead, have written the Chairman of the House Interior and Insular Affairs Committee in support of the proposal. *(Undisturbed wildlife habitat has long been a popular argument for wilderness; we should note, however, that while the Wilderness Act says areas may contain "ecological" and "scientific" values, wildlife needs are not specifically stated.)*

At the opposite end of the spectrum, the industry lobby also has an umbrella organization with numerous member groups. The Western Environmental Trade Association (WETA) lists among its members the Montana Wood Products Association and Montana Power Company, for example. It has represented the interests of industry groups for several years. WETA recently proposed its own wilderness recommendations amounting to about one million acres of wilderness, fewer than S. 1696, the Baucus-Burns bill. Dr. Bolle mentions that S. 1696 is presented as extreme by these interests, even though it carefully excluded nearly all minerals and timber. He adds that though timber is the most obvious player locally, mining and gas and oil interests have the stronger lobbies in Washington, D.C. *(In recent years, several anti-wilderness "wise-use" groups have sprung up in the West; People for the West, Grassroots for Multiple Use, and Communities for a Great Northwest are three examples. While purporting to be*
"grassroots" organizations, there is evidence that some of their activities are supported by large corporations such as Chevron and Exxon.\textsuperscript{73} These groups have become visible players, and have staged some emotional demonstrations. In 1988, Bruce Vincent, a Libby businessman and organizer of Communities for a Great Northwest, staged the "Great Northwest Log Haul" from Eureka to Darby, and received national media coverage.\textsuperscript{74} In June, 1991, WETA organized a lively rally at the University of Montana field house on the eve of the Lolo-Kootenai Accords hearings in Missoula.\textsuperscript{75} Earlier, an informational meeting turned hostile after a WETA activist spoke against the Accords in Libby.\textsuperscript{76} Gerry Slingsby, former president of a local millworkers' union and one of the forces behind the Lolo Accords, suggests that Bruce Vincent and others make a career out of not resolving this issue.\textsuperscript{77} Regardless of their true roots, these groups add to the dissension which the Congressional delegation must respond to concerning wilderness.

\textbf{Congressional Delegation}

Montana's geographical differences influence the makeup of the Congressional delegation, and the many groups interested in this issue influence Congress' decision-making process. What is the roll of Congress in wilderness decisions? Do Congressmen lead, or follow the desires of their constituents? It would appear that they do both, but
following seems to predominate in Montana with respect to the wilderness issue. As discussed in Chapter 2, Congress has traditionally handled wilderness legislation by seeking consensus among the local or state delegation. A brief description of the members of the Montana delegation of recent years will show why consensus over wilderness is difficult to attain.

Senator John Melcher was appointed to the House from Montana's Eastern District in 1969, then elected to the Senate in 1976 upon Senator Mike Mansfield's retirement. According to Teddy Roe, a former assistant to several members of the Montana delegation, prior to Melcher's election the delegation enjoyed a high degree of cooperation, as evidenced by weekly meetings of the four Congressional staffs. After Melcher joined the House, these weekly meetings ended. He was described as both a "loner" and "devious" by Mr. Roe, while Tucker Hill used the term "self-involved." Bill Cunningham, a Wilderness Society staffer in Washington, D.C. during some of this period, relates that the Senator often put his "mark" on legislation, causing delays and consternation among other delegation members. Senator Melcher was defeated for reelection in 1988 following the convoluted machinations, of his own doing, concerning the 1988 wilderness bill described in Chapter 2. His work on the bill had several effects on the election as suggested by Mr. Hill. Senator Melcher was
not in Montana to campaign just prior to the election; he was involved in a volatile issue just prior to the election; and after all his work on the issue, it was ultimately vetoed by a popular President. Simultaneously, his opponent was running anti-wilderness campaign ads. Many people consider wilderness to have been the main factor in his defeat, though a survey of voting patterns following the election showed that the important swing was among his former ranching constituency. Nonetheless, the public perception of the Melcher defeat is indelibly entwined with wilderness, and may add to the apprehension of the rest of the delegation to tackle this issue.

Several people pointed out that the Senator was more knowledgeable about individual areas and boundaries than his colleagues, though sometimes to the exclusion of broader issues. Nonetheless, Melcher's absence has made the debate among the delegation a less detailed one. Senator Max Baucus was elected to the Senate in 1978, after two terms in the House of Representatives. He often characterizes himself as an effective compromiser. Unfortunately, compromise is sometimes manifested as a public perception that he is unable to take bold stands on controversial issues--such as wilderness. Nevertheless, as Dale Harris, a long time supporter of wilderness designation for the Great Burn, points out, one reason there is currently wilderness legislation in Congress is that "Max
decided to do it.... That's when things started turning."84 And as Senator Baucus stated when introducing his bill, "Now is the time to act; to retire Montana's battle of the wilderness to the history books."85 On the other hand, he chose to introduce a bill with less acreage than the bill passed by Congress in 1988, and left out the "contentious" areas to be dealt with later. Many question why Senator Baucus did not submit a stronger bill to begin with, when it was almost assured that Senator Burns would want to compromise further on it prior to any action in the Senate.

Teddy Roe also points to the fact that following Senator Melcher's defeat, Baucus could have taken his seat on the Senate Energy and Natural Resources Committee, but allowed the vacancy to go to Conrad Burns instead. At the time, Baucus said he did not want to give up his seniority on other committees by claiming the seat.86 Hence, his influence over wilderness legislation, and other public lands issues of such importance to Montana, is less than it could be.

Bill Cunningham mentions that alone among the Congressional delegation, Senator Baucus enjoys camping, hiking, and mountain climbing, which suggests "a feeling for wilderness" which may be lacking in other members of the delegation.87

Senator Conrad Burns is the newest member of Montana's delegation, having been elected in the 1988 upset of John
Melcher. As previously mentioned, Burns ran in part on an anti-wilderness platform, just when Melcher was away from the state working on this controversial issue, and he subsequently replaced Melcher on the Senate committee responsible for wilderness legislation. No wilderness legislation was introduced by either Senator in 1989, and in 1990 Burns proposed the release of three million acres of roadless lands, a move questioned by both Senator Baucus and Congressman Williams. Hence, 1991 is the first year that Senator Burns has dealt with this issue in a substantive way, coming on board as a co-sponsor of S. 1696 after negotiating with Max Baucus. Though it would be a stretch to call Senator Burns a wilderness advocate, he at least appears to be up front when dealing with the issue, in direct contrast to his predecessor.

Congressman Pat Williams has represented the Western District of Montana since 1978. His background is in Butte, a city famous for being both a labor center and a place for the "common man," as Doris Milner puts it. Both of these factors make this a difficult issue for Pat Williams: wilderness has often been presented as a concept which results in job losses for laborers, while creating a playground for the elite. In addition, with Senator Melcher being both senior and antagonistic to this issue, it was difficult for Williams to lead on wilderness early in his tenure. Tom France, an attorney with the National Wildlife
Federation, suggests that rather than approaching this issue as an advocate for either side, the Congressman approaches it as an advocate for the process.\textsuperscript{90} As described in Chapter 2, Williams introduced, and got passed, legislation in 1987 after being convinced that the consensus process would not work.

Bill Cunningham cites Pat Williams as another delegation member who has not strived for committee assignments germane to this issue. Although Williams is a member of the House Interior Committee, he took a hiatus for several years during the 1980s.\textsuperscript{91} Furthermore, the Congressman himself has often portrayed his main interests as education and labor issues—public lands issues, including wilderness, are not tantamount concerns for him.

Congressman Ron Marlenee was elected to the House from Montana's Eastern District in 1976, following John Melcher's move to the Senate. Always a wilderness opponent, he was effectively removed from wilderness discussions when Pat Williams broke with the consensus approach in 1987 and introduced his own bill. Since that time, his main influence on this issue is to attempt to add amendments to various bills.\textsuperscript{92} However, in an infamous incident in the late 1980s, he protested a timber sale which would have been visible from his summer cabin near Bozeman, so perhaps he has some understanding of the aesthetics of the issue. Concerning the current bill, he has decried the efforts of
Baucus and Burns. Ironically, he has called for killing the bill, an effort which would be met with relief from most wilderness advocates, though he seems to be moderating this stance recently.

Ron Marlenee and Pat Williams are, in all likelihood, competing for one Congressional seat this year. This would seem to be a major reason not to deal with wilderness legislation in 1992. The issue is politicized enough without the influence of an unprecedented event of this magnitude complicating it further.

Mike Mansfield and Lee Metcalf, two former Senators from Montana, also warrant a mention in this section. They served together in the Senate from 1960 until 1976. Mike Mansfield was a powerful Senate Majority Leader during much of this time. Lee Metcalf was the junior senator, but enjoyed a rewarding working relationship with Mansfield. Metcalf was a champion of wildlands issues since early in his Congressional career. According to Teddy Roe and Clifton Merritt, staffer for the Wilderness Society during much of this time, Mansfield deferred to Metcalf on many issues concerning the state, particularly those relating to natural resources. With a strong supporter like Lee Metcalf, teamed with a powerful Senator such as Mansfield, wilderness advocates in Montana had a sympathetic ear in the Senate and were able to make several gains. As Teddy Roe related, Metcalf often remarked that you only needed "50%
plus one vote" to be reelected; that is, he was not afraid
to wade into controversy. He also had a great feeling for
the land, often saying, it seems only partly in jest, that
he wished he had had "the good sense to stay" in the
Bitterroot Valley.

In a space of only two years, Montana's senators
changed from Mansfield and Metcalf, both supporters of
wilderness legislation, to Melcher and Baucus, neither a
strong spokesman for wilderness, and one at least somewhat
adverse to it, as witnessed during the Montana Wilderness
Study Act hearings. Shortly thereafter, the entire
wilderness designation process changed with the advent of
RARE II, and the process became even more politicized than
it had been previously. Dr. Roe takes the position that the
role of personalities cannot be too strongly emphasized in
any legislation. Perhaps that is even more true when the
legislation is at once controversial and emotional, as is
wilderness. He also points out that Congressmen have
"changed from legislators to service people"--doing
constituency work at the expense of finding solutions to
complicated issues.

THE FOREST SERVICE

The role of the Forest Service in the wilderness
designation process cannot be overlooked. Traditionally,
the Forest Service was primarily a stewardship agency until World War II. During the great post-war building boom, it evolved into a timber management agency. Dr. Bolle says the Forest Service overestimated its timber base, and when trying to cut back in the 1970s, found it difficult as the agency had grown "fat and happy" on timber. The agency has received considerable bad press concerning wilderness over the years, much of which focused on their perceived footdragging and mismanagement.

Bill Worf, retired regional recreation director for the Forest Service, suggests that mismanagement of the National Forests has led to public distrust of the agency, and is responsible for the call for what he regards as excessive amounts of wilderness. Clif Merritt cites the fact that traditionally, Congress has appropriated money for timber cutting, not wilderness management. It's a short leap to a view that the bureaucracy is protecting itself—timber management requiring more employees than wilderness management does. Mrs. Milner mentions that the Forest Service often stood in the way of wilderness designation until industry organizations became better organized on the issue, allowing the Forest Service to assume a more neutral role.

Mr. Merritt relates a story illustrating her point from the late 1960s in Colorado. While trying to gather support among ranchers for a proposed wilderness area, he discovered
that the Forest Service had been misinforming them about their grazing rights in designated wilderness areas, implying that the rights would be threatened. Mr. Merritt told the ranchers that the Wilderness Act explicitly states that existing grazing rights were protected, and showed them copies of the Act to prove it.102

The public perception of mismanagement within Forest Service would seem to be vindicated as much of the recent criticism has come from within the agency itself. The Association of Forest Service Employees for Environmental Ethics (AFSEEE) was formed to promote "ecologically sustainable management practices and an environmentally sensitive resource ethic in public resource management agencies, especially the Forest Service, through educational and outreach activities."103 In a recent event of national importance, investigated by Congress and reported in the national media, Region I Forester John Mumma said he was forced to resign due to political pressure concerning missed timber targets in the Region.104 Even Senator Baucus acknowledged this situation when he introduced his wilderness bill.105 Congress has also held recent hearings about alleged Forest Service abuses nationwide of the federal whistleblower program--designed to protect those who would question the activities of federal agencies.106

In September, 1991, Orville Daniels, the Supervisor of the Lolo National Forest, announced a decreased timber cut
on that forest, saying that the land, wildlife and water "need a rest". Meanwhile, pressures are exerted by development-oriented concerns to keep the cut at current levels. Don Allen, vice-president of the Montana Wood Products Association, recently questioned Supervisor Daniels' position on the Lolo by saying that the cut is already below what grows annually on the forest, implying that a decrease is unnecessary. Other foresters respond that while technically true, it is a distortion, as most of that growth is in young, second-growth trees, which will not be suitable for cutting for decades. And these examples do not even consider the uproar over below-cost sales--a complicated issue beyond the scope of this work.

Bill Worf cites Jewel Basin as an example of an area which has been proposed for wilderness even though it may be better managed otherwise. This popular hiking area is located south of Glacier National Park in the Flathead National Forest. It became a "hiking area" under an administrative ruling at Mr. Worf's suggestion after he joined the Regional Office, and has improvements such as fire rings and toilet facilities. It was to be used only by hikers--no horses, trailbikes, or snowmobiles. Within several years, however, there was mechanized use of the area which was not actively prevented by the Forest Service. At one point, oil and gas leasing were proposed for the area. In short, the Forest Service was not living up to its
commitments. During the preparation of forest plans, the Forest Supervisor suggested it be included in the agency's recommendations for wilderness. Wilderness advocates did not object of course, because that would ensure that the area would be protected from development—even though it was so heavily used that a quality wilderness experience may not be possible. In other words, if the public had trusted the Forest Service to manage Jewel Basin for hiking and non-motorized recreation, there may have been fewer calls to place the area in wilderness.\textsuperscript{109}

As it stands now, public trust of the Forest Service to properly manage its lands is so low, the public demands wilderness protection as a way to bind the hands of the agency and force it to manage for recreation and other non-development values. Since the Forest Service seemingly continues to put resource extraction before recreation management, the public perceives that the only way to protect the land—and its wildlife, watershed, and forest ecosystem—is to press for wilderness designation on roadless lands whenever possible.\textsuperscript{110}

Thurman Trosper, a retired Forest Supervisor and past President of The Wilderness Society, says the Forest Service is against wilderness because it wants to manage, and that while that mindset is changing at the lower levels, it has not yet done so among the policy makers.\textsuperscript{111}

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In addition to the many nuances which are inherently brought to the wilderness designation process by politics, personalities, influence, and bureaucracy, there are several complicating issues which tend to cloud the issue for the casual observer. These include the legal problems of "sufficiency," "water rights," and "release" language.

Sufficiency

Sufficiency language is a term which arose from the previously mentioned California v. Block decision of 1982, which declared the RARE II Environmental Impact Statement (EIS) inadequate for lands in the non-wilderness category. A compromise was worked out which stated that the RARE II EIS was "sufficient" for purposes of release within statewide wilderness bills, precluding judicial review on this matter. In many cases, it is becoming irrelevant since most RARE II lands are now contained in final forest plans for each forest, as directed by the National Forest Management Act of 1976. According to Steve Sherick of the Regional Public Affairs Office, all forest plans in Region 1 have been completed. An exception may be the Flathead Plan which is awaiting possible judicial review. Sufficiency is the most easily understood of these difficult legal issues.
Water Rights

Water rights were never an issue in wilderness legislation until 1985, when proposed development in Colorado persuaded the Sierra Club Legal Defense Fund to file suit and force the federal government to claim its "federal reserved water rights." According to generally held doctrine, all federal lands have water rights attached, dating from the establishment of a particular federal area. When the court issued an advisory opinion agreeing with the Sierra Club, a new era in wilderness designation evolved, and water rights have been a major point of dissension "in every bill since then." As Tom France points out, it is a highly theoretical issue in that most wilderness areas are headwaters, so there is no upstream user to take the water anyway, and that the federal right is a "junior" right and so not really worth too much. Regardless of the issue's true relevance, any change in water doctrine alarms the agricultural community, and indeed, is one of the things that Congressman Marlenee is fighting in the current bill--while environmentalists suggest that the current water rights language is not strong enough to truly protect the wilderness water rights. As Tom France says, it becomes another reason that we do not pass wilderness legislation.
Release and Appeals

Release is perhaps the most discussed, and most confusing, of these complicating issues. As described in Chapter 2, release is the process of returning roadless lands not designated as something specific (wilderness or wilderness study, for example) to non-wilderness multiple use upon the passage of a wilderness bill. "Soft" release, allowing released lands to be reconsidered for wilderness only during the next forest planning process (ten to fifteen years), was worked out in 1980, and used in the Colorado wilderness bill that year. "Standard" release was not completely thrashed out until 1984, and a flood of statewide wilderness bills emerged from Congress after this issue had been resolved.\(^{121}\)

Primarily, standard release language required the Forest Service to review roadless lands for the "wilderness option" during forest plan revisions, precluded judicial review of the RARE II EIS (thereby incorporating sufficiency), and prohibited future roadless inventories unless authorized by Congress.\(^{122}\) (Meanwhile, there were continuing calls for something referred to as "hard" release, which would prevent land that was once released from being reconsidered for wilderness potential in the future. This is truly a side issue and is included here only for comparison.) The current Baucus-Burns bill, S. 1696, has a variation on standard release, which dates back
to the vetoed bill of 1988. While the Senators claim that the changes are necessary to reflect the existence of the forest plans, which were not yet prepared when the language was initially agreed to, it makes many environmentalists uneasy. After all, the standard release language does reflect the eventual existence of forest plans. In a widely circulated letter, Senator Baucus states that the language was primarily drafted by a timber industry lawyer. This knowledge does not assure environmentalists that the changes are benign.

This is another area of interest to Congressman Marlenee, who suggests that the released lands should not merely be released to the forest plans, but should be prevented from discussions of wilderness suitability for a set time period. His reasoning is that many forest plans in Montana were implemented several years ago, and so are nearing the dates of their first revisions, many within only three years. At that time, released lands could be reconsidered for wilderness designation.

Appeals of Forest Service timber sales have become an important issue to the timber industry, especially on any lands which may be released with the passage of a wilderness bill. Hence, appeals have become intertwined with the release language. Previous release language did not specifically address the issue of appeals, while the new language in S. 1696 does so indirectly. It states
"decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review." Judicial review is the next step in a failed appeals process, so some activists question the effectiveness of an appeals process without the threat of subsequent judicial review. Local Sierra Club representative Jim Curtis and the Alliance for the Wild Rockies' Mike Bader claim that the ambiguous nature of the language could lead to a shut down of the appeals process system wide. Tom France says that, while the language is unclear, its intent is to prevent appeals on the grounds that a released area was not suitably analyzed for its wilderness potential. Arnold Bolle says that these types of issues are used by industry to further confuse the issue.

Release language boils down to having another reason to delay passage of wilderness legislation because of distrust between environmentalists and industry--and distrust of the Forest Service by both sides.

Related and evolving issues

The Alliance for the Wild Rockies stresses that these are not local decisions, but national issues worthy of national media coverage and national debate. There is a precedent for this: the wildlands of Alaska were considered
national treasures with the disposition of those lands by the Alaska National Interest Lands Conservation Act of 1980. Perhaps the Northern Rockies will be the next step in this evolution. The Montana Wilderness Association promoted this idea with a recent full-page advertisement in the New York Times. Tucker Hill notes that with the advances in information systems, local issues can be presented to a national audience in ways never before recognized. However, Doris Milner points out that for other Congressmen to become interested in local Montana issues is a "long reach," a fundamental change in the way that Congress traditionally operates.

To put a different spin on the national ramifications of this debate, Stewart Brandborg, Lance Olsen, and Bill Bradt, three local wilderness advocates with different concerns, all comment on the historical use of the West as a "colony" for the Eastern U.S. and multi-national corporations—many of which hold sway in Congress with powerful lobbying efforts. These corporations are opposed to any move which may "lock up" land, removing it from the resource base.

Another issue involves feuding economists. Studies released in 1987 by the University of Montana's Bureau of Business and Economic Research suggest that wilderness has little positive economic impact on the state. At the same institution, the Department of Economics' Tom Power disputed
those findings, saying that "certain assertions and assumptions made in the reports are outrageous." A separate study by a University of Idaho geographer found that "counties in or near wilderness areas are among the fastest-growing in the country and wilderness may be a major draw for new residents." A report by the Congressional Research Service in 1989 found job loss in the timber industry to be minor, even if the conservationist's proposal, Alternative W, were to be enacted.

Disagreement over these issues is an important reason for the delay of Montana's statewide wilderness bill.
CHAPTER 4
DISCUSSION AND CONCLUSIONS

As is obvious from the previous chapter, there is not one overpowering reason why Montana has not passed a wilderness bill, but rather several competing factors. The reasons most often cited by the people interviewed for this paper were lack of conviction on the part of members of Montana's Congressional delegation and the proliferation of organizations interested in this issue. This chapter discusses these findings, suggests alternatives to the impasse, and sums up what I learned by undertaking this study.

DISCUSSION

The current delegation could be characterized as two moderate wilderness supporters (Williams and Baucus) and two non-wilderness supporters (Marlenee and Burns). Bob Decker, conservation director of the Montana Wilderness Association, makes the point that the current delegation is not balanced by a pro-wilderness Congressman. The change in the Senate from Mansfield and Metcalf to Melcher and Baucus was a
significant one for everyone concerned about this issue, with environmentalists still missing Senator Metcalf.

Several of those interviewed suggested lack of commitment and leadership within Montana's Congressional delegation as the prime reason for no statewide bill. Though this may be true, even a committed Congressmen cannot ignore the wishes of his constituents, and in Montana, that means timber and mining interests. After all, even anti-wilderness Congressmen have come to realize that they cannot submit legislation with the sole aim of releasing lands—they must designate some wilderness in the process. But it is likely that a devoted pro-wilderness delegate could more easily promote an environmentalist plan, such as Alternative W.

The proliferation of groups arguing over wilderness protection is part of a nationwide trend affecting almost any issue addressed by Congress today, particularly environmental issues. These groups are an important part of the democratic process; their growing influence ensures a voice for more citizens. As specifically related to wilderness legislation, all these groups are descended from the compromise requiring Congressional action for wilderness additions to the NWPS. If these lands were designated by the executive branch, the debate would be of a different nature, because the lobbying efforts would take a different form.
The growing importance of the legal and policy issues mentioned in Chapter 3 cannot be overlooked. These issues, such as release, serve to confuse the debate on wilderness, as well as distant it from the casual observer. On another level, these issues provide a point of contention between the industry and environmental factions, far removed from the basic issue of areas and boundaries. Tom France contends that both sides view release language as an opportunity for their opponents to destroy either the economy or the land. These extreme views do not lend themselves to a compromise between the two sides. Mr. France envisions both economic and environmental destruction remote, unless the worst possible judge gave the worst possible reading to the language in any bill. As he puts it, the problem is "trying to satisfy this paranoia that both sides have about the other."³³⁹

Finally, other issues gain in importance the longer wilderness bills are delayed. Many of these issues relate to how the Wilderness System is fundamentally viewed. The effort to nationalize the debate over these traditionally Western public land issues could have unforeseen results. Certainly when James Watt proposed several changes in the management of the public lands during the early 1980s, the uproar was national. Wildlife biologists find growing evidence of the need for large tracts of wildlands for certain species. Medical researchers find previously
unknown uses for the flora. (A perfect example is the Pacific yew, a species previously considered a "weed," but now found to possibly possess anti-cancer properties.) Both of these situations bolster the arguments of those who consider wilderness areas as a repository of genetic material which may become important in the future. Many economists point out the growing importance of tourism to the economic health of the region, just when extractive industries are decreasing in importance. All of these topics add weight to the aims of the environmental community.

CONCLUSIONS

All of my research indicates a sincere desire to resolve this issue among those involved, but little common ground over which to do it. Even if S. 1696 is passed, the wilderness issue for Montana will not be resolved. Several Western states have gone back for additional wilderness after their initial statewide legislation. Furthermore, the wilderness study areas must still be addressed by additional legislation. The argument over the roadless Bureau of Land Management areas has barely begun: they are estimated at over two million acres in Montana alone.

Several sources of inherent dissension have been identified during the course of this research. Most
importantly, it must be remembered that this is fundamentally an ideological debate. Secondly, wilderness is not well-understood among the general public.

The ideological nature of the wilderness debate often is overlooked. The basic question is one of development vs. preservation. Yet, there are so many technical aspects to discuss that the ideology can be forgotten: it is a land management/land use issue; it is an economic issue; it is a wildlife preservation issue. The Forest Service was entrusted to find the "right" way to allocate these roadless lands, mandated to find a technological answer to a ideological question. It is not surprising that they were unsuccessful, and are now primarily involved in damage control when it comes to the "wilderness problem." An abundance of studies exists extolling the virtues of these lands for non-motorized recreation or snowmobile use, timber production or wildlife habitat, depending on who funded the particular study. The problem is one of not trusting the data, or rather, the source of the data. Both sides do studies, but those opposed seldom agree with the results or change their positon. And neither side trusts or agrees with the Forest Service.

Wilderness designation is further complicated by confusion among the general public concerning what "wilderness" is. To many tourists, Yellowstone National Park is wilderness. The concept of federally designated
wilderness, unroaded, "untrammeled," is not easy to impart. Furthermore, wilderness is often depicted as something apart from the "multiple use" areas in the rest of the National Forest. This implication of single use further confuses the issue for those only casually interested in wilderness designation or other land management issues.

Recommendations

Though it is difficult to institute changes in the Congressional delegation itself, recommendations can be made in the way it handles legislation.

In a 1987 editorial referring to the mandated revisions of the forest plans, and suggesting more Forest Service authority on this issue, the Great Falls Tribune noted that the wilderness process is "too divisive, too political, too subjective: too much of a constant battle between pressure groups.... Congress must consider some changes. It should set strict deadlines... We would prefer an all-out war every ten years to the unending guerilla combat of today."¹⁴¹

An opposite, process-related change might include a multi-bill approach to designation. Mrs. Milner relates the success of this method in designating wilderness for central Idaho. Senator Frank Church submitted three bills for consideration: one with industry recommendations, one with environmentalist desires, and one compromise bill. This
approach allows all participants to know what everyone else wants, and allows the decisions to be made in Congress, where they should be. A recent memorandum to Montana Wilderness Association Council Members from Bob Decker advocated a similar idea. It suggested finding someone to submit a bill with a conservationist approach to the issue, thereby providing a "strategic tool in dealing with the immediate challenges posed by S. 1696."^143

In dealing with the numerous groups that oppose wilderness, Bill Bradt discusses the importance of education. He suggests that hunters and other sportsmen sometimes oppose wilderness on the grounds that it decreases access to the public land by preventing road-building. Through education, they could be shown that healthy populations of many species are dependent on the solitude and security of large wild areas. A recent column in Sports Afield echoed this sentiment. This approach would not work with all wilderness foes, of course, but perhaps it is a start to finding more common ground.

Regarding the changes in how the Wilderness System should be viewed, The Wilderness Society has suggested that perhaps the wilderness "system" should be just that: a system. As it is now, "only 81 of the nation's 233 basic ecosystems are sufficiently represented as designated wilderness.... No systematic and coordinated effort by the various public land agencies to create a wilderness...
preservation network that represents all available eco-systems [exists]. Both Don Allen and Steve Sherick say that the Forest Service has tentative plans to develop only one million acres of the proposed four million that would be released by the Baucus-Burns bill. However, Lance Olsen, along with other wilderness advocates, points out that many of these areas are the lusher, riparian areas that are both underrepresented among the current wilderness areas and excellent grizzly habitat. The view that the Wilderness System should be a system could bolster the chances of some of these areas being saved for their current values, rather than timber production. It also plays into the arguments of those who would stress the importance of wilderness for maintaining gene pools of species for which we may someday have a use.

Wilderness is a complicated issue, and one which is sure to be important in Montana for the foreseeable future. The intent of this study is to define the various players and issues involved in the debate.
NOTES TO CHAPTER 1

1. The Lolo-Kootenai Accords were agreements reached between conservationists and millworkers in 1990. They sought to designate wilderness and release undesignated roadless land on the Lolo and Kootenai National Forests.


3. Ibid., 74.

4. The U-1 Regulation established areas of over 100,000 acres as wilderness. U-2 established areas of 5,000 - 100,000 acres as wild. U-3(a) established roadless areas, managed primarily for recreation, but was a little-used category. Dyan Zaslowsky and The Wilderness Society, These American Lands, (New York: Henry Holt and Company, Inc., 1986), 214; and Allin, 83 and 140.

5. Allin, 84.


10. 16 U.S.C. 1131 (c).


NOTES TO CHAPTER 2


18. Congress required that the Secretary of Agriculture direct a ten-year study of the primitive areas to determine their wilderness suitability. 16 U.S.C. 1132 (b); and Michael Nadel, "Areas Subject to Study within the Next Ten Years for Possible Inclusion in the National Wilderness Preservation System," *The Living Wilderness*, Spring-Summer 1964, 29.

19. 16 U.S.C 1131 (c) defines wilderness as follows: "(1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition."

20. The term "de facto" wilderness specifically means wilderness in fact, but not in law. This can be contrasted with the term "de jure," referring to legally designated wilderness.


22. The San Rafael Primitive Area was nearly 75,000 acres, and the Forest Service initially proposed a 110,000 acre Wilderness Area in 1965. Environmentalists cried foul, and the agency increased its proposal to 143,000 acres. In 1967, a clash developed over 2,200 acres of ridge top which the Forest Service had excluded from its proposal, in order to have it available as a fire break if necessary. The legislation establishing the area as a wilderness area eventually excluded the 2,200 acres, enacting the 143,000 the Forest Service recommended, but only after heated debates in Congress. The issue was particularly painful for the agency, because their professional expertise in firefighting was questioned with the dispute centering around the proposed fire break. Roth, 11-14.

23. Ibid., 1; and Allin, 132-5.

25. Ibid., 30.


27. The Chairman of the House Interior and Insular Affairs Committee, Wayne Aspinall (D-Colorado), held up the Scapegoat bill because he felt it should not be considered during the mandated ten-year review period of the Primitive Areas. Roth, 32.

28. Ibid., 21; and 16 U.S.C 1132 (b).

29. Roth, 22; Parker v. U.S., 448 F.2d 793 (10th Circuit Court of Appeals, 1971).

30. Ibid.

31. Roth, 36.

32. Following the completion of the second roadless inventory (RARE II), it became common usage to refer to the first inventory as RARE I. Allin, 160 and 168.

33. Ibid., 160-1.


35. The purity doctrine referred to the Forest Service policy which maintained that admission standards were the same as management standards, i.e. no roads, structures, etc., as set forth in 16 U.S.C. 1133 (c). However, Congress had included areas which did have some of these "imprints of man" when it created the wilderness system, intending the definitions for wilderness to emanate from sec. 1131 (c). Eventually, the purity doctrine was rejected. Allin, 158; and Roth, 4-6.

36. Public Law 93-632, sec. 2(d).

37. Public Law 94-557, sec. 1(k),(l), and (m), respectively.

38. Ibid., sec. 3(b)(7) and (8), respectively.
39. Public Law 95-249.

40. Public Law 95-546.


42. Public Law 98-140. All of the above wilderness areas are found in 16 U.S.C. 1132 (e).


44. Frank Adams, "Metcalf levels deviousness charges at Melcher," Great Falls Tribune, 26 June 1977, 5.


46. Ibid., sec. 3 (a).


48. Adams, "Metcalf levels deviousness charges at Melcher"


53. Zaslowsky, 223.

54. Allin, 163.

55. The National Forest Management Act, amending The Forest and Rangeland Renewable Resources Planning Act at 16 U.S.C. 1604, directed the Forest Service to devise long range plans, to be revised at least every fifteen years, for each
National Forest, discussing the future management plans for each unit within the forest. Zaslowsky, 95.

56. 690 F.2d 763, (9th Circuit Court of Appeals, 1982).

57. Release refers to the process of returning those lands not designated in a wilderness bill to the forest planning process for non-wilderness multiple use purposes.


59. Ibid.

60. Ibid.


63. Neil King, Jr., "Senate camps snipe over wilderness bill," Great Falls Tribune, 27 February 1990, 1A and 12A.


65. William Kronhelm, "Montana's wilderness deadlock broken," Great Falls Tribune, 21 November 91, 1A.

66. Manning, "Wilderness bill tied up in numbers game"

NOTES TO CHAPTER 3


69. Tucker Hill, interview by author, 10 February 1992, Milltown, Mt., tape recording.

71. Dr. John J. Craighead et al., to Representative George Miller, 11 October 1991.

72. Bolle, interview. Dr. Bolle was referring to S. 1696 prior to the Burns-Baucus compromise, as this interview took place just before the Senators' agreement. When he introduced the bill, Sen. Baucus stated that "98 percent of timber...would be available for multiple use...all patented mining claims would be released...all of Montana's groomed snowmobile runs would be excluded." Congress, Senate, Montana National Forest Management Act of 1991, 102nd Cong., 1st session, Congressional Record, vol. 137, no. 123, daily ed., (10 September 1991), S12665.


76. Kevin McRae, "Tactics of lobbyist fighting forest accords upsets some who hired him," Helena Independent Record, 19 May 1991, 5A.


78. Dr. Teddy Roe, telephone interview by author, 16 November 1991, Alexandria, Va., notes.

79. Ibid.; and Hill, interview.


81. Hill, interview.

82. Charles S. Johnson, "Collapse of support blamed for Melcher loss," Great Falls Tribune, 11 December 1988, 1B.

83. Hill, interview; and Dale Harris, interview by author, 7 February 1992, Missoula, tape recording.

84. Harris, interview


86. Roe, interview; and Mac Daniel, "Melcher loss to alter committees," Great Falls Tribune, 10 November 1988, 2A.

88. "Burns introducing wilderness bill; draws fast criticism," Great Falls Tribune, 23 February 1990, 2A.

89. Milner, interview.


92. Jim Berklan, "Marlenee's amendment taken out," Great Fall Tribune, 6 October 1987, 5A.


94. Roe, interview.


96. Roe, interview.

97. Ibid.

98. Bolle, interview.


100. Merritt, interview.

101. Milner, interview.

102. Merritt, interview.


109. Worf, interview. Conservationists had included Jewel Basin in their "citizen" wilderness proposals during the 1960s and 1970s.

110. Worf, interview.

111. Thurman Trosper, interview by author, 14 January 1992, Missoula, tape recording.


113. See note 53.


116. Ibid., 15.

117. France, interview.

118. Ibid.

119. Eric Newhouse, "Marlenee says he dislikes wilderness compromise, but can't defeat it," *Great Falls Tribune*, 25 November, 1991, 4A.

120. France, interview.


122. Ibid., 36.


125. Newhouse, "Marlenee dislikes wilderness compromise."

127. Jim Curtis, interview by author, 29 January 1992, Missoula, tape recording; and "Senators fight wilderness issue."

128. France, interview.

129. Bolle, interview.

130. Allin, 221 and 257.


132. Hill, interview.

133. Milner, interview.


135. "Economists disagree over wilderness," Great Falls Tribune, 28 October 1987, 7A.


NOTES TO CHAPTER 4


139. France, interview.

141. "Wilderness process is flawed and changes should be made," Great Falls Tribune, 12 June 1987, 6A.

142. Milner, interview.


144. Bradt, interview.


147. Allen, interview; and Sherick, interview.

148. Olsen, interview.


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CASES AND STATUTES


