



CLOSING AND RESTORING ROADS FOR INCLUSION IN A WILDERNESS AREA

INTRODUCTION

In modern America, with its seven *million* miles of roads, it is not always practical to delineate an ecologically well-defined, adequately sized, and effectively manageable wilderness area without dealing with existing roads.¹

Those working on wilderness proposals often must decide what to do about old roads that bisect or penetrate lands that would best be part of a well-delineated wilderness boundary. This involves three questions:

- What is the desirable future for each particular road and the land it traverses?
- Under the Wilderness Act, can an old road be incorporated into a wilderness area?
- If an old road is incorporated, what actions may be taken to restore the road right-of-way?

There is an all-too-common myth that the presence of any old road automatically disqualifies adjacent lands from being designated as wilderness. In fact, Congress has often decided that the best outcome in

IN THIS BRIEFING PAPER ...

The words of the Wilderness Act	1
The Great Swamp Refuge	2
Congressional decisions on the Meyersville Road	4
The right-of-way restored	7
Other road-closure precedents	8
Putting these precedents to use	12

such situations is to include road segments within a wilderness area, directing that the road, if open, be closed and the right-of-way restored. In each case, Congress has decided what will ultimately result in the most desirable wilderness area and boundary configuration.²

This Briefing Paper documents these precedents, most importantly the 1968 decision to close a road that bisected the proposed Great Swamp Wilderness in New Jersey.

THE WORDS OF THE WILDERNESS ACT

A road is not necessarily a permanent fixture on the landscape. At one place in the Wilderness Act, Congress distinguishes between a *permanent* road, which is flatly prohibited (“There shall be... no permanent road within any wilderness area”) and a *temporary* road.³ A temporary road may be authorized within a wilderness area in certain very limited circumstances (“and, except as necessary to meet minimum requirements for the administration of the area... there shall be... no temporary road”).

¹ Pacific Biodiversity Institute has produced an astonishing map of the 7 million miles of roads in the U.S. A small image of the map may be viewed at <http://www.pacificbio.org/roadmap/roadmap.htm>, which also provides information on ordering the full-sized poster version. The map is also printed as a foldout in *Return of the Wild: The Future of Our Natural Lands*, Ted Kerasote, editor (Washington, D.C.: Island Press, 2001), following page 10.

² “How Congress Draws Wilderness Boundaries: Protecting the Critical Edge of Wilderness,” a Briefing Paper in this series, at www.leaveitwild.org/reports.

³ *Wilderness Act*, U.S. Code, Chapter 16, Section 1133(c).

Section 2(c) of the Wilderness Act provides both an idealized definition of wilderness in the first sentence and then a less “pure” definition in a second sentence.⁴ In its entirety, the section reads:

A wilderness, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man... An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, **without permanent improvements** or human habitation, which is protected and managed so as to preserve its natural conditions and which (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; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.⁵

The less pure definition admits formerly abused lands, including the rights-of-way of abandoned roads. Confirming this congressional intent, such abandoned roads were incorporated in a number of the original 54 wilderness areas that were designated immediately by the 1964 Wilderness Act itself.

THE GREAT SWAMP REFUGE: PRECEDENT-SETTING WILDERNESS

Almost as soon as Congress began designating additional wilderness areas, the issue of closing and incorporating a road came up, at the initiative of Congress itself, in what was consciously discussed as an important precedent.

The 7,500-acre Great Swamp National Wildlife Refuge is situated in northern New Jersey less than 30 miles from Times Square and a half-hour drive from the Newark Airport. Within the Refuge, the 3,660-acre wilderness area embraces a diverse swamp-and-upland environment offering outstanding solitude. The protection of this gem of wilderness in the heart of dense suburban development is one of the success stories of our National Wilderness Preservation System.



Former right-of-way of the Meuersville Road

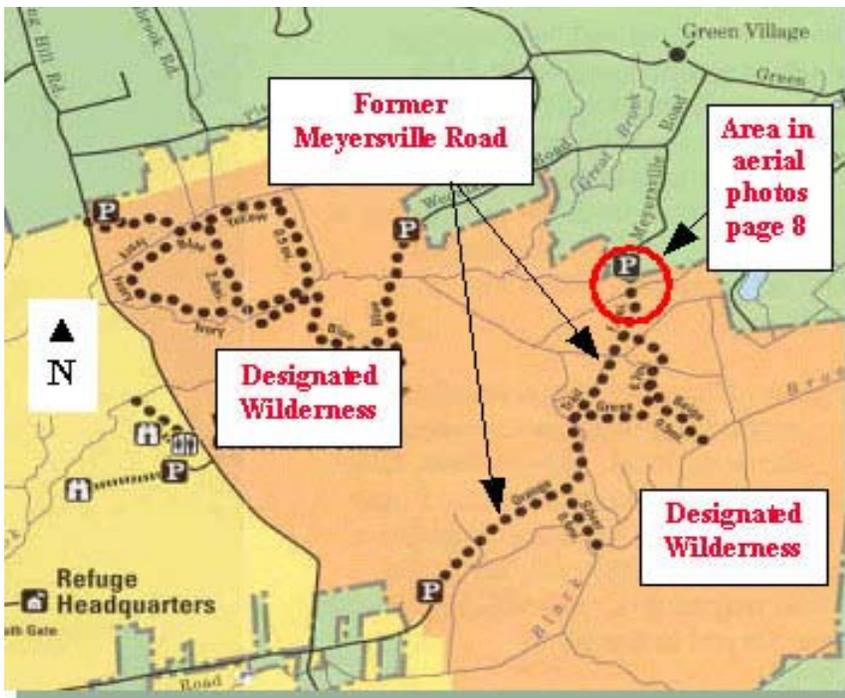
⁴ Senator Clinton P. Anderson (Democrat, New Mexico) was the lead sponsor of the Wilderness Act and the chairman of the committee that handled the legislation. As he opened the Senate hearing on the bill in 1961, Chairman Anderson explained his legislative intent, emphasizing the distinct functions of the two definitions: “The first sentence is a definition of pure wilderness areas, ‘untrammelled by man.’ It states the ideal. The second sentence defines the meaning or nature of an area of wilderness as used in the proposed act: ‘A substantial area retaining its primeval character, without permanent improvements, which is to be protected and managed so man’s works are substantially unnoticeable.’ The second of these definitions of the term, giving the meaning used in the act, is somewhat less ‘severe’ or ‘pure’ than the first.” Statement of Senator Clinton P. Anderson, Chairman, Senate Committee on Interior and Insular Affairs, *Wilderness Act*, Hearings on S. 174, 87th Congress, 1st session, February 27–28, 1961, page 2.

⁵ *Wilderness Act*, U.S. Code, Chapter 16, Section 1131(c), emphases added.

President Lyndon Johnson signed the law designating the Great Swamp Wilderness on September 28, 1968.⁶ This was the third area designated after the Wilderness Act itself was enacted, and the first on lands administered by the Department of the Interior.⁷ It was also the first statutory wilderness that had not previously been under specific wilderness-type administrative protection. Congressional leaders who had been centrally involved in shaping the Wilderness Act itself stressed the care they were taking to assure that the decisions on this new area would be entirely consistent with their legislative intent in the 1964 Act. In their formal report on the Great Swamp bill, the House of Representatives Committee on Interior and Insular Affairs explained:

From testimony presented to the committee, it became evident that careful consideration had to be given to [the question]... did the area itself have all the characteristics of wilderness as that term is defined in the [1964 Wilderness Act]?⁸

As was true of some of the original areas designated in the Wilderness Act itself, the Great Swamp did not constitute wholly untouched wild land but that is not a requirement of the Act.⁹



Eastern portion of Great Swamp National Wildlife Refuge

The Great Swamp had a long history of land use and abuse. Beginning before the Revolutionary War, large portions of the swamp had been settled, drained, logged, and farmed. In 1968, the area that was to become the designated wilderness included a number of occupied houses and outbuildings that were still being purchased and removed by the Fish and Wildlife Service as part of completing the Refuge. The area also included old drainage ditches and the scars of earlier human impacts, including the site of an old sawmill. Moreover, it included the partially paved, partially oiled, two-lane, well-used Meyersville Road.

⁶ *An Act to designate certain lands in the Great Swamp National Wildlife Refuge, Morris County, New Jersey, as wilderness*, Public Law 90-532, 90th Congress, 2nd session, September 28, 1968.

⁷ The first two post-Wilderness Act areas Congress designated were the *San Rafael Wilderness* (March 21, 1968) and *San Gabriel Wilderness* (May 24, 1968), both in California.

⁸ House Committee on Interior and Insular Affairs, *Designating Certain Lands in the Great Swamp National Wildlife Refuge, Morris County, N.J., as Wilderness*, House Report 90-1813, 90th Congress, 2nd Session, July 26, 1968, page 2. The other issue the committee reviewed in this report was whether there was “any conflict between the management of this area for wildlife purposes and its designation as wilderness?”

⁹ For background on Congress’s inclusion of formerly abused lands within wilderness, see Douglas W. Scott, “Congress’s Practical Criteria for Designating Wilderness,” *Wild Earth*, 11: 1 (Spring 2001), pages 28-32, and Douglas W. Scott, “‘Untrammelled,’ ‘Wilderness Character,’ and the Challenges of Wilderness Preservation,” *Wild Earth*, 11: 3/4 (Fall-Winter 2001-2002), pages 72-79.

CONGRESS DECIDES TO INCLUDE THE MEYERSVILLE ROAD IN WILDERNESS

AGENCY STUDY AND PRESIDENTIAL PROPOSAL

The Wilderness Act required the U.S. Fish and Wildlife Service to review all roadless areas and roadless islands in all units of the National Wildlife Refuge System for possible recommendation to Congress for designation as wilderness. For the Great Swamp Refuge, the agency initially proposed a single 2,400-acre wilderness unit, bounded on the west by the Meyersville Road.

More than one thousand people attended the public hearing in Morristown on February 17, 1967 to comment on the agency's preliminary wilderness proposal. All but one speaker supported either the agency proposal or one endorsing an even larger wilderness area. A remarkable 6,287 written comments were sent by individuals, organizations, and state and local officials. More than 1,000 of the public comments urged designation of a second wilderness unit of some 1,250 acres immediately on the other side of the Meyersville Road. Some also suggested the road between the two units be closed.

The Fish and Wildlife Service and the Secretary of the Interior ultimately adopted the two-unit wilderness proposal urged by the public, but recommended that the road itself be omitted from the wilderness, excluding a corridor just the width of the road itself. That is the presidential recommendation Lyndon Johnson sent to Congress.

CONGRESSIONAL HEARINGS

During the committee hearing in the House of Representatives on June 3, 1968, the long-time chairman of the committee, Representative Wayne N. Aspinall (Democrat, Colorado), who had been a key figure throughout the eight-year deliberations on the 1964 Wilderness Act, made it clear he wanted to designate only areas that measured up to his and the committee's original standards and legislative intent in that law.

The local congressman, Representative Peter H.B. Frelinghuysen (Republican, New Jersey), sponsored the House bill to designate the Great Swamp Wilderness.¹⁰ In testimony at the subsequent Senate hearing, he summarized for the senators the discussion concerning the Meyersville Road that had occurred during the House hearing:

During the hearings in the House on this legislation the members of the Public Land Subcommittee expressed reservations of the qualifications of the Great Swamp for inclusion in the wilderness system. These reservations were based primarily on the fact that a public road separates the two units under consideration in this legislation...

Since those House hearings we have been in touch with the municipal officials responsible for maintenance of this road. I am pleased to report that these officials have indicated their

¹⁰ Representative Peter Frelinghuysen's son, Representative Rodney Frelinghuysen (Republican, New Jersey), is the current congressman representing the district encompassing the Great Swamp.

willingness to abandon and close this road if such action would be required to obtain favorable action on the legislation.¹¹

Raising the same concern, the Senate subcommittee chairman, Senator Frank Church (Democrat, Idaho), told Representative Frelinghuysen:

As you know, the Wilderness Act prescribes against any roads... in a wilderness area so that, consistent with the provisions of the act, this particular road through the Great Swamp would have to be closed for this area to qualify for inclusion in the Wilderness System.¹²

Approximately one-fourth of the length of the Meyersville Road was “oiled,” the rest graveled and poorly maintained.¹³ Although it was used by motorists as a through route across the refuge, the principal reason



An existing road and bridge in the Great Swamp National Wildlife Refuge similar to the old Meyersville Road, May 2002

for the continuing existence of this ill-maintained road was to provide access to the few remaining homes along its route. The Fish and Wildlife Service was in the process of negotiating purchase of the remaining private properties in this part of the Refuge. John Gottschalk, director of the agency, testified that:

We have been informed... that the county would no longer maintain the road even if no wilderness designation were given to the area by virtue of the fact there would be virtually no need for this road and we would certainly welcome the actions by the two townships to vacate the road as they have offered in testimony given previously.¹⁴

Senator Lee Metcalf (Democrat, Montana), another veteran of the Wilderness Act debates, engaged Director Gottschalk in a colloquy to clarify the legislative history on how the Meyersville Road (as well as old man-made drainage ditches, the home sites, and other remnants of human settlement) would be treated when incorporated within the new wilderness area:

SENATOR METCALF. We will find some traces of activity that at the present time are not quite in keeping or consistent with our concept of wilderness, but as they move into a

¹¹ Senate Committee on Interior and Insular Affairs, *Great Swamp; Pelican Island; Monomoy; Seney, Huron, Michigan Islands, Gravel Island, Green Bay, and Moosehorn Wilderness Area*, Hearing before the Subcommittee on Public Lands, 90th Congress, 2nd Session, June 20, 1968, page 26.

¹² *Ibid*, page 34. As floor manager when Wilderness Act was debated and passed by the Senate Senator Church was the principal spokesman for and official interpreter of the meaning of the legislation. Importantly, here he does not say that there can never have been a road, but that if an old road did exist, it would have to be closed for the area to qualify for designation as wilderness.

¹³ The word “oiled” for a road surface does not appear to have a single, precise meaning, but generally refers to a gravel surface which has been oiled and rolled (“chip-sealed”) into pavement or, less formally, where oil has been spread on a gravel road and hardened by normal traffic use, both to reduce dust and to lessen erosion of the road surface.

¹⁴ Senate Committee, *Great Swamp; Pelican Island ...*, page 26.

wilderness area [form of management], the road will grow over or the ditch grow over and it will return to a wilderness concept?

MR. GOTTSCHALK. Yes, sir, that is correct. That is exactly the basis for the planning we have done.¹⁵

Environmental groups strongly endorsed the closure and restoration of the Meyersville Road as being consistent with their interpretation of how the Wilderness Act should be applied to the area. For example, the National Audubon Society witness told the Senate committee:

It would certainly be preferable, we believe, to remove the road entirely and make it into a single wilderness area and since it has been testified here that local authorities are willing to do so if this is necessary, we recommend that the committee make it necessary to close off the road.¹⁶

Similarly, Stewart Brandborg, executive director of The Wilderness Society, expressed support for the single unit of wilderness to be achieved by closing and restoring the Meyersville Road, as did the Sierra Club witness.

CONGRESSIONAL DECISIONS ABOUT THE ROAD

Shortly after its hearings, the Senate committee approved the bill and sent it on to the full Senate, together with the formal committee report explaining its decisions and its legislative intent. Under the heading “Road Between Areas,” the committee directed that since the two units “would be combined in a popular concept as the Great Swamp Wilderness Area, the road should be closed.”¹⁷

The Senate passed the Great Swamp Wilderness designation bill on July 10, 1968. Just a few days later, the House committee sent its version of the Great Swamp wilderness legislation to the full House. Having posed the question “Did the area itself have all the characteristics of wilderness as that term is defined?” in the Wilderness Act, the committee reported to the House of Representatives that this concern:¹⁸

Was satisfactorily answered by agreement of the townships of Passaic and Harding to close the existing road that now separates [the two wilderness] units. **The closure of this dividing road, in the opinion of the committee, is absolutely essential if this area is to be considered for wilderness designation.** It is with this understanding, as well as the full assurance of the two townships involved that the road will be closed, that this committee favorably recommends the area for wilderness designation.¹⁹

“Hope and the future for me are not in lawns and cultivated fields, not in towns and cities, but in the impervious and quaking swamps... I enter a swamp as a sacred place—a sanctum sanctorum. There is the strength, the marrow of Nature... A town is saved, not more by the righteous men in it than by the woods and swamps that surround it. A township where one primitive forest waves above, while another primitive forest rots below—such a town is fitted to raise not only corn and potatoes, but poets and philosophers for the coming ages. In such a soil grew Homer and Confucius and the rest, and out of such a wilderness comes the Reformer eating locusts and wild honey.”

HENRY DAVID THOREAU, “WALKING”

In Matthews, Brander, ed., *The Oxford Book of American Essays*, 1914 <http://www.bartleby.com/109/13.html>

¹⁵ *Ibid*, page 59.

¹⁶ *Ibid*, page 83.

¹⁷ Senate Committee on Interior and Insular Affairs, *Great Swamp Wilderness Area, N.J.*, Senate Report 90-1367, 90th Congress, 2nd Session, July 8, 1968, page 2.

¹⁸ See Footnote 10.

¹⁹ House Committee, *Designating Certain Lands in the Great Swamp ...*, page 2, emphasis added. The committee also noted that within the proposed wilderness “there are still substantial amounts of private land” and that plans

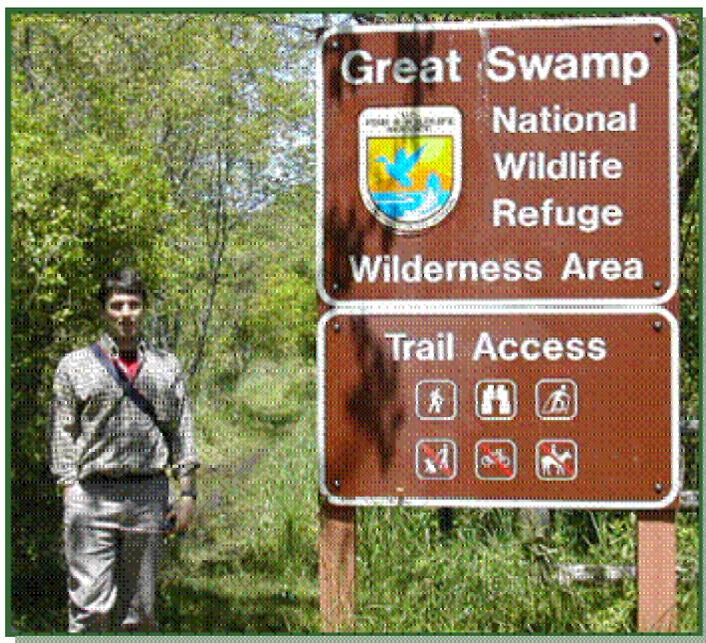
It is noteworthy that, as in the Senate, key players who had shaped the Wilderness Act itself expressly linked the closure of the road to their stated concern that any wilderness in the Great Swamp fully conform to their original legislative intent—and *by closing the road*, found that it did so.

On September 16, 1968, the House of Representatives passed the Great Swamp wilderness bill by a vote of 271-to-22. It did so after being told by Chairman Aspinall:

It is unusual that an area of this size, with true wilderness features, can be found within such a short distance of this Nation's largest concentration of people... The committee received assurance that a secondary road that now bisects the area will be closed and appropriate measures taken to permit it to revert to a more primitive state.²⁰

THE RIGHT-OF-WAY RESTORED

When President Lyndon Johnson signed the bill into law on September 28, 1968, the federally-owned lands within an area of 3,660 acres of the Great Swamp National Wildlife Refuge became wilderness, statutorily-protected under the Wilderness Act.²¹



Pennsylvania wilderness leader Kirk Johnson at the southern trailhead of the trail that follows the right-of-way of the former Meyersville Road (in the background), May 2002

At the time the President signed the law, the Meyersville Road was still open and in use, both by motorists crossing the refuge and by the residents of the few remaining homes on private lands along the road. To fulfill the intent of Congress, it was necessary for the two townships to close and legally vacate the road and, as Chairman Aspinall had specified, that “appropriate measures [be] taken to permit it to revert to a more primitive state.”

Representative Frelinghuysen took on the task of overseeing a 3-year deadline for the Fish and Wildlife Service and the two townships to remove the road. The Federal government purchased the remaining private properties accessed by the road on a willing-seller basis. Utility lines and poles were removed and heavy equipment operators were contracted to remove the roadbed, including roadside berms and ditches, and several low-standard concrete bridges over

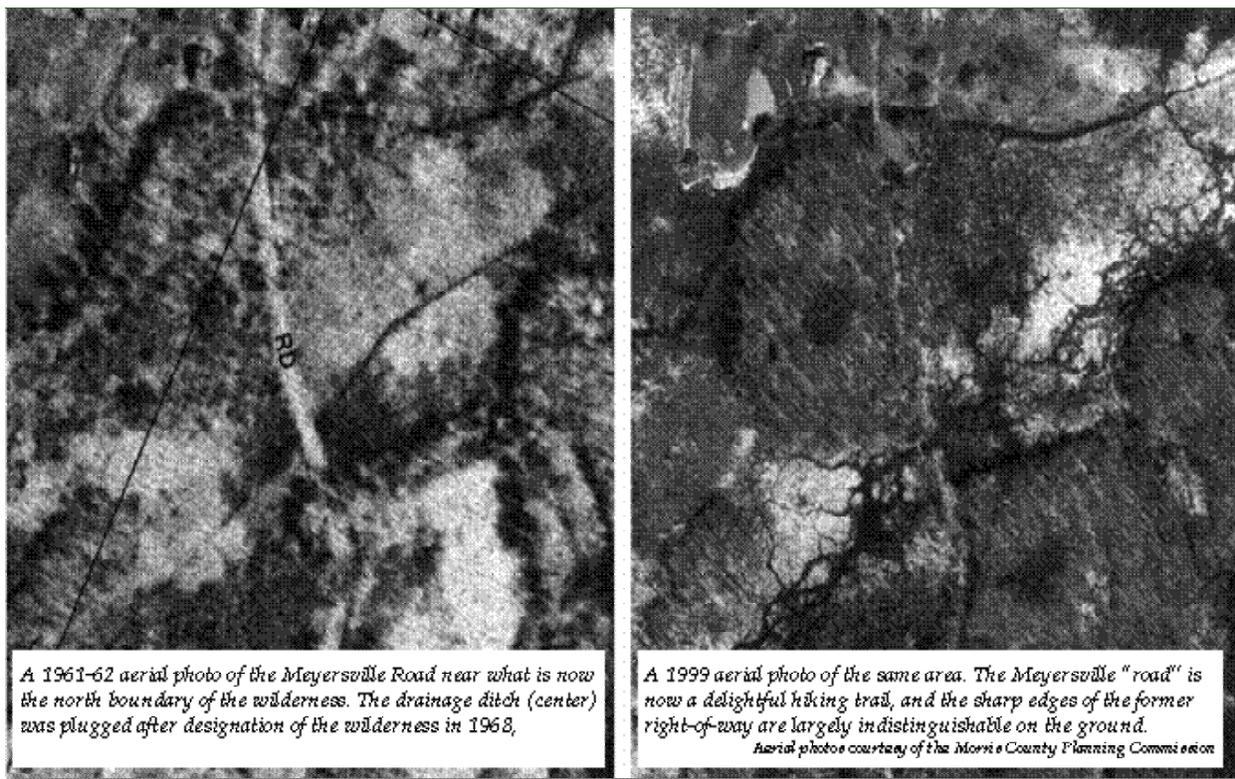
the swamp water courses. As this process proceeded, the townships legally vacated the road section by section.²² Plugging of manmade drainage channels restored the natural water level and more natural drainage patterns and vegetation.

“call for the Department of the Interior to acquire this acreage by 1970.” *This was based upon the road closure and removal timeline suggested by the agency.*

²⁰ *Congressional Record*, Vol. 114, 90th Congress, 2nd Session, September 16, 1968, page 27025.

²¹ As private lands within the wilderness boundary were subsequently acquired, these automatically became subject to the protections as part of the wilderness area.

Three-and-a-half decades later, the Meyersville Road is a fading memory and the Great Swamp Wilderness is an extraordinary haven of wild serenity. Here, amid dense human settlement, the sense of wildness does indeed offer, in the words of the Wilderness Act, “contrast with those areas where man and his own works dominate the landscape.” It is, according to the Act’s ideal definition of wilderness, “an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.”²³



OTHER ROAD-CLOSURE PRECEDENTS

COMMON-SENSE DECISIONS ABOUT ROADS

In a long line of precedents, Congress has consistently followed a common sense approach, being selective about roads it has chosen to incorporate into wilderness boundaries or to exclude. This common sense approach was voiced by Senator Clinton P. Anderson (Democrat, New Mexico), who was the lead sponsor of the Wilderness Act in the Senate from 1961 until its enactment, which he oversaw as chairman of the Senate committee that produced the Act. During hearings on one of earliest wilderness proposals to be addressed after the Wilderness Act became law, Senator Anderson observed:

I did want to comment also on [old] roads in the wilderness areas. I hope we won’t be inclined to decide that one single road can destroy a wilderness. Nature probably will recover such a small mark and as long as most of the values are there for wilderness status, the

²² The records of the steps by which the Meyersville Road was legally vacated and the roadbed and other human developments removed were reviewed by the author in the files of the Great Swamp National Wildlife Refuge, Basking Ridge, NJ.

²³ *Wilderness Act*, U.S.Code, Chapter 16, Section 1131(c).

area should be preserved... There might have been a little road in there at one time but it does not hurt the area. Let's not bar the primitive areas entirely because some little road has been built.²⁴

In the spirit of Senator Anderson's guidance, in approving the **Boulder Creek Wilderness** in Oregon in 1984, the House Committee included some prior clear-cuts and associated logging roads, explaining:

The Committee is aware of several small, old patch cut units within the proposed Wilderness boundary. These were included to provide complete watershed protection within the Wilderness, and it is the Committee's intention that these areas be allowed to revegetate over the years to a near-natural state.²⁵

The Senate committee added its own comment:

The Committee is aware of a number of old harvest units within the proposed Wilderness boundary. These were included to provide a manageable and identifiable boundary for the Wilderness.²⁶

In approving the **Texas Wilderness Act** of 1984, the congressional committees gave wilderness protection to areas with a variety of forms of past land use and abuse and had to deal with a number of roads.²⁷ The House committee report explained:

In designating the wilderness the Committee is aware that some marks of development linger in the overall area. These include several roads and vehicle ways, two pipelines, old clearcuts and abandoned oil and gas drilling sites. Therefore, in drawing the boundaries for the wilderness, the Committee split the proposal into six units, which will be separated by narrow road or pipeline corridors. **In so doing, the Committee excluded from wilderness only those roads and facilities which are necessary for existing or future access and use. It is the Committee's intention that the other marks of development (roads, vehicle ways, etc.) that are within the boundaries of the proposed wilderness be allowed to revegetate over the years to a near natural state.**²⁸

"[The] additions [of new wilderness areas], together with the original areas included directly under the 1964 [Wilderness] act, provide a wealth of guiding precedents to help us interpret and apply the act in a positive, constructive, flexible manner. The legislative history, too, provides guidance as to the intent of the Congress."

SENATOR FRANK CHURCH
Preservation of Wilderness Areas
Hearing before the Senate Subcommittee on
Public Lands, May 5, 1972, page 62

In November 2003 the Senate passed the bill to designate the

²⁴ Committee on Interior and Insular Affairs, *San Gabriel, Washakie, and Mount Jefferson Wilderness Areas*, Hearings before the Subcommittee on Public Lands, 90th Congress, 2nd Session, February 19-20, 1968, page 178.

²⁵ House Committee on Interior and Insular Affairs, *Designating Certain National Forest System and Other Lands in the State of Oregon for Inclusion in the National Wilderness Preservation System, and for Other Purposes*, House Report 98-13, Part 1, 98th Congress, 1st Session, March 2, 1983, page 10.

²⁶ Senate Committee on Interior and Insular Affairs, *The Oregon Wilderness Act of 1984*, Senate Report 98-465, 98th Congress, 2nd Session, May 18, 1984, page 14.

²⁷ As this example illustrates, the Wilderness Act allows designation of lands with past land-use impacts when Congress judges that those temporary impacts are outweighed by the long-term value of protecting the wilderness.

²⁸ House Committee on Interior and Insular Affairs, *Designating Various Areas as Components of the National Wilderness Preservation System in the National Forests in the State of Texas*, House Report 98-730, 98th Congress, 2nd Session, May 2, 1984, page 6, emphasis added.

Wild Skykomish Wilderness in Washington State. In keeping with long-established precedents, the committee report addressed issues concerning possible erosion from old logging roads and culverts and the potential for harmful impact on water quality and fisheries:

Section 3(a) requires the Secretary to manage the lands designated in section 3 in accordance with the Wilderness Act (U.S.Code. Chapter 16, Section 1131 et. seq.).

The Committee is aware that some National Forest lands designated as Wilderness by S. 391 contain culverts and a bridge. The Committee understands that some of the culverts and the bridge are in disrepair...

The Committee anticipates that the Forest Service will eventually remove most, if not all, of the culverts and could need to remove the bridge after this area is designated as Wilderness. However, the Committee is aware that such removal may not occur in a timely manner given the current state of the Forest Service's maintenance backlog. In the interim, the Forest Service may find that continued maintenance is necessary with respect to a particular culvert or culverts in order to avoid damage to fisheries and soil resources.

Section 4(c) of the Wilderness Act prohibits among other things, the use of motor vehicles, motorized equipment, or other forms of mechanized transport, 'except as necessary to meet minimum requirements for the Administration of the area for the purpose of this Act' ...

The Committee believes that the Forest Service's ability to properly maintain affected culverts can be accomplished consistent with the authority of the Wilderness Act. The Committee recognizes that the Forest Service may determine that the use of motorized or mechanized equipment is necessary to accomplish maintenance activities. In fact, the Committee notes that the Federal land management agencies' wilderness management guidelines explicitly state that the term 'minimum tool' is not synonymous with 'primitive tool' and in some cases an agency may determine that minimum tool includes motor vehicles, or other motorized or mechanized equipment.²⁹

“CHERRYSTEMMING” DEAD-END ROAD STUBS

To be most readily manageable, wilderness boundaries should be as simple as possible, with a minimum of artificial indentations or distortions. In many cases, to exclude from wilderness the dead stubs of old roads (such as those often left by logging) would involve “cherrystemming,” leaving long, narrow indentations penetrating into the wilderness.³⁰

Before considering cherrystemming, Congress must decide whether a particular road stub is to be closed or to remain open for public use. In most circumstances, if the old road is to be closed to public motorized use it should not be cherrystemmed, but included within the wilderness.³¹ Congress has long included such road stubs within wilderness boundaries.

In designating the **Mission Mountains Wilderness** in Montana in the early 1970s, the committee in the House of Representatives decided to incorporate within the wilderness six areas the Forest Service had recommended excluding. The agency urged leaving out six large cherrystems penetrating the eastern boundary of the area because of lingering evidence of logging roads and clearcutting undertaken to deal

²⁹ Senate Committee on Energy and Natural Resources, *Wild Sky Wilderness Act of 2003*, Senate Report 108-131, 108th Congress, 1st Session, August 26, 2003.

³⁰ For more detail on cherrystemming, see “How Congress Draws Wilderness Boundaries: Protecting the Critical Edge of Wilderness,” a Briefing Paper in this series, at www.leaveitwild.org/reports.

³¹ In some settings, an old roadbed extending into the wilderness (and protected within the wilderness boundary) can offer excellent potential as a wilderness trail for disabled visitors, including those in wheelchairs.

with an earlier insect infestation. The logging had been completed 20 years before, in 1954-55. Overruling the Forest Service, the committee explained:

The Forest Service recommended deletion of Areas 1 through 6 due to a bark beetle infestation and the resultant logging roads made in an attempt to control the beetles. The Committee considered these factors but concluded that the exclusion of these 6 areas would be more disruptive to management of the area than their inclusion notwithstanding the evidence of some non-conforming past uses. Their inclusion simplifies the exterior boundary and prevents long narrow intrusions from occurring within the wilderness area.³²

The Senate committee concurred, adding:

A quick view of the map is all that is required to determine that to exclude the six areas would be to provide difficult wilderness management problems. Their exclusion would, in several cases, leave thin, deep wedges in the wilderness area.³³

TIMING OF RESTORATION

In the case of the **Great Swamp**, the road was still in public use when the wilderness designation law was enacted. The road was subsequently closed and restored. In the case of the **Greenhorn Wilderness** in Colorado, designated in 1993, the restoration occurred prior to the designation. As the House committee report explained:

At the suggestion of the Forest Service, the boundaries of this area have been drawn to designate as wilderness lands within a 'Greenhorn Mountain Cherrystem' that were excluded from wilderness in past proposals. The 'Greenhorn Mountain Cherrystem' was closed in 1987 and subsequently ripped and reseeded, leaving only a four-foot-wide hiking trail.³⁴



This May 2002 photo along the former road right-of-way within the Great Swamp Wilderness shows a small patch of road surface missed during the removal work 30 years earlier

³² House Committee on Interior and Insular Affairs, *Designating Certain Lands as Wilderness*, House Report 93-989, 93rd Congress, 2nd Session, April 11, 1974, page 11.

³³ Senate Committee on Interior and Insular Affairs, *Designating Certain National Forest Wilderness Areas in California, Colorado, and Montana*, Senate Report 93-1043, 93rd Congress, 2nd Session, July 30, 1974, page 41.

³⁴ House Committee on Natural Resources, *Colorado Wilderness Act of 1993*, House Report 103-181, 103rd Congress, 1st Session, July 19, 1993, page 13.

PUTTING THESE IMPORTANT WILDERNESS PRECEDENTS TO USE

The significance of the Great Swamp/ Meyersville Road precedent is two-fold:

- This decision was made by members of Congress intimately involved in working out the wording of the 1964 Wilderness Act, notably Chairman Aspinall in the House and Senators Church and Metcalf in the Senate. Just four years after the enactment of the Wilderness Act, they took care to see that this decision conformed to their legislative intent in the Act.
- The Meyersville Road was a substantial secondary road routinely used by normal highway vehicles. Closure and restoration of such a road, with its berm, drainage ditches and concrete-and-steel bridges, means that for Congress to incorporate others like it, let alone anything of a lesser standard (such as old logging roads), would obviously be compatible with the intent of the framers of the Wilderness Act.

As wilderness advocates conduct their own roadless area inventories and shape citizen wilderness proposals to submit to their own congressional delegations, they all-to-commonly encounter agency officials and others who assert that any “road,” even one far less substantial than was the Meyersville Road, disqualifies the lands it crosses from even being inventoried as “roadless,” let alone proposed as wilderness. In the face of the long-standing and very clear precedents, the continued assertion that “roads” or road-stubs disqualify the lands they traverse as wilderness is either a simple error or perhaps, in some cases, a deliberate attempt to discourage designation of a more expansive wilderness area.

ACKNOWLEDGEMENTS

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Refuge Manager, Bill Koch, was extremely helpful, providing key information by telephoned and when I visited the Great Swamp in May 2002. Having been stationed at the Refuge at the time of the road closure and removal, Bill offered an invaluable eyewitness account of these events. Though neither he nor anyone else has been able to unearth photos of the old road, or of the heavy equipment at work removing it, he made valiant efforts to do so.

The Morris County Planning Commission graciously provided the aerial photographs and John McComb scanned and arranged them to show the before-and-after comparison. Kirk Johnson accompanied me to the Refuge and added valuable insights on the relation of this precedent to current wilderness campaigns. John Larsen slogged between the Library of Congress and the National Archives to dig out old documents.

I am especially grateful to Helen Fenske, who led the grassroots campaign that saved the Great Swamp, and Rupert Cutler, then of The Wilderness Society. In 1968 Rupe and Helen allowed me to be a bit player in the final stages of the designation of this superb wilderness.

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This is one in a growing series of Briefing Papers documenting the legislative history and essential precedents on topics that arise as agency personnel, Congress, and activists work on wilderness designation and stewardship issues. Each Briefing Paper is updated frequently as new information arises. The author welcomes questions and suggestions, including for other topics for which such information would be helpful.