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## 1. WILDERNESS:

### Nation's premier conservation law enters era of compromise

Phil Taylor, E&E reporter

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When President Johnson signed the Wilderness Act into law 50 years ago today, the nation's wild places were believed to be vanishing at a rapid clip.

Congressionally designated wilderness -- defined in the law as an area "where the earth and its community of life are untrammelled by man, where man himself is a visitor and does not remain" -- was needed to offset a booming population that threatened to pave, plow or develop every vestige of the American frontier.

The law was prophetic, its defenders say.

When the act was first introduced in June 1956, the United States population stood at 169 million. By the time it became law in 1964, the population had grown to 192 million.

With the population now nearing 319 million -- with an accompanying surge in roads, homes and energy development, particularly in the West, along with the growing popularity of off-road, mechanized recreation -- wilderness risks becoming an increasingly scarce commodity.

"It's more relevant now than it's ever been, if not more," said Martin Nie, a professor of natural resource policy at the University of Montana, who highlights that population growth in a paper he authored with Bureau of Land Management wilderness specialist Chris Barns. The paper is set to be published in next month's issue of the *Arizona Journal of Environmental Law & Policy*.

But some forecast growing pains for the Wilderness Act as it enters its sixth decade.

For one, many of the wilderness designations to date have secured protections for high-elevation "rocks and ice" with relatively little controversy. What's left to protect are lower-elevation lands coveted by energy developers, off-highway vehicle riders and ranchers, Nie said. Even when deals can be ironed out, wilderness bills must navigate a gantlet of congressional partisanship.

The 112th Congress was the first since the 1960s to not designate a single acre of new wilderness -- it actually reduced the size of the National Wilderness Preservation System by 222 acres.

The 113th Congress has hardly fared better. In March, it passed a bill backed by Michigan's delegation to designate 32,000 acres of wilderness at the Sleeping Bear Dunes National Lakeshore. But only three sessions of Congress since 1964 have designated fewer acres.

Some believe conservationists will cut bigger political deals in order to secure wilderness protections on BLM lands before other users -- ATV riders or drilling companies -- can tarnish their wilderness value.

"You have more tradeoffs and more competition for those resources," Nie said. "The nature of the lands that are now being debated have more historical uses associated with them."

The slower pace of designations is a sign that lawmakers are showing due diligence, said Rep. Rob Bishop (R-Utah), who chairs the Natural



The 558,000-acre Gila Wilderness in New Mexico became the world's first wilderness in 1924 at the insistence of conservationist Aldo Leopold. The Wilderness Act in 1964 granted the lands permanent protections. Photo by Bruce Bloy, courtesy of NPS.

Resources Subcommittee on Public Lands and Environmental Regulation and is seeking his own wilderness and economic development bill in eastern Utah.

"The stuff that was easy to designate as wilderness was done first," Bishop said. "To require us to keep up the same pace is something that's impossible to do."

But the congressional polarization hasn't helped, according to conservationists who blame Republicans for stalling dozens of locally crafted wilderness bills. They complain that even wilderness bills sponsored by Republican Reps. Dave Reichert of Washington and Scott Tipton of

Colorado have so far been stifled by House leaders.

"We've got a barricade right now that is caused by unease within Republican leadership, but that will change," said Bill Meadows, former president of the Wilderness Society. "This is a tough time for anything in Congress."

### **Compromise in law's DNA**

Wilderness backers say political compromise has been baked into the Wilderness Act since its early days.

From the outset, the bill drew attacks from the U.S. Chamber of Commerce along with the mining, logging and grazing lobbies, according to wilderness historian Doug Scott, who retired in 2012 from the Pew Charitable Trusts. Leaders in the Forest Service and National Park Service also resisted its passage, warning it would hamper their land management powers, Scott wrote in his 2004 book "The Enduring Wilderness."

Over eight years, some 65 versions of the Wilderness Act were introduced, 18 hearings were held, "thousands of pages of transcripts were compiled, and congressional mail ran as heavy as on any natural resource issue in modern times," Scott wrote, citing a 1966 paper by Michael McCloskey, who was then an assistant to former Sierra Club Executive Director David Brower.

When the bill passed in 1964, it carried the support of 73 senators and all but one House member.

"No single Congress in my memory has done so much to keep America as a good and wholesome and beautiful place to live," Johnson said as he signed the bill at the White House Rose Garden.

In the spirit of compromise, the final bill allowed Congress to propose and designate wilderness, rather than allowing federal agencies to designate lands as originally drafted.

"It was one of the disappointments to [the bill's author, conservationist] Howard Zahniser," said Mike Matz, director of U.S. public lands for Pew.

Zahniser, who led the Wilderness Society beginning in the mid-1940s, is regarded as the architect of the Wilderness Act. He believed civilization had a profound recreational and spiritual need for wilderness. He died just a few months before the bill became law.

But the compromise turned out to be a good thing because it emboldened citizens to craft their own wilderness proposals, Matz said. Concerned individuals would scout Forest Service, National Park Service, and Fish and Wildlife Service lands for areas they thought the agencies had missed in their wilderness inventories, Matz said.

Congress' designation of the 240,000-acre Scapegoat Wilderness in 1972 in three national forests in Montana marked the first time the legislative branch designated more lands than were recommended by a federal agency, Matz said.

In signing the Wilderness Act, Johnson also designated some 9.1 million acres of wilderness in 13 states. Since then, Congress has designated more than 100 million additional acres of wilderness, more than half of it in Alaska. Only six states -- Delaware, Connecticut, Iowa, Kansas, Maryland and Rhode Island -- have no wilderness.

By law, wilderness areas must be managed in their natural state, with no roads, commercial developments or mechanized travel, including mountain bikes. In addition to protecting clean air and water, the act sought to

maximize solitude, self-reliance and communion with nature while preserving the nation's natural heritage before it was settled.

### **Wilderness as 'currency'**

While such restrictions today attract controversy, most wilderness bills have passed Congress by lopsided majorities or by unanimous consent, according to Scott.

Most also garner support from coalitions of county commissions, city councils, business leaders and other key stakeholders.

Take for example the 66,000-acre Dominguez Canyon Wilderness in western Colorado, an area marked by cottonwood groves, towering sandstone walls and Native American rock art. It took several years for bill backers to gain support from conservative commissioners in Mesa, Delta and Montrose counties as well as water users, said former Interior Secretary Ken Salazar, who as Colorado's Democratic senator authored the bill that protected the lands.

Language was crafted to strengthen the rights of cattle ranchers and water users, he said. In an overture to off-highway vehicle and bicycle users, most of the lands in the bill became part of the 210,012-acre Dominguez-Escalante National Conservation Area, where wilderness restrictions did not apply.

"We didn't have 100 percent support," Salazar said, but he estimated about 90 percent of the community and its elected officials rallied behind the bill, which passed as part of the 2009 Omnibus Public Land Management Act.

Wilderness purists fear their conservation brethren are beginning to cut more generous deals to get bills across the finish line, such as by redrawing wilderness boundaries to accommodate roads or mountain bike trails, by releasing high-value wilderness study areas, or by allowing incompatible uses within wilderness.

House Republicans are demanding concessions, too.

For example, the House Natural Resources Committee in July passed a bill that would designate some 75,000 acres of wilderness in Nevada while also facilitating the development of a copper mine and allowing mechanical thinning of trees within wilderness to prevent and control the spread of wildfires, a provision that concerned Democrats and conservationists and varies from past wilderness bills.

Conservationists are split on what concessions are appropriate.

"That compromise is part of wilderness, as it is for politics more generally, is not the dispute," Nie and Barns write in their article. "What is disputed is whether these compromises have gone too far in recent years and what precedent they set for the future of the Wilderness system."

Nie and Barns argued that wilderness designations will increasingly become part of larger deals that will "increase in scale and complexity."

"Wilderness may become currency in lop-sided negotiations -- providing something to trade in return for more certain economic development on non-wilderness federal lands," they said.

Bishop referred to wilderness as "currency" in his Utah public lands initiative, which also seeks a broad swap of federal and state lands and designation of other lands as energy and recreation zones ([Greenwire](#), Oct. 22, 2013).

### **Law's 'neglected stepchild'**

Future wilderness battles are expected to increasingly play out on BLM lands, where fewer than 4 percent of the agency's 250 million acres have been permanently protected.

In comparison, more than half of Park Service lands, 14 percent of national wildlife refuges and 19 percent of Forest Service lands are designated as wilderness. While BLM manages about 42 percent of all federal lands, its 8.7 million acres of wilderness represents about 8 percent of total wilderness acreage nationwide.

Often referred to as the "neglected stepchild" of the Wilderness Act, BLM did not receive explicit orders from Congress to consider wilderness protections until the 1976 Federal Land Policy and Management Act.

"The untapped potential on BLM lands is amazing," said Matz. "We've got a lot of almost-designated wilderness out there."

That "almost-designated" wilderness refers to

BLM's 12.8 million acres of wilderness study areas (WSA), which are lands it identified under FLPMA as containing wilderness values. By law, those lands must be managed to preserve their wilderness character until Congress decides whether to designate them or release them into multiple use.

That state of limbo is a source of frustration for advocates of multiple use and perhaps offers an incentive for wilderness skeptics to come to the bargaining table. (Bishop said designations "need to be done rationally. Not because someone has a gun to his head.")

Yet another incentive for congressional action is the Antiquities Act, which President Obama has pledged to continue using to set aside sensitive lands if Congress fails to pass conservation measures.

As of 1993, BLM had identified nearly 10 million acres of WSAs as "suitable" for wilderness designation. Many of those BLM lands also happen to be located in Republican-leaning states, where local politics make wilderness designations inherently difficult.

But there are plenty of additional eligible wilderness lands to go around, conservationists argue.

Taken together, FWS, NPS and the Forest Service have recommended or proposed that Congress designate an additional 12 million acres as wilderness.

In addition, Fish and Wildlife's draft comprehensive conservation plan for the Arctic National Wildlife Refuge preliminarily recommends that Congress designate more than 10 million acres of new wilderness, including the oil-rich coastal plain.

### 'Grassroots network'

When the nation's wilderness system will be considered complete remains to be answered.

Scott last week said he believes the wilderness system will eventually exceed 300 million acres, or nearly triple its current size, though he notes in his book that there is no "arbitrary cut off point" for wilderness.

The relevance of wilderness to future generations could influence the scope of future designations, too.

A 2012 [report](#) by Ken Cordell of the Forest Service's Southern Research Station found that annual per-capita visitations to primitive areas -- defined as activities including backpacking, primitive camping and visiting wilderness areas -- is expected to decline by up to 5 percent by 2050.

But overall participation is expected to increase by between 33 and 65 percent by 2060 due to population growth, the report said.

Cordell's research also predicts participation rates for off-road driving could drop by as much as 18 percent by 2060, even though overall participation will likely rise, too, with population growth.

Scott says he's optimistic for the act's next 50 years.

"There's this vast grassroots network, which did not exist in 1964, skilled people who have been to Washington and know the ropes," he said. "They're not going to be denied in the long haul."



Congress in March designated 32,000 acres of wilderness in Michigan's Sleeping Bear Dunes National Lakeshore, including on South Manitou Island (pictured). Rep. Dan Benishek (R-Mich.), the proposal's House sponsor, successfully pressed House leaders to bring the bill to a vote. Photo by Phil Taylor.

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