THE SPIRITUAL VALUES OF WILDERNESS

John Copeland Nagle
Associate Dean for Faculty Research and John N. Matthews Professor of Law

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The Spiritual Values of Wilderness

John Copeland Nagle*

In 1964, Congress enacted a law to preserve those areas “where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.”¹ That law, the Wilderness Act, has been extolled and imitated for seeking to protect the shrinking amount of wilderness lands in the United States and throughout the world.² It now governs the use of more than one hundred million acres of land owned by the federal government throughout the United States.³ More than half of those lands were designated as wilderness by a single act, the Alaska National Interest Lands Conservation Act (ANILCA), passed by Congress in 1980.

But many are not satisfied with the amount of lands that have already been designated as wilderness in Alaska, Utah, and elsewhere. For example, Alaska is still described as “the last wilderness,”⁴ and many people want to keep it that way. The status of the Arctic coastal range has been especially controversial, with competing proposals to open the area to oil exploration or to designate the lands there as wilderness. To achieve the latter goal, in Representative Edward Markey introduced the “Udall-Eisenhower Arctic Wilderness Act of 2005,” which would “permanently protect the Coastal Plain of the Arctic National Wildlife Refuge from development by granting it full wilderness status.”⁵ Another, existing Alaskan wilderness area

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¹ 16 U.S.C. § 1131(c).


³ The 662 wilderness areas comprise 105,677,250 acres of land, which is about 4.67% of the total land in the United States. See The National Wilderness Preservation System: Wilderness Fast Facts, available at <http://www.wilderness.net/index.cfm?fuse=NWPS&sec=fastFacts>. The six states with no designated wilderness areas are Connecticut, Delaware, Iowa, Kansas, Maryland, and Rhode Island.


demonstrates that the meaning of the Wilderness Act, and of the wilderness it protects, remains uncertain. ANILCA established the Kenai National Wilderness Area, which now consists of 1,350,000 acres of land containing five kinds of ecosystems. The management of the wilderness area faces numerous questions concerning which activities are appropriate in a wilderness area, including snowmobiling and other recreational uses, oil and gas development, wildlife protection, hunting and fishing, and subsistence use by Alaskan natives. Most recently, in Wilderness Society v. United States Fish & Wildlife Service, a unanimous en banc Ninth Circuit held that the Wilderness Act prohibits a program to add sockeye salmon to Tustumena Lake within the Kenai wilderness area. The Kenai National Wilderness Area thus raises questions of what is wilderness, which lands should be designated as wilderness areas, what kinds of human activities are compatible with wilderness, and ultimately why we preserve land as wilderness subject to the restrictions of the Wilderness Act.

These are questions about the meaning of wilderness. The answers to such questions have proved difficult to ascertain. In recent years, the explanations have emphasized biodiversity, recreation, or any of a number of general themes that were sounded by the Congress that enacted the Wilderness Act and the proponents of wilderness preservation before or since. But writing two years after the Wilderness Act became law, Michael McCloskey (who later became president of the Sierra Club) argued that “current valuations of wilderness are a product of a long evolution in American thinking. The evolution has blended many political, religious, and cultural meanings into deeply held personal convictions. Those who felt those convictions meant to translate them into law in the Wilderness Act. Those who administer the law must look to those convictions to understand why the law exists. The convictions cannot be easily manipulated or refashioned to suit the administrators.”


7 353 F.3d 1051 (9th Cir. 2003) (en banc), amended, 360 F.3d 1374 (9th Cir. 2004) (en banc).

8 See Max Oelschlager & F.B. McAllister, Why Wilderness Matters Now More Than Ever, 25 J. LAND RESOURCES & ENVTL. L. 21 (2005) (listing “ten wild reasons” why wilderness matters); Sandra Zellmer, A Preservation Paradox: Political Prestidigitation and an Enduring Resource of Wilderness, 34 ENVTL. L. 1015, 1021-25 (2004) (describing the biodiversity values of wilderness lands); Sigurd F. Olson, The Spiritual Need, in WILDERNESS IN A CHANGING WORLD 215 (Bruce M. Kilgore ed. 1965) (“One of the great challenges confronting those who believe in the preservation of wilderness is to build a broader base of values than physical recreation, a base of sufficient depth and solidity to counter the charge that it exists for a privileged and hardy few.”).

9 Michael McCloskey, The Wilderness Act of 1964: Its Background and Meaning, 45 OR. L. REV. 289, 294-95 (1966). See also Hayes, supra note 2, at 212 (cautioning that “[t]he lack of a unified concept of
This article focuses upon a particular set of convictions that played a significant role in the drive for wilderness preservation: the spiritual values of wilderness lands. Representative Markey invoked those values in 2005 when he quoted Morris Udall, the namesake of Markey’s proposed new Alaskan wilderness area, who once proclaimed that “[t]here ought to be a few places left in the world left the way the Almighty made them.” John Muir used similar language over one hundred years before when he first visited Alaska. Muir wrote eloquently of “[t]he great wilderness of Alaska,” yet he insisted that words are not “capable of describing the peculiar awe one experiences in entering these virgin mansions of the icy north, notwithstanding they are only the perfectly natural effect of simple and appreciable manifestations of the presence of God.” Muir rhapsodized that “the solemn monotone of the stream sifting through the woods seemed like the very voice of God, humanized, terrestrialized, and entering one’s heart as to a home prepared for it;” he described a glacier whose “[e]very feature glowed with intention, reflecting the plans of God; and he “rejoic[ed] in the possession of so blessed a day, and feeling that in very foundation truth we had been in one of God’s own temples and had seen Him and heard Him working and preaching like a man.” Indeed, Roderick Nash insists that “the major theme in [Muir’s] writings about Alaska was the way that wilderness symbolized divinity.”

As Nash has explained in his classic exposition of Wilderness in the American Mind, religious themes have played a prominent role in the evolving American wilderness provides the courts little basis for resolving conflicts over whether land should be identified as wilderness, and as a result, most courts defer to the characterization by the agency charged with managing the particular piece of land in dispute); Jay Hansford C. Vest, The Philosophical Significance of Wilderness Solitude, 9 ENVTL. ETHICS 304-05 (1987) (“Mindful of McCloskey’s remarks, one can only marvel at the shallowness of federal agencies’ interpretations of the wilderness legislation; indeed, they have largely ignored the cultural ethos from which it evolved.”).


12 JOHN MUIR, TRAVELS IN ALASKA 48, 53-54 (1915) (Modern Library ed. 2002).


14 Id. The first edition of the book appeared three after Congress enacted the Wilderness Act See id. at vii - viii (observing in the preface to the fourth edition that “[t]iming, it is often said, is everything”). There are, of course, other excellent discussions of the evolution in wilderness thinking, including PAUL S.
attitude toward wilderness. “Wilderness appreciation was a faith,” writes Nash. Yet Nash concludes that “[i]n the last several decades the course of American thought on the subject of wilderness and religion has swung away from a direct linking of God and wilderness.” But the extensive congressional hearings preceding the enactment of the Wilderness Act contained abundant references to the spiritual values of wilderness, just as religion played a significant role in the more famous congressional enactment of 1964, the Civil Rights Act. Additionally, the religious voice for wilderness preservation has continued to develop during the forty years since the Wilderness Act became law, a voice whose implications have yet to be explored by Nash and most of the more recent legal scholars to consider wilderness.

This article seeks to apply the emerging literature examining the religious – and specifically biblical – basis for wilderness preservation to the enduring questions about wilderness and the Wilderness Act. The examination is particularly timely as the Wilderness Act celebrated its fortieth birthday amidst attacks by developers and leading environmentalists alike who see the idea of wilderness protection as elitist, anthropocentric, and demeaning to indigenous populations. The recent litigation and other management issues confronting the Kenai National Wilderness Area provide a helpful vehicle to consider the spiritual values of wilderness preservation. This examination is especially appropriate because it involves Alaskan lands, which have long inspired wilderness thinkers, which are both subject to a arguably distinct

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15 Id. at 238.


17 See Michael McCloskey, Changing Views of What the Wilderness System is All About, 76 DENVER. U. L. REV. 369, 369 (1999) (noting the “rising challenges to the idea of wilderness itself . . . from members of the environmental community, academia, and those who are charged with administering the areas”); Theodore W. Nunez, Can a Christian Environmental Ethic Go Wild? Evaluating Ecotheological Responses to the Wilderness Debate, 20 ANNUAL OF THE SOC’Y OF CHRISTIAN ETHICS, 329, 329 (2000) (“Postmodern ecophilosophers argue that the wilderness idea, specifically Euro-American conception of pristine nature derived from Muir and inscribed in the 1964 Wilderness Act, is ethnocentric, elitist, androcentric, and unjust.”); Lynn White, The Historical Roots of our Ecologic Crisis, 155 SCIENCE 1203-07 (1967) (“The ‘wilderness area’ mentality invariably advocates deep-freezing an ecology, whether San Gimignano or the High Sierra, as it was before the first Kleenex was dropped. But neither atavism nor prettification will cope with the ecologic crisis of our time.”). For a response to those criticisms, see NASH, supra note 13, at 386-90; Holmes Rolston, III, The Wilderness Idea Reaffirmed, 13 ENVTL. PROFESSIONAL 370 (1991).
statutory framework for wilderness under ANILCA, and which were long ago described by John Muir in prose that emphasized the role of God as the creator of these amazing wilderness lands.

Part I of this article describes the Wilderness Act in general and the legal issues involving the Kenai National Wilderness Area in particular. Part II begins by examining the role that religious arguments played in wilderness debates prior to the enactment of the Wilderness Act, using Nash’s famous discussion as the template. Part II then recounts the frequent citations to the spiritual values of wilderness that appear in the numerous congressional hearings held in the years preceding the enactment of the Wilderness Act in 1964. These repeated references to the spiritual values of wilderness, often voiced in the testimony of individual citizens rather than organized groups, have been forgotten and thus ignored in current wilderness disputes. Part II continues by tracing theological scholarship since 1964 that examines the role of wilderness in the biblical teachings and the implications of that role for wilderness preservation today. The work of Susan Power Bratton is especially helpful in this task. Part III shows how the lessons of that theological scholarship can aid in answering the questions about wilderness preservation and the Wilderness Act that were raised in the Tustumena Lake litigation and that arise throughout the Kenai National Wilderness Area. These lessons show that the spiritual values of wilderness often complement the other reasons for wilderness preservation, and wilderness lands offer a special opportunity to achieve those spiritual values.

I. WILDERNESS LAW

A. The Wilderness Act

Congress enacted the Wilderness Act in 1964, culminating seven years of debates that began with the introduction of the first wilderness bill by Senator Hubert Humphrey in date. The stated purpose of the Act is to “assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no

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lands designated for preservation and protection in their natural condition.”20 The Act achieves these goals by establishing a “National Wilderness Preservation System” comprised of federal lands designated by Congress as wilderness areas. The definition of “wilderness” describes the lands to be designated as a wilderness area as

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 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.21

Those wilderness areas “shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.”22 The federal agencies responsible for any wilderness areas are “responsible for preserving the wilderness character of the area.”23 That general mandate is supplemented by provisions prohibiting some uses, permitting others, and preserving certain agency duties to manage land designated for specific purposes.24

The act was the result of a congressional compromise. Many western officials

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20 Wilderness Act § 2(a).

21 Wilderness Act § 2(c). The quoted paragraph is preceded by the first sentence of the Act’s definition of wilderness, which is quoted supra at text accompanying note 1.

22 Wilderness Act § 4(b). See also McCloskey, supra note 9, at 309 (reporting that “there are two purposes of the act: preservation without impairment, and compatible public enjoyment”); id. at 290-94 (listing eleven values of wilderness lands); id. at 290 n.6 (asserting that the ecological values of wilderness “have contributed little to the intellectual history of the idea”).

23 Wilderness Act § 4(b).

24 See Wilderness Act § 4(a) (describing the Act as “supplemental” to the purposes for which national parks, forests, and wildlife refuges are created); id. § 4(c) (prohibition upon most commercial uses, roads, structures, and motorized equipment); id. § 4(d) (authorizing aircraft and motorboats in areas were they were already being used, certain mineral leasing and exploration activities, and certain water projects). The Act disavows any claim to federal reserved water rights. See id. § 4(d)(7); see generally Karin P. Sheldon, Water for Wilderness, 76 DENVER U. L. REV. 555, 556-57 (1999) (blaming disputes over water rights for some of the reluctance to establish new wilderness areas).
and economic interests opposed wilderness legislation when it was first introduced during the 1950’s. The principal fear was that the prohibition upon economic activities in lands designated by federal agency officials as wilderness would deprive local interests of the ability to provide for their economic well-being. Congress responded to the western concern about bureaucratic action by providing that “no Federal lands shall be designated as ‘wilderness areas’ except as provided for in this Act or by a subsequent Act.” The Wilderness Act itself designated nine million acres of Forest Service land as wilderness areas. The act also directed the Secretaries of Agriculture and the Interior to review whether additional federal lands should be added to the wilderness system. That process yielded two studies during the 1970’s, denominated RARE I and RARE II, which identified 71 million acres of national forest lands that could qualify as wilderness, but Congress continues to debate many of those recommendations. There are also ongoing disputes about the status of “wilderness study areas” which may possess the characteristics of wilderness but which Congress has not designated as wilderness areas.

The creation of new wilderness areas is thus dependent upon further congressional legislation. The more notable additions include the over two hundred million acres of federal lands in the eastern United States designated by the Eastern Wilderness Act of 1975, and the California Desert Protection Act of 1994, which designated 7.5 million acres of wilderness lands. Congress added another half million acres to the wilderness system in 2002, most of which is in Nevada but also including

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25 Wilderness Act § 2(a).

26 See Wilderness Act § 3(a) (providing that lands already managed “as ‘wilderness,’ ‘wild,’ or ‘canoe’ are hereby designated as wilderness areas”); Ross W. Gorte, Wilderness: Overview and Statistics, CRS Rep. No. 94-976 ENR (1994) (indicating that the act “designated 54 wilderness areas with 9 million acres of Forest Service land”).

27 Wilderness Act § 3(b) - (e).

28 See Zellmer, supra note 8, at 1044-45.


lands in California, Colorado, and South Dakota. But other wilderness proposal await congressional approval, and many observers object to the slow pace of wilderness designations.

B. Alaskan lands

Alaska has long mesmerized wilderness enthusiasts. Nash explains that “[t]he image of Alaska that emerges from the accounts of recreation-seekers and environmentalists is that of a wilderness mecca, a qualitatively wilder country that any that exists or, perhaps, ever existed in the lower forty-eight states.” Nash cites the state’s harsh climate and the fact that only about five percent of its land is “considered fit for agriculture and grazing.” Alaska remains the least populated state, and many of its lands are both wild and still owned by the federal government, which has yielded ongoing battles to determine the appropriate status and management of those lands.

The United States bought Alaska in 1867, ending a century and a half of Russian control that had begun with the exploratory voyages of Captain Vitus Bering and naturalist Georg Wilhem Steller. Within twelve years, John Muir arrived in the distant land for the first of seven visits. “For Muir,” writes one historian, “Alaska was the

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32 See, e.g., Zellmer, supra note 8, at 1017-18 (asserting that “the cumbersome and compromise-ridden legislative process has not fulfilled the Wilderness Act’s goal of ‘securing an enduring resource of wilderness’”). The debate over the designation of wilderness areas in Utah has been especially contentious. See Sarah Krakoff, Settling the Wilderness, 75 U. COLO. L. REV. 1159 (2004); Blumm, supra note 29, at 404-09; Stephen H.M. Bloch & Heidi J. McIntosh, A View From the Front Lines: The Fate of Utah’s Redrock Wilderness Under the George W. Bush Administration, 33 GOLDEN GATE U. L. REV. 473 (2003); Hayes, supra note 1, at 217-47.

33 NASH, supra note 13, at 275.

34 See NASH, supra note 13, at 274.

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epitome of nature’s perfection.”36  Muir proclaimed that “[t]o the lover of pure wilderness Alaska is one of the most wonderful countries in the world.”37  A 1901 National Geographic article agreed that “[t]he scenery of Alaska is so much grander than anything else of its kind in the world, that, once beheld, all other scenery becomes flat and insipid.”38  As early as 1937, Bob Marshall asked Congress to “keep northern Alaska largely a wilderness.”39  Then, “[b]eginning in the 1950s, and increasing in the subsequent two decades, a flood of publicity called attention to the values of wild Alaska.”40  Justice William O. Douglas, for example, asserted in 1965 that “Alaska represents one last opportunity to preserve vast wilderness areas intact.”41

Alaska did not become a state until January 1959.  Its “very low population, enormously high percentage of federal lands, and lack of any provisions made over the years . . . for resolving Alaska Native land ownership claims” explained the long wait for statehood even more than the area’s geographic separation of the lower 48 states.42  Scantily populated lands thus played a central role in the state’s evolution.  The federal statehood legislation promised that over one hundred million acres – or 28% of the state – would be given to the new state government, but precisely which land would be handed over to the state and the status of native land claims was both left unresolved.43  President Eisenhower established the Arctic National Wildlife Range in January 1960.44  Eleven years passed before Congress approved the Alaska Native Claims Settlement Act (ANCSA), which provided forty million acres and nearly one billion dollars for

36 HAYCOX, supra note 4, at 197.
37 See NASH, supra note 13, at 272 (quoting Muir in 1879).  Muir’s Alaskan trips are described in BORNEMAN, supra note 35, at 120-26.
38 Henry Gannett, The General Geography of Alaska, 12 NATIONAL GEOGRAPHIC 182, 196 (1901).  See also NASH, supra note 13, at 279-90 (describing the early explorer’s of Alaska’s wilderness).
40 NASH, supra note 13, at 293.
41 WILLIAM O. DOUGLAS, A WILDERNESS BILL OF RIGHTS 134 (1965).
42 BORNEMAN, supra note 35, at 395.
44 See BORNEMAN, supra note 35, at 415.
twelve regional corporations established for native Alaskans throughout the state. Meanwhile, state officials and development interests battled environmentalists and federal officials in Washington to resolve the status of the bulk of the federal lands in the state. Finally, in December 1980, a lame duck Congress approved the Alaska National Interest Lands Conservation Act (ANILCA).

ANILCA afforded federal protection to vast amounts of land, provided for the transfer of other land to the state and to native corporations, and directed studies with respect to the status of additional lands. The statute created ten new national parks and expanded three others, established nine wildlife refuges and expanded seven others, designated 26 wild and scenic rivers, and produced various new conservation areas and national monuments. ANILCA also designated 56.7 million acres of wilderness lands, thus doubling the size of the national wilderness preservation system in one fell swoop. But the precise relationship between ANILCA’s wilderness provisions and the provisions of the Wilderness Act remains unclear. Section 707 of ANILCA states that except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness. ANILCA allows for subsistence activities, mineral assessment, access to inholdings, sport hunting and fishing, and motorized access for traditional activities in wilderness areas. The extent of such activities, and the extent to which they can be regulated, is still contested.

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45 See 43 U.S.C. §§ 1603(b), 1605(a), 1611; Chickaloon-Moose Creek Native Ass’n, Inc. v. Norton, 360 F.3d 972 (9th Cir. 2004); BORNEMAN, supra note 35, at 470.


48 See id. at 3-4.

49 See ANILCA § 707. See also ANILCA § 101(a) (stating that one of the purposes of ANILCA is to preserve wilderness values); ANILCA § 102(13) (providing that ANILCA’s definition of “wilderness” is the same as the Wilderness Act’s.

50 See ANILCA § 811 (subsistence activities); id. at 1010 (mineral assessment); id. § 1109 (existing rights of access); id. § 1110(a) (access for traditional activities); id. § 1110(b) (access to inholdings); id. § 1313 (hunting and fishing).
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C. The Kenai National Wilderness Area

The Kenai peninsula juts southwest of Anchorage to separate Cook Inlet on the west and Prince William Sound on the east. The peninsula was already famous among hunters for its large moose and its white sheep by the end of the nineteenth century. Commercial fisheries began exploiting Kenai’s abundant salmon early in the twentieth century. The peninsula then experienced an “oil boom” upon the discovery of oil along the Swanson River in 1957. Each of those economic activities continue today, joined by increasing numbers of tourists, recreational visitors, and sports fishers who make the easy two hour drive from Anchorage to the heart of peninsula.

In 1904, William Langille reported to his Forest Service superior, Gifford Pinchot, to recommend the creation of a forest reserve to preserve the “primal state” of the forest cover on the Kenai peninsula. It was not until 1941, though, that President Franklin D. Roosevelt designated the Kenai National Moose Reserve. Nearly sixty years later, ANILCA added 250,000 acres to the land that comprised the moose range, renamed it the Kenai National Wildlife Refuge, and designated 1.35 million acres as wilderness (out of the refuge’s 1.97 million total acres). The refuge was intended for scientific research, education, recreation, water quality, and “to conserve fish and wildlife populations in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds.” Pursuant to section 1317 of ANILCA, in 1987 the regional director of United States Fish and Wildlife Service (FWS) proposed the designation of additional wilderness lands from the Kenai NWR, but that has yet to happen.

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51 See BORNEMAN, supra note 35, at 404-12 (describing the “oil boom on the Kenai” peninsula).

52 See generally The Kenai Peninsula, 21 ALASKA GEOGRAPHIC 1 (1994) (describing the geography, biology, and history of the Kenai Peninsula).


55 See ANILCA §§ 303(4), 702(7).

56 ANILCA § 303.4(I).

57 See U.S. FISH & WILDLIFE SERVICE, KENAI NATIONAL WILDLIFE REFUGE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT FOR THE WILDERNESS PROPOSAL OF THE FINAL KENAI COMPREHENSIVE PLAN / ENVIRONMENTAL IMPACT STATEMENT / WILDERNESS REVIEW (Sept. 1988) [hereinafter KENAI
Tustumena Lake, one of the largest freshwater lakes in Alaska, is the dominant feature of the Kenai wilderness area. Water flows into the lake from several streams and from the Harding Icefield, an area of glaciers located southeast of the lake that abuts the water near the Kenai Fjords National Park; water flows out of the lake through the Kasilof River into Cook Inlet. “As a result of its remote location,” the Ninth Circuit explained, “the ecosystem around and within Tustumena Lake is in a natural state. This ecosystem supports several species of anadromous fish, including sock-eye salmon, which spawn within the Kasilof River watershed.”  

“As for the salmon,” wrote John Muir, “as seen this morning urging their way up the swift current, - tens of thousands of them, side by side, with their backs out of the water in shallow places now that the tide was low, - nothing that I could write might possibly give anything like a fair conception of the extravagance of their numbers. There was more salmon apparently, bulk for bulk, than water in the stream. The struggling multitudes, crowding one against another, could not get out of our way when we waded into the midst of them.” Indeed, Ernest Gruening – the territorial governor and future U.S. Senator – once exclaimed that “salmon and Alaska have been as closely intertwined as cotton and the South.” Kenai has long enjoyed the reputation for hosting some of the state’s most abundant salmon runs, with an estimated 750,000 salmon there today. Commercial fishing of salmon has occurred in the rivers flowing out of Tustumena Lake since the late nineteenth century. Beginning in 1974, the state of Alaska began to add sockeye salmon fry to Tustumena Lake so that more salmon could be harvested by sports fishers and by the commercial fisheries operating outside the wilderness area. The program took sockeye salmon eggs from Tustumena Lake, incubated them in a hatchery outside the refuge, and then released the new salmon fry back into the lake the following year. In 1993, the state contracted with the Cook Inlet Aquaculture Association (CIAA) to assume control of the program. CIAA is a private, non-profit organization, funded by a voluntary tax on the commercial salmon industry and by selling the surplus fry taken from Tustumena Lake, that seeks to preserve and

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58 Wilderness Society v. United States Fish & Wildlife Service, 353 F.3d 1051, 1056 (9th Cir. 2003) (en banc), amended, 360 F.3d 1374 (9th Cir. 2004) (en banc).

59 Muir, supra note 12, at 162-63.


61 See Wilderness Soc’y, 353 F.3d at 1056-57 (describing the program). The number of fry added to Tustumena Lake averaged six million after 1987, having reached a peak of over seventeen million in 1984. Id.
expand the number of salmon in the Cook Inlet region. FWS conducted a series of environmental reviews of the project which concluded in 1997 that the project was consistent with the Wilderness Act, ANILCA, and the National Environmental Policy Act (NEPA), while noting concerns that fish raised in the hatchery could harm the genetic composition of the naturally-occurring salmon.

The Wilderness Society disagreed, claiming that the addition of salmon to the lake violated the Wilderness Act. The federal district court in Anchorage rejected that claim, as did a divided Ninth Circuit panel. Judge Graber’s opinion for the Ninth Circuit panel considered the very meaning of “wilderness” in the Wilderness Act itself. She explained that “a ‘wilderness’ is not absolutely off limits to all human interference.” She then identified two conflicting understandings of the agency’s duty to “protect and manage an area ‘so as to preserve its natural conditions’:

On the one hand, to preserve the “natural conditions of the Refuge could mean protecting against the introduction of artificial propagation programs, like the Project, that alter the natural ecological processes within the Refuge. On the other hand, to preserve the “natural conditions” off the Refuge could mean preserving the natural ecological processes as they would exist in their wild state, in the absence of artificial disturbance from outside the wilderness area.

These competing visions rely upon the distinct concepts of wilderness as a prohibition upon land use versus wilderness as a unique type of land use. Rather than resolving those issues, Judge Graber simply deferred to the expertise of the FWS. Dissenting, Judge Betty Fletcher insisted that the “‘artificial’ propagation programs violated the “remarkably explicit” provisions of the Wilderness Act.

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62 See Alaska Stat. § 16.10.380(a) (establishing the CIAA); 353 F.3d at 1057 (describing the CIAA).


64 Wilderness Society v. United States Fish & Wildlife Service, 316 F.3d 913, 923 (9th Cir. 2003), vacated, 353 F.3d 1051 (9th Cir. 2003) (en banc), amended, 360 F.3d 1374 (9th Cir. 2004) (en banc).

65 Id. at 923-24.

66 Id. at 933 (B. Fletcher, J., dissenting).
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The Wilderness Society next appealed to the entire en banc Ninth Circuit, which held 11-0 that the sockeye enhancement program violates the Wilderness Act because it is designed to facilitate a commercial enterprise. The en banc court did not address the issue of the meaning of wilderness that Judge Graber had discussed in the panel opinion. Nor did the en banc court address the FWS’s argument that the sockeye enhancement project simply mitigated the effects of large commercial salmon fleets operating in the bay outside the wilderness area. Instead, the en banc court concluded that the salmon enhancement project constituted a commercial enterprise that is prohibited by the Wilderness Act. Judge Gould admitted that the program was “an activity with a benign aim to enhance the catch of fishermen, with little visible detriment to wilderness, under the cooperative banner of a non-profit trade association and state regulators. Surely this fish-stocking program, whose antecedents were a state-run research project, is nothing like building a McDonald’s restaurant or a Wal-Mart store on the shores of Tustumena Lake.” But, the court added, “the challenged activities do not appear to be aimed at furthering the goals of the Wilderness Act.”

The court concluded that the purpose and effect of the program is to promote commercial fishing interests, and thus the program was “commercial enterprise” that was expressly prohibited by Wilderness Act.

The litigation challenging the addition of salmon to Tustumena Lake is just one

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67 See The Wilderness Soc’y v. FWS, 353 F.3d 1051 (9th Cir. 2003) (en banc), amended, 360 F.3d 1374 (9th Cir. 2004) (en banc) (modifying the en banc court’s judgment to give the district court discretion “with respect to this year’s batch, and this year’s batch only, of six million sockeye fry from Bear Creek that are currently in CIAA’s Trail Lakes hatchery”).

68 Id. at 1062. According to my observations in May 2004, the nearest McDonald’s is about twenty miles north of the Tustumena Lake in Soldotna (and about one mile from the Kenai National Wildlife Refuge headquarters). WalMart has yet to reach the Kenai peninsula; the closest store is 160 miles away in Anchorage. For more instances of WalMart’s role in actual environmental litigation, see Bakersfield Citizens for Local Control v. City of Bakersfield, 124 Cal. App. 4th 1184 (Cal. Ct. App. 2004) (overturning the approval of two new stores pending a study of whether they would contribute to urban decay); Tennessee Environmental Council, Inc. v. Bright Par 3 Associates, L.P., 2004 Tenn. App. LEXIS 155 (Tenn. Ct. App. 2004) (blocking a new store that could violate a conservation easement); McCormick v. WalMart Stores, 600 S.E.2d 576 (W. Va. 2004) (lawsuit charging improper stormwater drainage); but see Eryn Gable, Wal-Mart Commits $35 to Protect Wildlife Habitat, LAND LETTER, Apr. 14, 2005 (reporting WalMart’s commitment “to conserve at least 1 acre of ‘priority’ wildlife habitat for every acre developed for company use”).

69 Id. at 1062-63.

70 See id. at 1064 (stating that “[t]he primary purpose of the Enhancement Project is to advance commercial interests of Cook Inlet fishermen by swelling the salmon runs from which they will eventually make their catch”); id. at 1065 (stating that “[t]he primary effect of the Enhancement Project is to aid commercial enterprise of fishermen”).
of the issues confronting the Kenai wilderness area. Snowmobile usage is an increasing problem, fueled by the increasing number of visitors who travel from Anchorage or further away to enjoy the area during the winter. The existence of a growing brown bear population has caused concern within the neighboring communities. The resumption of oil and gas exploration activities nearby could affect the wilderness area itself. The size of the wilderness area could be expanded, too. In 1988, FWS proposed adding 192,000 acres to the wilderness area, but Congress has yet to act on that proposal. Most recently, FWS acquired the land where Captain James Cook came ashore during his Alaska expedition, and that now forms the northern end of the Kenai wilderness area.

II. WILDERNESS THEOLOGY

The text of the Wilderness Act gives little indication of the crucial role of religious conceptions in forming our understanding of wilderness. “We live in a secular age,” wrote one geographer, “so the religious essence of the wilderness ethic tends to be overshadowed by attempts to justify wilderness preservation on secular grounds, be they scientific, aesthetic, nationalistic, or hygenic.” Yet wilderness is a profoundly spiritual concept. Much of the American thinking about wilderness derives from the biblical scriptures, which record numerous events that occurred in a wilderness setting. The scriptural teachings prompted the early American colonists to see the wilderness as a threat to eliminate, then other ethical insights joined with utilitarian concerns in the twentieth century push for wilderness preservation. But the spiritual values of wilderness played an important, albeit overlooked, role in the support for the Wilderness Act, and the years since 1964 have produced theological writings that have gleaned new insights from the scriptural references to wilderness.

A. Religious conceptions of wilderness before the Wilderness Act

Roderick Nash’s *Wilderness in the American Mind* is the classic treatment of the

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71 See Telephone Interview with Robin West, Refuge Manager, Kenai National Wildlife Refuge (Apr. 19, 2004).

72 See Johnston, supra note 6; KENAI WILDERNESS REVIEW, supra note 57.


74 LINDA H. GRABER, WILDERNESS AS SACRED SPACE ix (1976).
meaning of wilderness.\textsuperscript{75} According to Nash, “[w]ilderness was the basic ingredient of American culture.”\textsuperscript{76} The part of Nash’s book that interests me most is his exposition of religious thought. Nash tells the story of how the Bible influenced attitudes toward wilderness throughout American history.\textsuperscript{77} He then traces the idea of wilderness from the Pilgrims to Thomas Cole to Thoreau to John Muir to Bob Marshall to Aldo Leopold. The theme that emerges from this discussion is that the desire for wilderness preservation has increased as religious influences upon attitudes toward wilderness have decreased. Nash’s historical account is supplemented by the work of other writers, including some who are more sympathetic to the positive role of religious teaching than Nash. Much of Nash’s history shows how American thought about wilderness has responded to the special role that wilderness plays in the scriptures.

Nash observes that the word “wilderness” first became popular in English in translations of the Bible.\textsuperscript{78} Indeed, wilderness is ubiquitous in the biblical account. The Bible mentions the wilderness nearly three hundred times, according to some translations.\textsuperscript{79} There are two references to the wilderness in the opening book of

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\textsuperscript{76} NASH, supra note 13, at xi.

\textsuperscript{77} See NASH, supra note 13, at 14-17.

\textsuperscript{78} See id. supra note 13, at 2-3.

\textsuperscript{79} See id. at 13 (counting 280 occurrences of the word “wilderness” in the Revised Standard Version (RSV) of the Bible); Keith Warner, Back to Eden: The Sacredness of Wilderness Landscape in Christian Thought, in ECOLOGY AND RELIGION: SCIENTISTS SPEAK 344 (John E. Carroll & Keith Warner, eds. 1998) (stating that the RSV contains 281 references to “wilderness”). The American Bible Society’s web site indicates that “wilderness” appears 293 times in the King James Version (KJV), 163 times in Today’s New International Version (TNIV), and only five times in the New International Version (NIV). See American Bible Society, <http://www.americanbible.org/site/PageServer?pagename=bib_search_the_bible>. Much of the disparity depends upon the interpretation of the Hebrew word “what,” which was rendered “wilderness” in the KJV but “desert” in the NIV. I will use the TNIV here, for its editors determined that “wilderness” is a better translation than the “desert” in the NIV. See Talk of the Nation (National Public Radio broadcast, Mar. 15, 2005) (interview with John Stek, chairman of the Committee on Bible Translation, explaining that “desert is a little too narrow a geographical reference for the intent of the original languages. So we have changed virtually all of them to ‘wilderness,’ which is a broader term; means a place that is not occupied, at least by any permanent residents, and it is not cultivated. And the original terms refer to land not cultivated and not permanently occupied.”). The hermeneutics of the words translated “wilderness” is explored in Robert W. Funk, The Wilderness, 78 J. BIBLICAL LITERATURE 205 (1999).
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Genesis. Hagar fled into the wilderness after Sarai complained that her husband Abram had fathered the child that Hagar was carrying. “The wilderness . . . was critical to what transpired” for proving Hagar’s desperation, providing a site for Hagar alone to hear God, and the blessing of these lands given to Hagar and her son Ishmael.80 Later in Genesis, Reuben pleaded with his brothers to throw their brother Joseph “into this cistern here in the wilderness, but don’t lay a hand on him.”81 It is in the following books that wilderness becomes a central stage for the events recorded in the scriptures. Moses was in the wilderness when he saw the burning bush and first encountered God.82 Moses soon confronted Pharaoh with God’s command to “[I]let my people go, so that they may hold a festival to me in the wilderness.”83 Moses repeated that request until Pharaoh finally consented, only to change his mind again and pursue the fleeing Israelites, who then complained to Moses that “it would have been better for us to serve the Egyptians than to die in the wilderness.”84 After the people escaped as God parted the Red Sea, they camped in the wilderness of Sinai while Moses met God on the mountain.85 The Israelites then moved on toward the promised land of Canaan, and the story continues in the book of Numbers, which was originally titled “in the wilderness.”86 The people heard the report that the entrance to the promised land was well guarded, and once again they “grumbled against Moses and Aaron,” lamenting “[i]f only we had died in Egypt! Or in this wilderness!”87 The Lord heeded the plea of Moses to pardon the people for rebelling despite the signs that the Lord performed in the wilderness. The Lord told the people, though, that their “children will be shepherds here for forty years, suffering for your unfaithfulness, until the last of your bodies lies in

80 BRATTON, supra note 18, at 31. See Gen. 16:7 (NKJV) (indicating that the angel found Hagar “by a spring of water in the wilderness”).
81 Gen. 37:22.
82 Ex. 3:1 (reporting that Moses led his flock “to the far side of the wilderness and came to Horeb, the mountain of God”).
83 Ex. 5:1. See also BRATTON, supra note 18, at 40 (explaining that God’s command to travel into the wilderness to offer sacrifices “implied that Egypt was an unsuitable site for worship of Yahweh – the wilderness was preferred”).
84 Ex. 14:12 (NKJV). See Ex. 7:16 (repeating the request to Pharaoh); Ex. 8:27 (same).
85 Ex. 18:5.
87 Num. 14:12.
the wilderness.” At the end of those forty years, Moses reminded the people of God’s faithfulness to them. “Remember how the Lord your God led you all the way in the wilderness these forty years, to humble you and test you in order to know what was in your heart, whether or not you would keep his commands.” Moses also reminded the people that God “gave you manna to eat in the wilderness . . . to humble and test you so that in the end it might go well with you.” The people are reminded of God’s provision for the people during their wilderness journey again and again in the rest of the scriptures.

The wilderness plays a variety of roles in the balance of the Old Testament story. It was a place of refuge for David and for Elijah. David fled to the wilderness when Saul was seeking to kill him. David survived Saul’s pursuit and subsequently returned to become king of Israel himself. Likewise, Elijah “went a day’s journey into the wilderness . . . and prayed that he might die.” Instead, God appeared to Elijah with “a still small voice,” and Elijah later directly ascended to heaven without ever dying. The Psalms and the Prophets described how God used wilderness as a means of punishing, testing, and redemption. They also observed how the wilderness would respond to God’s actions. Isaiah, for example, wrote of the day when “the wilderness will rejoice and blossom.” By contrast, Jeremiah spoke of the day when God would “take up a lament concerning the wilderness grasslands. They are desolate and

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88 Num. 14:33.
89 Deut. 8:2.
90 Deut. 8:16.
91 See Ps. 78:40 (observing “[h]ow often they rebelled against Him in the wilderness”); Ps. 95:8 (reminding the people that of the day of testing in the wilderness); Ps. 106:14 (noting that “in the wilderness they put God to the test”); Ps. 136:16 (praising God for leading “his people through the wilderness”); Ezek. 20:10-36 (repeating the story and warning that God will judge the people today in the same way); Hosea 13:5 (reminding the people that “I cared for you in the wilderness”); Acts 7:30-46 (Stephen’s speech recounting the events of the Israelites in the wilderness).
92 See 1 Sam. 23:14 (noting that “David stayed in the wilderness” while Saul pursued him) 1 Sam. 26:13 (same); see also BRATTON, supra note 18, at 60 (writing that “[t]he exploits of David and Jonathan in 1 and 2 Samuel form one of the most extensive series of wilderness adventures in the Scriptures, yet not a single theophany appears”).
93 1 Kings 19:12; see 2 Kings 2:12 (explaining that “Elijah went up by a whirlwind into heaven”).
94 Is. 35:1. See also Ps. 65:12 (praising God because “[t]he grasslands of the wilderness overflow” in response to God’s goodness); Is. 43:20 (reporting that “[t]he wild animals honor me . . . because I provide water in the wilderness and streams in the wasteland, to give drink to my people, my chosen” ones); Joel 2:22 (telling wild animals not to be afraid because “the pastures in the wilderness are becoming green”)

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The New Testament describes how John the Baptist fulfilled Isaiah’s prophecy of a voice calling from the wilderness. “John the Baptist appeared in the wilderness, preaching a baptism of repentance for the forgiveness of sins.” Jesus came to John there, and John baptized him. “At once the Spirit sent Him out into the wilderness, and he was in the wilderness forty days, being tempted by Satan. He was with the wild animals, and angels attend him.” Later in the Gospels, “withdrew to a region near the wilderness, to a village called Ephraim, where he stayed with his disciples.” The different Gospel writers tell these wilderness stories from a slightly different perspective. “Mark is preeminently a desert gospel. All the images of deserted wilderness . . . in the first half of its narrative prepare the reader for the suffering that moves to fulfillment in its second half.” Matthew, in turn, “is more fascinating with mountains,” including the wilderness mountain where Jesus was tempted, the sermon that Jesus delivered on the mount, and several other mountains that hosted key events in the life of Jesus. There are few references to the wilderness elsewhere in the New Testament until the concluding book of Revelation, which contains two references to

untraveled, and the lowing of cattle is not heard. The birds have all fled and the animals are gone.”

95 Jer. 9:10. See also Joel 1:20 (writing that “fire has devoured the pastures in the wilderness”).

96 Mark 1:4.

97 Mark 1:12-13. See also Ulrich Mauser, Christ in the Wilderness: The Wilderness Theme in the Second Gospel and Its Basis in the Biblical Tradition 128-29 (1963) (“All passages referring to the wilderness in Mark display a threefold function. They follow a statement of the teaching and healing ministry of Jesus or his disciples in which a victorious battle against Satanic forces takes places; they imply always a withdrawal from the scene of activity; and they are followed by an indication of the overpowering attraction of the multitudes to Jesus.”); id. at 82 (“The wilderness of Mark 1:3 carries with it the full weight of a great religious tradition embracing high hopes and promises as well as the deep shadows of judgment and despair, and this is imposed upon the succeeding verses, moulding them as counterparts of Israel’s experience in the desert.”); id. at 116 (Jesus as “the wanderer through the wilderness”) with George H. Williams, Wilderness and Paradise in Christian Thought: The Biblical Experience of the Desert in the History of Christianity & the Paradise Theme in the Theological Idea of the University 23 (1962) (“the second Adam in the wilderness had reversed the consequences of Adam’s temptation in Paradise”).

98 John 11:54.


100 Id. at 45. Lane credits Terence Donaldson, who “argues that the six mountain stories of Matthew provide a literary schema giving order to the entire gospel”.
future events that will occur in the wilderness.\footnote{101}

Nash traces how this biblical record mixed with other influences to form the modern American image of wilderness. “In early and medieval Christianity,” Nash writes, “wilderness kept its significance as the earthly realm of the powers of evil that the Church had to overcome.”\footnote{102} At the same time, a monastic tradition emerged in which “[a] succession of Christian hermits and monks . . . found the solitude of the wilderness conducive to meditation, spiritual insight, and moral perfection.”\footnote{103} Which of these contrasting perceptions of wilderness as hostile and wilderness as refuge predominated is a contested question. Early desert monastics mimicked the experiences described in the biblical record.\footnote{104} In medieval times, St. Francis of Assisi is most famous for his sympathetic attitude toward the natural world. Nash describes St. Francis as “the exception that proves the rule,”\footnote{105} which prompted Susan Bratton to ask “[w]hy would a liberally educated historian such as Roderick Nash assume Francis of Assisi was an anomaly?”\footnote{106}

The development of Protestantism influenced the perception of wilderness of the Europeans who moved to America. Bratton claims that “[w]ilderness spirituality hit a low point in the early Reformation period” because of its urban focus, objections to monasticism, abandonment of specialized spiritual vocations and ascetic practices, and emphasis upon family.\footnote{107} Other scholars see a positive aspect to the wilderness views of the Protestant reformers. “To Calvin,” observes one writer, “wilderness was essentially
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good because it was made by God in order to make himself known in various ways to man.”108 The European settlers of America feared wilderness and sought to conquer it. Forsaking nuance, Nash writes of the Puritans that “their Bibles contained all they needed to know in order to hate wilderness.”109 Nash also reports that “[w]hile Jonathan Edwards might occasionally derive spiritual joy from, and even perceive beauty in, natural objects such as clouds, flowers, and field, wilderness was still beyond the pale. For Edwards as for his Christian predecessors, ‘the land that we have to travel through [to Heaven] is a wilderness; there are many mountains, rocks, and rough places that we must go over in the way.’”110

Nineteenth century America witnessed the beginning of a change in the understanding of wilderness. Three trends coincided: a growing scarcity of wilderness lands, a nascent appreciation of wilderness, and the beginning of an uncoupling of theological and ethical views of wilderness. The traditional view of wilderness was reflected in a number of judicial opinions. In 1814, the Supreme Court held that actual possession of a large tract of land in Kentucky was not necessary to confirm title under a state statute because, Justice Story explained, “[a]t the time of the passing of the act of 1779, Kentucky was a wilderness. It was the haunt of savages and beasts of pray. Actual entry or possession was impracticable; and, if practicable, it could answer no beneficial purpose.”111 At the same time, Nash writes, “[a]ppreciation of wilderness

108 Ken Dannen, Wilderness and the Reformers, 7 LEXINGTON THEOLOGICAL J. 103, 104 (1972). Luther, by contrast, “sees wilderness as a frustration of God’s intention.” Id. at 111. For more on the differing reviews of wilderness thinking in the Reformation, compare LANE, supra note 99, at 56 (agreeing that Calvin viewed wilderness in a positive light); WILLIAMS, supra note 97, at 65 (“The Protestant Reformers were in no mood to flee into the wilderness, and were sober-minded about Paradise”).

109 NASH, supra note 13, at 35. See also Callicott & Ybarra, supra note 75 (stating that “[t]he howling wilderness encountered by the first generation of Puritans was demonized”); Robey E. Whitson, Wilderness and Paradise: Symbols of American Religious Experience, 5 Religion & Intellectual Life 7 (1987).


111 Green v. Liter, 12 U.S. (8 Cranch) 229, 248 (1814). Similar expressions appear in Arnold v. Mundy, 6 N.J.L. 1, 20-21 (1821) (describing the English settlers “whose love of civil and religious liberty, led them to abandon the delights of civilized life, the tombs of their ancestors, and all those endearing ties which bind man to the place of his birth to encounter the privations, hard ships, and dangers of settling a wilderness, peopled only by savages”); and Allen v. McCoy, 8 Ohio 418, 483 (1838) (contrasting land that “was of but little value” as a wilderness, “[b]ut through the energy and enterprise of the alinee, and those to whom he sold, this wilderness has become a cultivated country”); see also John G. Sprankling, The Antiwilderness Bias in American Property Law, 63 U. CHI. L. REV. 519, 530-33 (1996) (citing additional cases
began in the cities,” and that “appreciation arose with the association of God and wilderness.”112

The transitional figure is Thomas Cole, who extolled wilderness but retained a fear of it and of God. Cole founded the Hudson River School of American landscape painting in the 1820’s, and “[o]ver the next several decades, [he] attracted wide attention as a celebrant of the American wilderness.”113 Cole expressed his view of wilderness in a remarkable “Essay on American Scenery” that he wrote in 1836.114 Cole proclaimed that “the wilderness is YET a fitting place to speak of God.”115 Cole extolled wilderness as a place of solitude and religious inspiration. He explained that “the good, the enlightened of all ages and nations, have found pleasure and consolation in the beauty of the rural earth. Prophets of old retired into the solitudes of nature to wait the inspiration of heaven.”116 Thus, “in gazing on the pure creations of the Almighty, [one] feels a calm religious tone steal through his mind, and when he has turned to mingle with his fellow men, the chords which have been struck in that sweet communion cease not to vibrate.”117 Moreover, “those scenes of solitude from which the hand of nature has never been lifted, affect the mind with a more deep toned emotion than aught which the hand of man has touched. Amid them the consequent associations are of God the creator – they are his undefiled works, and the mind is cast into the contemplation of eternal things.”118 Cole joined this reverential appreciation for

reflecting the nineteenth century judicial hostility to wilderness lands).

112 NASH, supra note 13, at 44-45. See also WILLIAMS, supra note 97, at 130 (“noting how pioneer conservationists and naturalists, sensing in their turn that the wilderness was inextricably bound up with national character and destiny, sought, often with the invective of the ancient prophets, to save reserved parts of the American heritage . . . . Like John the Baptist theirs were voices crying in the wilderness, but for the wilderness – for the saving of nature in order to save society”).


115 Id. at 2.

116 Id.

117 Id. at 3.

118 Id. at 5.
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wilderness with a lament for the disappearance of wilderness. He noted that “there are those who regret that with the improvements of cultivation the sublimity of the wilderness should pass away.” He also expressed his own “sorry that the beauty of such landscapes are quickly passing away – the ravages of the axe are daily increasing – the most noble scenes are made desolate, and oftentimes with a wantonness and barbarism scarcely credible in a civilized nation.” Even so, as Nash observes, Cole viewed wilderness with some ambiguity. Cole could write of the time when “this vast tract of the American continent, now the United States, rested in the shadow of primaeval forests, whose gloom was peopled by savage beasts, and scarcely less savage men,” also quoting a poem referring to “The Gardens of the Desert.” Cole even allowed that his concerns about the disappearance of wilderness were “a regret rather than a complaint; such is the road society has to travel.”

Henry David Thoreau continued Cole’s appreciation of wilderness, but dropped the theological rationale. Thoreau famously proclaimed that “in Wildness is the preservation of the World.” Nash credits Thoreau as the “philosopher” of American wilderness thought who demonstrated that “wildness and refinement were note fatal extremes but equally beneficent influences Americans would do well to imitate.” Other writers, including Max Oelschlaeger, give Thoreau even greater credit as the developer of a wilderness ideal than does Nash is his relatively brief chapter about Thoreau.

John Muir was the “publicizer” of wilderness. Beginning in 1868, Muir hiked thousands of miles throughout the wild areas of the southeast, Yosemite, and Alaska.

119 Id. at 5.
120 Id. at 12.
121 Id. at 4.
122 Id. at 12. For references to Cole’s importance regarding wilderness, see Williams, supra note 97, at 129 (in his paintings “the inherent contradiction between the Christian conception of man and his fall and the romantic sense of the benignity of the American wilderness personified as Nature was thus vaguely apprehended”).
123 See NASH, supra note 13, at 84 (quoting 9 HENRY DAVID THOREAU, THE WRITINGS OF HENRY DAVID THOREAU 275 (1893)).
124 NASH, supra note 13, at 95.
125 See OELSCHLAEGER, supra note 14, at 133-71.
126 NASH, supra note 13, at 122.
Muir then wrote about his experiences, founded the Sierra Club, and worked to persuade federal and state officials to preserve the lands that he had visited. Muir often used biblical language to express the wonders of wilderness lands. Muir believed “that while God’s glory was written over all His works, in the wilderness the letters were capitalized.” He wrote of “the freedom and glory of God’s wilderness.” He titled an 1876 article “God’s First Temples: How Shall We Preserve Our Forests?” He praised President Cleveland for establishing vast forest reserves containing “thousands of God’s wild blessings.” The meaning of Muir’s frequent use of such religious language is complicated by the continuing debate about Muir’s own theological beliefs. There is no questioning, though, either Muir’s commitment to wilderness preservation or his preference for using religious language to express that commitment.

The appreciation of wilderness and the diminished role of theological insights both continued during the twentieth century. The leading characters in the story told

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127 NASH, supra note 13, at 125.
128 John Muir, My First Summer in the Sierra, in MUIR, NATURE WRITINGS, supra note 11, at 261.
129 See NASH, supra note 13, at 130.
130 John Muir, The Wild Parks and Forest Reservations of the West, 81 ATLANTIC MONTHLY 21, 24 (1898) (quoted in NASH, supra note 13, at 138).
131 Frederick Turner’s biography presents Muir as tormented by the unimaginable religious demands imposed by his father, who had experienced a dramatic conversion during the evangelical revivals in Scotland in the early nineteenth century. See FREDERICK TURNER, JOHN MUIR: REDISCOVERING AMERICA 7-79 (1985). Even so, Turner concludes that “Muir was first and forever a Christian, and even if the fit of the faith was uncomfortable in places and had to be considerably altered to fit his own spiritual needs, it served well enough over time.” Id. at 70-71. Other observers have reached similar conclusions about Muir’s idiosyncratic Christian beliefs. See DENNIS C. WILLIAMS, GOD’S WILDS: JOHN MUIR’S VISION OF NATURE xi (2002) (stating that Muir’s “actions as both author and lobbyist reflect the activist Evangelical Christianity of which he was a part”); RICHARD CARTWRIGHT AUSTIN, BAPTIZED INTO WILDERNESS: A CHRISTIAN PERSPECTIVE ON JOHN MUIR 85 (1997) (stating “I recognize John Muir as a Christian” and that “nature served as his Christ, leading Muir to know the same God that Jesus revealed”); S. HALL YOUNG, ALASKA DAYS WITH JOHN MUIR 97 (1915) (book written by the Presbyterian minister who accompanied Muir on some of his trips in Alaska who described Muir as “a devout theist. The Fatherhood of God and the Unity of God, the immanence of God in nature and His management of all the affairs of the universe, was his constantly reiterated belief.”). On the other hand, Nash and Oelschlaeger consider Muir to be a pantheist. See NASH, supra note 13, at 270 (referring to Muir’s “simple, if sincere, pantheism”); OELSCHLAEGER, supra note 14, at 173 (noting Muir’s “wilderness theology – a profoundly insightful evolutionary pantheism”). Oelschlaeger also opined that “Muir never became an atheist, never explicitly rejected the Calvinist theology of his youth,” OELSCHLAEGER, supra note 14, at 177, and that “[a]lthough his writings abound with scriptural allusions and metaphors, his seemingly orthodox religious vocabulary does not carry traditional Judeo-Christian presuppositions with it.” Id. at 174.
by Nash did not employ religious language to support the cause of wilderness preservation. Bob Marshall argued for wilderness preservation, including the preservation of Alaskan wilderness, in his multiple capacities as a Forest Service and Interior Department official, founder of the Wilderness Society, and avid outdoorsman. There is no indication, though, that Marshall’s Jewish beliefs played a role in his advocacy of wilderness preservation.\textsuperscript{132} Aldo Leopold, another founder of the Wilderness Society, wrote extensively about wilderness preservation and is acclaimed for his land ethic. Nash characterizes Leopold as the “prophet” of wilderness preservation, but his was a secular role. Apparently Leopold did not hold any traditional religious beliefs.\textsuperscript{133} Nor do religious justifications appear in the arguments of other leading proponents of wilderness preservation as recorded by the historians of the wilderness preservation movement of the middle of the twentieth century.\textsuperscript{134} These thinkers were – and are – enormously important in ideas about wilderness preservation, but their insights are drawn from outside the realm of theology. In short, the story that Nash tells suggests that religious influences upon American attitudes toward wilderness and efforts at wilderness preservation were inversely related to each other by the time Congress considered legislating to protect wilderness areas in the 1950’s and 1960’s.

\section*{B. Religious influences on the Wilderness Act in 1964}


\textsuperscript{134} For example, Oelschlaeger writes of Robinson Jeffers, a poet who explored the idea of wilderness. Oelschlaeger describes Jeffers’ father as “a dour Presbyterian” Old Testament theology professor who “was as remote from the family as the God he sought.” OELSCHLAEGER, \textit{supra} note 14, at 250. According to Oelschlaeger, Jeffers broke “free from hand-me-down Christianity” and rejected orthodox religion, but he was not an atheist. Id. at 250-51, 255. Gary Snyder, the second poet whose wilderness writings Oelschlaeger reviews, favored a “spiritual ecology” informed by Eastern religions. Id. at 261-62. Likewise, in Paul Sutter’s discussion of Robert Sterling Yard and Benton MacKaye, two of the founders of the Wilderness Society, the only reference to the religious implications of wilderness appears in Yard’s 1926 argument for the preservation of wilderness areas as “some samples of this beautiful and very wonderful earth as God made it.” SUTTER, \textit{supra} note 14, at 125-26 (quoting Robert Sterling Yard, \textit{But We Must Hold Our Heritage}, 47 NATIONAL PARKS BULLETIN 2 (1926)).
The most surprising discovery contained in the legislative history of the Wilderness Act is the extent to which religious arguments were voiced. Of course, that such arguments influenced the congressional enactment of a statute in 1964 should not be surprising at all, for religious arguments were influential in the congressional approval of the Civil Rights Act that same year. But the traditional histories fail to capture the role of religious understandings of wilderness in the enactment of the Wilderness Act. In fact, many supporters of the law articulated spiritual, religious, and explicitly biblical reasons for why Congress should preserve certain federal lands as wilderness. Often the same supporters advanced religious arguments in conjunction with the invocation of the recreational, aesthetic, and scientific values of wilderness. The addition of spiritual values to the list of reasons for wilderness legislation helps to fully explain why Congress agreed to preserve wilderness lands.

Congress held nine hearings on proposed wilderness preservation legislation in the seven years before the Wilderness Act became law in September 1964. As Nash observes, “The names and ideas of Thoreau, Muir, Marshall, and especially of Leopold, appeared time and again.” But those secular voices were joined by abundant references to the spiritual values of wilderness. Nash acknowledges Howard Zahniser, the Wilderness Society president who is credited with drafting the initial version of the Wilderness Act. In his 1955 speech on “The Need for Wilderness Areas,” Zahniser asked, “Are we not truly and in reality human, essentially, as spiritual creatures nurtured and sustained – directly and indirectly – by a wildness that must always be renewed from a living wilderness?” Senator Hubert Humphrey, the initial sponsor of

135 See NASH, supra note 13, at 222 (stating that “Congress lavished more time and effort on the wilderness bill than on any other measure in American conservation history,” with nine hearings “collecting over six thousand pages of testimony”); cite wilderness proposals history book.

136 See NASH, supra note 13, at 224. See also S. Res. 387, 108th Cong., 2d Sess. (2004) (commemorating the fortieth anniversary of the Wilderness Act and citing the contributions of “great American writers such as Ralph Waldo Emerson, Mary Austin, Henry David Thoreau, George Perkins Marsh, Isabella L. Bird, and John Muir,” “poets like William Cullen Bryant, and painters such as Thomas Cole, Frederic Church, Frederic Remington, Albert Bierstadt, Georgia O’Keefe, and Thomas Moran,” and “luminaries in the conservation movement, such as scientist Aldo Leopold, forester Bob Marshall, writer Howard Zahniser, teacher Sigurd Olson, biologists Olaus, Margaret (Mardy), and Adolph Murie, conservation leader Celia Hunter, and conservationist David Brower”).

137 See 151 CONG. REC. S4102 (statement of Sen. Feingold) (referring to “Wilderness Act author Howard Zahniser”); NASH, supra note 13, at 214-15 (quoting Howard Zahniser’s statement referring to humility as “one of the spiritual benefits of a wilderness experience”).

138 Howard Zahniser, The Need for Wilderness Areas, in WHERE WILDERNESS PRESERVATION BEGAN: ADIRONDACK WRITINGS OF HOWARD ZAHNISER 61 (Ed Zahniser ed. 1992). Zahniser also related Jesus’s teaching that “human beings realize their best welfare, by losing sight of themselves” with the idea that
wilderness preservation legislation, asked his colleagues to consider the spiritual well-being of the American people. Likewise, New Mexico Senator Clinton Anderson, the ranking Republican on the Senate committee responsible for wilderness legislation, proclaimed that “[t]here is a spiritual value to conservation and wilderness typifies this. Wilderness is a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say – this we will leave as we found it.” Notably, while politicians and the leaders of environmental organizations and even industry representatives occasionally referred to spiritual values, those values were more likely to appear in the statements of ordinary citizens who petitioned Congress to preserve wilderness areas.

Consider the witnesses who testified in the hearings that Congress held Washington and throughout the western states in the years preceding the enactment of the Wilderness Act. Many individuals told Congress that wilderness should be preserved because of its “highly important spiritual values.” According to one


139 National Wilderness Preservation Act: Hearing Before the Senate Interior & Insular Affairs Comm., 85th Cong., 1st Sess. 19 (1957) [hereinafter 1957 Hearing] (statement of Sen. Humphrey). Additionally, Senator Humphrey described “wilderness for spiritual values” in a 1956 speech. See id. at 33-34 (reprinting the speech); see also id. at 56 (quoting four statements “from spiritual leaders” in a “compilation of excerpts from letters to the Honorable John P. Saylor regarding the wilderness bill”).


141 National Wilderness Preservation Act Hearing, at 223 (statement of Don R. Burnett, President, New Mexico Wildlife and Conservation Ass’n, Inc.). Accord Wilderness Preservation System: Hearing Before the Subcomm. on Public Lands of the House Interior and Insular Affairs Comm., Pt. 2, 88th Cong., 2d Sess. 312 (1964) [hereinafter Wilderness Preservation System Hearing Part 2] (statement of Martin Vanderveen, Executive Secretary, American Whitewater Affiliation) (asserting that “[t]he spiritual values are there for all”); id. at 374 (statement of ?, quoting a statement from Roy E. Graham) (noting the “spiritual upliftment” of time in the wilderness); id. at 472 (statement of Frederic B. Loomis) (testifying that “[a]ll my life I have found . . . spiritual values in the mountains, plains, and forests of the United States”); id. at 507 (statement of Donald E. Drollinger) (referring to the land’s “soul-filling inspirational value that defies definition”); id. at 512 (letter from Lloyd C. Pray, Jan 7, 1964) (asserting that wilderness legislation “offers an opportunity for Congress to make a tremendous contribution” to enhance “spiritual values”); id. at 571 (statement of Andrew Nowell Smith) (asserting the people who do not experience wilderness are “poorer spiritually”); Wilderness Preservation System: Hearing Before the Subcomm. on Public Lands of the House Interior and Insular Affairs Comm., Pt. 3, 88th Cong., 2d Sess. 748 (1964)
college student, “The spiritual benefit which people receive from a stay in the
wilderness is not a tangible item, but it must be an important consideration in
legislation if America is truly dedicated to a somewhat idealistic sense of values.”142
Even an oil company executive argued that “the reservation of such wilderness areas is
essential to the spiritual well-being of millions of Americans.”143 Wilderness
proponents also insisted that these benefits were not limited to those who hiked into the
heart of wilderness areas. “To argue that few visit wilderness is fallacious, because even
those who might drive to its edge feel a spiritual uplift as they look off into an area
where there is no pronounced desecration by commercial interests.”144

These general references to spiritual values could encompass beliefs of any, or
no, specific theological content. Other witnesses evoked the wilderness stories of the
Bible. Catherine Hurlbutt of Denver testified that “for as long as man has left of written
record of his actions on this earth, he has felt a need for wilderness, where he could get
a grip on himself or better hear his call to destiny. Moses, King David, the writers of the
psalms, the prophets, Christ himself, all made use of the wilderness areas of their
day.”145 A Colorado Wildlife Federation official observed that “[f]rom Biblical times
and before, to the present, man has recognized the need for wilderness. Christ went
into the wilderness to pray, to clarify his thoughts, to free his mind, and in Psalms we

142 Wilderness Preservation System Hearing Part 2, at 539 (letter from Lawrence C. Jordan, Jan. 10,
1964).

143 Wilderness Preservation System Hearing Part 2, at 513 (letter from David B. MacKenzie, 
Manager, Geology Department, Marathon Oil Co.).

144 Wilderness Preservation System Hearing Part 3, at 729 (statement of Stanley B. Mulaik,
Executive Secretary, Utah Nature Study Soc’y).

145 Wilderness Preservation System Hearing, Part 2, at 536 (statement of Catherine Hurlbutt).
read: ‘I will lift up mine eyes unto the hills, from whence comes my help.’”146 A junior high school social studies teacher urged Congress to “protect this wilderness so that these yet unborn generations can feel the thrill Isaiah felt when he wrote in Isaiah 56:12: ‘... yet shall go out with joy, and be led forth with peace: the mountains and the hills shall break forth before you into singing, and all the trees of the field shall clap their hands.’”147 The president of a local Audubon Society in Nevada referred to “biblical times when Christ and Moses each found inspiration in the wilderness.”148 Reverend Aron S. Gilmartin of the University Unitarian Church in Seattle provided an extended discussion of the lessons of the New Testament texts:

Jesus went into the wilderness – and stayed there for a long time (for that is what the phrase “40 days and 40 nights” signifies). He went apart from the world – to seek the meaning of his life and to determine the direction that he would walk. It was in this wilderness that he faced the issues of life and gained a perspective which enabled him to do the work that followed. It was in the wilderness that he realized in deeper measure his oneness with the creative power of the universe – and made his commitment to serve it – and none other. . . . By such an experience, many may come to improve his ends – and dedicate himself anew to bringing the kingdom of God on earth.149

A retired New Mexico rancher and former Forest Service official read his poem, entitled “Wilderness Temples,” in a 1958 congressional hearing, concluding with the following verses:

No church you will find, nor a shrine built by man,
That inspires faith in God as wilderness can.
It was Moses, then Christ, went to mountains for prayers.
Now if they had such need, is not ours more than theirs?150

Additionally some wilderness proponents challenged the traditional reading of the


147 Wilderness Preservation System Hearing Part 2, at 508 (statement of Donald E. Drollinger).


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scriptural accounts. The President of the Seattle Audubon Society, for example, argued that “[w]ith the dominion over all things granted to man goes the responsibilities of stewardship, responsibilities he has largely ignored.”151

The proponents of wilderness preservation identified four specific spiritual values associated with wilderness. First, wilderness leaves land the way it was created by God. “The preservation of wilderness,” said the President of the National Audubon Society, “is therefore one of the noblest challenges of the human sole can rise to, because in so doing man looks upon the work of the Creator and says that it is good beyond anything man has been able to manufacture.”152 The governor of Utah told a visiting congressional hearing that “[I] wish you had the time to view the vast areas of this State which have high wilderness value, and will, because God created them that way, remain unspoiled by man.”153 Denver resident Susan Hurlbut explained to Congress that “[t]o the religious, [wilderness] is an example of God’s ultimate creativity.”154 In the words of an Iowa conservation leader, “When a person who lives in a ‘have not’ State travels to these most wonderful areas he fully realizes the full measure of God’s work. It gives him a reverence obtainable nowhere else in creation, not even in a house of worship.”155

151 Wilderness Preservation System Hearing Part 1, at 201 (statement of Theron E. Strange, President, Seattle Audubon Society).


153 1958 Hearing Part 2, supra note 161, at 680 (statement Utah Governor George D. Clyde).

154 Wilderness Preservation System Hearing Part 2, at 412 (statement of Miss Susan K. Hurlbut).

155 Wilderness Preservation System Hearing Part 3, at 888 (statement of M.E. Clark, Secretary, Iowa Wildlife Federation). Accord Wilderness Preservation System Hearing Part 1, at 91 (statement of ?) (referring to lands “which are wilderness by act of God”); id. at 207 (letter from Stephen Lynn Johnson, Jan. 2, 1964) (referring to “the wilderness areas created by God”); Wilderness Preservation System: Hearing Part 2, at 279 (statement of ?) (describing “these irreplaceable areas of this great Nation that only God can create and that only man can preserve”); id. at 350 (letter from C.E. Guin) (defending the proposed bill because it would “make available to future generations the inspiration of nature as God created it”); id. at 376 (statement of Margaret E. Polk) (arguing for “perpetuation of our American wilderness, as God created it”); id. at 376-77 (statement of Walter L. Meyer) (noting that “only God can create” or “make” wilderness); id. at 427 (letter from Theodore L. Mularz, Jan. 2, 1964) (writing that “[t]he Lord has been generous in giving us these areas of beauty, quiet, and solitude”); id. at 456 (statement of Robert O. Ross) (stating that “[t]he beauty and inspiration of the wilderness is made by God”); id. at 492 (statement of Mr. & Mrs. Arlin J. DeVorss) (explaining that “[o]ur wilderness areas are God given”); National Wilderness Preservation Act Hearing, at 117 (statement of Ernest E. Day, Immediate Past
Second, wilderness was described a place of encountering God. “I have never felt as close to God at anytime or anyplace as in the wilderness,” remarked one Denver resident.\textsuperscript{156} An official of the National Council of State Garden Clubs wrote that “[t]he pioneer may still be alone with nature and his God if this bill can be passed to set up these wilderness areas.”\textsuperscript{157} Florence Baldwin of Bozeman, Montana, submitted her own poem to the congressional committee considering wilderness legislation in 1964:

\begin{quote}
I walked wilderness in spring
And found my Maker near;
He called nature to rebirth,
My soul rejoice in cheer.

I strolled in nature’s garden,
And forgot past winter’s strife.
He cleared away my blindness;
I found eternal life.\textsuperscript{158}
\end{quote}

\textsuperscript{156} Wilderness Preservation System Hearing Part 2, at 402 (statement of Harry G. Sims).

\textsuperscript{157} 1958 Hearing Part 2, supra note 161, at 461 (letter from Doris E. Winters, Director of the Pacific Region of the National Council of State Garden Clubs).

\textsuperscript{158} Wilderness Preservation System Hearing Part 1, at 201 (letter from Florence W. Baldwin, Jan. 4, 1964). Accord Wilderness Preservation System Hearing Part 2, at 426 (letter of Hildur Anderson) (describing wilderness areas as a place to “commune with God”); id. at 538 (statement of Cary Jones) (asserting the “need for the renewing power of contact with man’s Creator and the works of His
Third, wilderness provides spiritual renewal. Elizabeth Moore, a self-described “housewife and ex-schoolteacher who loves to hike in the wilderness,” testified before a congressional committee in 1964 that “[t]he value of going into the wilderness to refresh the spirit and body has been understood since Biblical times and before, and the need to find tranquility, spiritual uplift and rejuvenation of mind and body is greater now than before.” A Colorado pastor extolled wilderness as a “place where we can get away from the smog, the indifference we have toward one another; where we can sit and enjoy the beauty of God’s creation; where we can renew our spiritual and physical needs; and from which we can return to the battle of life with increased vision, courage, and strength.” And a University of Washington zoology professor asserted that “[t]he spiritual and mental health of a great number of people is dependent on the peace and inspiration they find through visits to true wild areas. In our demanding, and often hectic, world this function of wilderness is already of incalculable importance and will become even greater.”


161 Wilderness Preservation System Hearing Part 1, at 148 (statement of Frank Richardson, Associate Professor of Zoology, University of Washington). Accord id. at 43 (statement of Robert E. Landsburg, Oregon Chapter of the Nature Conservancy) (stating that wilderness provides “spiritual refreshment and a deeper comprehension of our own existence”); id. at 121 (statement of Richard M. Noyes, Department of Chemistry, University of Oregon) (describing “the refreshment of spirit” experienced in wilderness lands); Wilderness Preservation System Hearing Part 2, at 317 (statement of Mrs. Marshall Barnard) (stating that “[i]t would be disastrous if our future generations were denied the solace and spiritual restoration that these areas provide”); id. at 470 (statement of Carl M. Boyd) (describing wilderness as a lace where “[t]he peace, closeness to nature, and all of God’s creation soaked into our souls”); id. 553 (statement of Mrs. M.T. Novitt) (citing the “spiritual renewal” resulting from visits to “the wild areas remaining in our country”); Wilderness Preservation System: Hearing Part 3, at 674 (statement of E. R. Stallings, President, National Horseman’s Ass’n) (asserting that we “can experience spiritual rejuvenation” in wilderness areas); id. at 721-22 (statement of Barclay Kamb, Professor of Geology and Geophysics, California Institute of Technology) (referring to “values that are
Fourth, wilderness offers escape. Wilderness is both valuable in its own right and an antidote to the stresses of civilization. “Seeing God’s handiwork is a healthy tonic even to the men of today whose lives must necessarily circulate in the world of concrete and asphalt,” according to a woman who testified before a Senate committee in 1958.162 A New Mexico conservation group described the “growing need and demand for such areas where men and women can get away from the stresses and tensions of modern living to refresh their minds, restore their souls, and commune with God in a country unspoiled by man.”163 Simply put, wilderness areas provide solitude.164

Supporters of the Wilderness Act worried that the elimination of wilderness lands would compromise those spiritual values. David Brower of the Sierra Club observed that “[t]he Promised Land that Moses led his people into was a beautiful wilderness” that had become “the barren stone skeleton of the greater Eden” because of

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163 1958 Hearing Part 2, supra note 161, at 999 (statement of Elliott S. Barker of the New Mexico Wildlife and Conservation Association). See also National Wilderness Preservation Act Hearing, at 101 (statement of Joseph W. Penfold, Chairman, Citizens Committee for the Outdoor Recreation Resources Review Commission Report) (“Primitive areas satisfy a deep-seated need occasionally to get far away from the works of man.”); Wilderness Preservation System Hearing Part 3, at 862 (statement of John W. Spencer, Izaak Walton League of America) (“Many seek out its healing silence to reassure themselves that all is well in God’s world where His handiwork is left untouched by man”).

164 Wilderness Preservation System Hearing Part 1, at 151 (statement of Henry Lydiard, Olympic Conservation Council) (citing “the abundant intrinsic rewards of solitude”).
the failure to remember "the cardinal rule of stewardship." And the spiritual values of wilderness were defended as more important than the natural resources that could be exploited from wilderness lands. A leader of the Izaak Walton League asked for "a strong wilderness system . . . which prescribes for a small fraction of our Federal land uses in which spiritual values take priority over material." A Fort Collins resident asserted that "[w]hen God told man to go forth and subdue the earth, He certainly did not mean that every inch of it should be exploited for commercial reasons." And consider the congressional testimony of Catherine Hurlbutt, the woman quoted above who invoked the support of biblical characters on behalf of wilderness preservation. She continued by connecting the biblical record to the current need for wilderness preservation, advising that "[t]he children of Israel are said to have wandered in the wilderness for 40 years; at the rate such areas are disappearing, the children of the future will wander for 40 years without ever having seen a wilderness." Then, when Representative White asked her "did it not take a miracle to get the children of Moses out of the wilderness?", Hurlbutt answered, "I think it did. I think it will take another miracle to save it now."

165 1958 Hearing Part 2, supra note 161, at 577 (statement David R. Brower, Executive Director, Sierra Club). See also Wilderness Preservation System Hearing Part 1, at 208-09 (letter from John D. Lindstrom, Jan. 8, 1964) (writing that “[i]n an era where spiritual values are disappearing all too fast, here is a chance to perpetuate with considerable security (if this is possible at all today) those very values inherent in wilderness”); 1958 Hearing Part 2, supra note 161, at 823 (statement of University of Utah botany professor Dr. Walter Cottam) (describing wilderness preservation as “an 11th hour chance for men of good will to answer affirmatively to the biblical query, 'Am I my brother’s keeper?'”).

166 Wilderness Preservation System Hearing Part 3, at 862 (statement of John W. Spencer, Izaak Walton League of America). Accord Wilderness Preservation System Hearing Part 1, at 220 (letter from Glenn F. Tiedt, Jan. 8, 1964) (describing wilderness as “a great cathedral unimpaired by the vain works of man,” and writing that “[s]urely the spiritual things to be found here are of greater value than the things to be gained from economic exploitation of the material resources”); Wilderness Preservation System Hearing Part 2, at 446 (statement of Harry O. Rennat) (arguing that “[w]ith the increasing population of our society unspoiled wilderness areas will become priceless for their . . . spiritual values rather than for their natural resources”); id. at 557 (statement of Doris Palmer) (asserting that the “scientific, educational, and spiritual values preserved by the preservation of wilderness far outweigh the economic advantages that might be gained by the commercial exploitation of these areas”); id. at 592 (statement of Gary Strine) (remarking that “[a]lthough the profit to be gained from our wilderness areas cannot always be measured in dollars and cents, a reasonable amount of area set aside for purely recreational and spiritual use would be one of America’s greatest treasures”); 1957 Hearing, supra note 139, at 58 (quoting a statement of Al Jenkins, President of the Billings Rod and Gun Club) (asserting that “[w]hen roads, mechanical vehicles, or exploitation takes places, these God-made wonders lose most of their value”).


168 Wilderness Preservation System Hearing Part 2, at 536 (statement of Catherine Hurlbutt).

169 Id.
Only a few witnesses objected to this religious language. Warwick Downing criticized wilderness proponents “who seem to regard the wilderness system as something special, something different . . . a holy of holies, as it were.” \(^{170}\) Other opponents of wilderness legislation employed religious arguments of their own. The Mining Associate of Southern California told Congress in 1958 that “[w]hen land is developed for mining, it creates wealth and jobs, and pays taxes. We should remember the instructions of the Lord to Adam and Eve when he drove them out of the Garden of Eden (Genesis 3:19): ‘In the sweat of they face shalt thou eat they bread.’”\(^{171}\) These dissenters from the prevailing religious voice in favor of wilderness preservation were in a decided minority.

Yet the Wilderness Act itself fails to note the spiritual values of wilderness, listing only “the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.”\(^{172}\) The closest that the Act comes to recognizing spiritual values is its identification of “outstanding opportunities for solitude” as a criteria for a wilderness area.\(^{173}\) One religious studies scholar sees this provision as evidence that “the act makes solitude a central concept in our moral regard for nature.”\(^{174}\) Solitude, however, is an imperfect proxy for the religious themes voiced by the supporters of the act, and solitude has secular justifications as well as spiritual ones. But the Wilderness Society’s web site has an explanation for the absence of any reference to the spiritual values of wilderness in the Wilderness Act. The web site contains a series of tools for learning about wilderness, and “tool # 9” discusses “Spiritual Values and the Wilderness Act of 1964.” After reviewing the role that spiritual values for supporters of the law, especially Howard Zahniser, that document states that “[t]he actual wording of the Act is more vague on matters of spirituality as one might expect in a legislative document.” Moreover, the Wilderness Society explains, “In the language of the act, ‘wilderness character’ is used to support the dual aspects of wilderness, including its spiritual values.”\(^{175}\)

\(^{170}\) National Wilderness Preservation Act Hearing, at 78.

\(^{171}\) 1958 Hearing Part 2, supra note 161, at 668 (statement of the Mining Association of Southern California).

\(^{172}\) Wilderness Act § 4(b).

\(^{173}\) Id.

\(^{174}\) Vest, supra note 9, at 303.

C. Religious conceptions of wilderness since the Wilderness Act

Spiritual arguments continue to appear in the debates concerning the creation of wilderness areas since 1964. Sigurd Olson, the director of the National Park Service, told the 1965 Wilderness Conference that “the spiritual values of wilderness” are “the real reason for all the practical things we must do to save wilderness.” While approving new wilderness areas in 1984, President Reagan remarked that “as Americans wander through these forests, climb these mountains, they will sense the love and majesty of the Creator of all of that.” Nevada’s Senator Hecht introduced wilderness legislation in 1988 because “Nevada needs wild areas . . . so that our people can always have a place to go to experience solitude and reenter, if only briefly, that closer communion with nature and God’s works.” Writing in 1999 after he left Congress, Utah’s Wayne Owens described wilderness as “a window on creation. It is the easiest, clearest way to see the hand of God.” The Southern Utah Wilderness Alliance (SUWA) has emphasized the spiritual values of wilderness in its congressional testimony and its television advertising campaign on behalf of the establishment of additional wilderness areas.

The most significant development since 1964 is the renewed consideration of the implications of scriptural and Christian teaching concerning wilderness. This writing...

176 Olson, supra note 8, at 212.


180 See “Is Wilderness Really Sacred, and, If So, So What?, available at <http://www.j21c.org/wildern.htm> (citing SUWA’s congressional testimony and advertising); see also SUWA, Ongoing Work (quoting an individual supporter’s belief that “this wild portion of God’s creation will be preserved”), available at <http://www.suwa.org/page.php?page_id=98>.
develops the ideas that the witnesses testifying for the law in the years leading up to 1964 could only intuit. The writing provides greater substance to the general references to spiritual values in the Wilderness Act’s history, and an opportunity to revisit assumptions about the Bible and wilderness that dominated early American thinking about wilderness.

Susan Power Bratton’s *Christianity, Wilderness, and Wildlife: The Original Desert Solitaire*, is the most exhaustive study. In that 1993 book, Bratton analyzes the role of wilderness in the scriptures and in later Christian writings, and she then applies the insights that she gleans to the contemporary issues of wilderness preservation. Two books published just before the enactment of the Wilderness Act complement Bratton’s scriptural analysis. In 1962, Professor George H. Williams of the Harvard Divinity School wrote *Wilderness and Paradise in Christian Thought: The Biblical Experience of the Desert in the History of Christianity & the Paradise Theme in the Theological Idea of the University*, and one year later Ulrich Mauser of Oregon State University wrote *Christ in the Wilderness: The Wilderness Theme in the Second Gospel and its Basis in the Biblical Tradition*. More recently, several other scholars have written about the implications of Christian teaching for wilderness preservation, including two geographers – Kathleen Braden and Father Keith Warner. Together, these writings echo the ideas that the proponents of the Wilderness Act intuited, with one omission and one addition.

Each of the four religious arguments advanced by the witnesses in the 1964 congressional hearings is developed in the theological literature, plus one more. First, wilderness represents land in its original condition as created by God. “Wild nature,” writes Bratton, “instructs people in God’s role as Creator.” Or, as another writer observed, “Historian Wallace Stegner once chronicled wilderness as a source for the ‘birth of awe.’ The terrain, the unshepherded wildlife, the sense of possible peril, all

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182 *Williams, supra* note 97.

183 *Mauser, supra* note 97.


185 *Bratton, supra* note 18, at 253. See also *id.* at 302 (asserting that “[i]f wild nature praises God, that alone justifies its existence”).
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combine to overwhelm.”

Second, people find God in the wilderness. In the words of a Negro spiritual, “Yo’ Wan’na Fin’ Jesus, Go in de Wilderness.” Bratton asserts that “developing an appreciation of creation and understanding of God as Creator” is the first spiritual purpose for entering the wilderness or observing the wild. “The traditional Christian wilderness experience is an intense confrontation with God,” she adds. Wilderness was the location of many signal events recorded in the scriptures. It is “the stage which brightly illumines God’s power.” Wilderness thus “demonstrates God’s majesty, love, joy in creation, righteousness, transcendence, and omnipotence.” Wilderness is a place to experience God.

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187 WILLIAMS, supra note 97, at 120.

188 BRATTON, supra note 18, at 272.

189 BRATTON, supra note 18, at 242.

190 MAUSER, supra note 97, at 21. See also id. at 14 (“In the majority of cases, whenever the wilderness is mentioned, the thought of the New Testament writer is not directed to the geographical disposition of the country, but to the memory of the basic action of God which took place in the wilderness in the course of Israel’s history.”); id. at 87 (“The wilderness, according to prophetic teaching, was the place of Israel’s original sonship; here God loved his people.”); BRATTON, supra note 18, at 245 (noting that “wilderness became a site of major revelation”); Warner, supra note 79, at 335-36 (writing that “[w]ild lands have been the locus for encounter between the human and the divine in many religious traditions, and certainly in the Judeo-Christian religions with which I am most familiar”); John Gatta, Jr., *The Uses of Wilderness: A Christian Perspective*, 62 ANGLICAN THEOLOGICAL REV. 256, 261 (1980) (agreeing that “a number of signal events in Jesus’s career are played out upon a wilderness landscape”).

191 BRATTON, supra note 18, at 253. See also Dannen, supra note 108, at 104-08 (describing Calvin’s attitude toward wilderness).

192 Consider Susan Bratton’s discussions of this idea. See BRATTON, supra note 18, at 91 (“In the poetic model of wilderness spiritual experience, descriptions of God’s relationship with wild nature inform us about the person of God.”); id. at 244 (“wilderness strengths” include “deep insight into the character of the holy” and “dependence on God when under stress”); id. at 244-45 (“In the wilderness, both the individual and the community can perceive the divine – in many cases literally.”); id. at 262 (“Wild nature is always in the hands of God and responds to God’s will.”); id. at 263 (“if it brings the individual closer to God, closer to the community, and into the service of Christ, the wilderness sojourn is serving its Christian function.”); id. at 271 (“The central theme in biblical wilderness experience is not that God always provides a theophany, it is that the Creator always provides.”); id. at 272-74 (the purposes of wilderness experiences include is “spiritual exercise and communication with God, “ to “seek spiritual transformation,” and “development of a corporate response to God and the strengthening of the community”).
Third, wilderness is a place of spiritual renewal. Mauser, for example, contends that the events of the beginning of Jesus’s ministry occurred in the wilderness because “a renewal of the exodus into the desert was necessary for the restoration of Israel’s status as son of God.”\textsuperscript{193} Belden Lane adds that “[d]esert and mountain places, located on the margins of society, are locations of choice in luring God’s people to a deeper understanding of who they are.”\textsuperscript{194} Bratton describes “the possibility for spiritual transition or transformation” as a “key element in wilderness spiritual experience.”\textsuperscript{195} Bratton lists ten such wilderness transformations that are recorded in the Bible:

Hagar went into the wilderness as an outcast and came back with promises. Jacob in crossing the wadi gained a new name and, therefore, a new spiritual identity. The children of Israel entered the wilderness as a group of disorganized slaves and came out with the Law, a system of worship, and a national identity. David served in the wilderness as a shepherd boy and emerged as a king and a man of God. Elijah fled into the Negreb ready to die and returned to pursue a new mission. John called the people to the wilderness to repent and sent them up from the Jordan read to receive the Christ. The eunuch drove his chariot through the desert and discovered Jesus. The writings of Hosea and Isaiah, as well as John’s baptism, presents the wilderness as a place of renewal where one can return to the true love and service of God.\textsuperscript{196}

Even so, Bratton suggests that “[t]he Bible dedicates much less text to the potential ‘healing’ or ‘restorative’ properties of wilderness than the modern reader might expect,” in part because of the pastoral setting of most biblical events did not create a

\textsuperscript{193} MAUSER, supra note 97, at 87-88.

\textsuperscript{194} LANE, supra note 99, at 46.

\textsuperscript{195} BRATTON, supra note 18, at 251. See also id. at 263 (“Time and time again, the wilderness sojourner returns with a new vision, a new mission, or a new ministry.”); id. at 266 (“In the Bible, wilderness experience combines with other types of spiritual experience to complete one’s life in Christ and God.”); id. at 273 (wilderness experiences “develop leadership skills or prepare for a difficulty ministry”); Williams, supra note 97, at 136 (“For the first time in the long history of the redemptive meaning of the wilderness, it is in our age that the forest, the jungle, the plain, the unencumbered shore, the desert, the mountain fastness, each with its myriad denizens fashioned by the hand of the Creator in their natural haunts, are becoming, surely more than he now knows, necessary for the completeness of man himself, the only creature fashioned in the image and likeness of God.”); Gatta, supra note 190, at 265 (“For some the wilderness might be . . . a medium of sacramental epiphany and palpable sign of the indwelling Spirit. Although hardly a replacement for the central act of Christian worship, any such exposure promised to deepen the experience of faith one brings to the altar.”).

\textsuperscript{196} BRATTON, supra note 18, at 251-52.
need to leave large urban communities in order to experience such spiritual renewal.  

Fourth, wilderness is a place of escape. It is a place of retreat. It allows people to gain a better perspective on culture. Mauser described wilderness as “the land where man takes refuge when he is driven from the community.” Williams observed that “wilderness as a place of refuge prepared for the true Church persecuted by the world . . . is a basic impulse in the history of many branches and institutions of Christianity.” The idea of wilderness as a place of refuge emphasizes the ability to escape the crowds of people that can interfere with efforts to be alone with God. Indeed, Bratton asserts that solitude is “the most important common denominator” of the wilderness sojourners recorded in the Bible and Christian history.

The recent theological writings identify a fifth theme in the spiritual discussions of wilderness that was missing from the congressional hearings preceding the enactment of the Wilderness Act. Wilderness is a place of spiritual testing. “The God of Sinai is one who thrives on fierce landscapes,” Lane writes, “seemingly forcing God’s people into wild and wretched climes where trust must be absolute.” Williams extols wilderness as “one of the most useful images supplied by Scripture to designate the recurrent fact that even in the life of the redeemed there are periods or phases of partial failure, depression, uncertainty, and even defection.” Mauser explains that temptation as “an inevitable and significant concomitant phenomenon of the

197 Bratton, supra note 18, at 249.

198 See Bratton, supra note 18, at 248 (describing wilderness as providing in opportunity for rest); id. at 261 (“biblical wilderness experience” includes “repeated wilderness rest as a balanced element in a mature ministry”); id. at 272 (listing “rest or restoration” as the second purpose of wilderness experiences).

199 See Bratton, supra note 18, at 244 (“wilderness strengths” include “a discerning eye for idolatry in societal values”); id. at 273 (wilderness experiences facilitate “resisting sin and temptation or developing a spiritually accurate view of culture or society relative to God’s will”).

200 Mauser, supra note 97, at 37. See also id. at 140 (“All wilderness passages in Mark imply the notion of retreat.”).

201 Williams, supra note 97, at 5.

202 Bratton, supra note 18, at 245. See also id. at 53 (“The isolation provided by the wilderness seems necessary to God’s purposes in the Exodus.”).

203 Lane, supra note 99, at 43.

204 Williams, supra note 97, at 5.
wilderness,” and the most frequent one in the scriptures. Stated positively, Mauser concludes that “the lesson of the hardships of the wilderness” is that “the elect people are completely and continually dependent on God.” A wilderness environment is a threatening environment. It strains the ability of people to rely upon the own resources, and thus provides them an opportunity to rely upon God instead. “In dozens of instances where people were suffering or struggling in the wilderness,” writes Bratton, “God made miraculous provision or intervened to remove physical threats.” Wilderness was also a place of punishment in the scriptures. And wilderness was a place of purification. Wilderness, says Bratton, “separates the sojourner from evil cultural influences and aids in eliminating sin.”

Bratton then takes a further step by explaining how the wilderness experiences recorded in the scriptures can have enduring spiritual value today. She suggests that Christian traditions “cannot tell us when to seek the wilderness, nor can they tell us exactly what to do if we enter it. They can, however, provide time-tested patterns of

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205 **MAUSER, supra note 97**, at 99. For additional discussions of wilderness as a place of testing, see id. at 22 (“The way through the wilderness imposes on Israel a life full of difficulties and miseries”); id. at 128-32 (describing Jesus being tempted in the wilderness); **BRATTON, supra note 18**, at 71 (for David, “[w]ilderness experience built strength, stamina, and leadership and survival skills”); **WILLIAMS, supra note 97**, at 16 (“those in Israel who looked back upon the forty years as a time of temptation, of testing, and of sifting”).

206 Id. at 34.

207 **BRATTON, supra note 18**, at 250-51. See also id. at 251 (“The wilderness can be a threatening environment, but it is always an environment under God’s control.”); **MAUSER, supra note 97**, at 21 (“The wilderness is the place that threatens the very existence of Yahweh’s chosen people”); **WILLIAMS, supra note 97**, at 12-15 (noting that the wilderness was viewed as the place of demons and death).

208 See **WILLIAMS, supra note 97**, at 18 (“To the wilderness the whole of Israel was directed by Hosea more for the purpose of therapeutic punishment than for protection from outward foes”); **MAUSER, supra note 97**, at 37 (“Wilderness and sin are correlated; whenever sin occurs even the good land can be turned into desert (Jer. 12:4)”); id. at 44 (Psalms and prophets show “a concept of wilderness as the land in which God’s judgment prevails”); id. at 49 (“the setting of the wilderness as such to Ezekiel is the place of judgment alone – the horror’s of God’s punishment to the evildoers are connected with this locality”).

209 **BRATTON, supra note 18**, at 247. See also id. at 306 (“In the prophecies of Hosea, a return to the wilderness is portrayed as a potentially cleansing experience for the people.”); id. at 50 (in Exodus, “[t]he people do not need the wilderness per se to be purified, but they do need to meet God in the wilderness and at the mountain to better understand who their God is”); **WILLIAMS, supra note 97**, at 39 (noting that Basil the Great referred to “the wilderness where the people, purified, received the law”); **MAUSER, supra note 97**, at 46 (“a return to the wilderness is also a return to the grace of God”); id. at 49-50 (for Hosea, “the epoch of Israel’s renewed worship begins in the wilderness”); id. at 88 (writing that “the march out into the wilderness is the repentance to which John calls”).
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wilderness practice and basic wisdom concerning the value of the desert.”210 Bratton identifies the following eleven “misconceptions about wilderness experience in a Christian context”:

- Wilderness experiences is for prophets or those with a prophetic calling,
- Wilderness is always a vocation requiring a lifelong commitment,
- It is necessary to stay in the wilderness for a long period, such as forty days, to develop a wilderness spirituality,
- Withdrawal to the wilderness requires a special calling,
- Wilderness experience is exclusively a form of conversion experience or marks the passage from spiritual immaturity to maturity,
- Wilderness spiritual experience requires repeated participation,
- Christian wilderness tradition sees the wilderness as negative or antagonistic,
- Christian wilderness experience is very individual and has nothing to do with personal function in the Christian community as a whole,
- Wilderness experience interferes with ministry,
- The wilderness experience is optional, or is one way among several to obtain the same spiritual benefit, and
- Wilderness spiritual experience was limited to one period in Christian history, or that it stems from one movement or sequence of events.211

Stated affirmatively, there is still a value to the appreciation of God’s creation, the opportunity to encounter God, the spiritual renewal, and the place of escape that the supporters of the Wilderness Act championed, as well as the spiritual testing that is emphasized both in the scriptures and in the more recent writings about wilderness. The enjoyment of these spiritual values depends upon the continued existence of

210 Bratton, supra note 18, at 241.

211 Bratton, supra note 18, at 260-64.
wilderness lands, which leads us back to the role of the law in protecting such lands.

III. INTEGRATING SPIRITUAL VALUES AND WILDERNESS LAW

The wilderness is a place of substantial spiritual importance according to the biblical teaching that was noted by the witnesses testifying on behalf of the Wilderness Act, explored by Susan Bratton, and analyzed by other writers. Nonetheless, as Bratton observes, “there are few biblical directives to preserve the wild.”212 The argument for protecting the spiritual values of wilderness must come from a more general examination of those values. One such argument emphasizes the broader stewardship obligations that have been articulated by countless writers, especially in the years since the Wilderness Act became law.213 On this theory, humanity has an obligation to care for all of God’s creation, including but certainly not limited to wilderness areas. This stewardship duty has been invoked in response to pollution problems, global warming, and the preservation of biodiversity, and numerous other environmental issues. I touch upon this argument only briefly, for I want to concentrate upon the specific spiritual values of wilderness experiences that were articulated during the Wilderness Act hearings and that have been explored since then. This argument for wilderness preservation simply seeks to ensure that there are sufficient places to experience the spiritual values of wilderness described above. In this section, I will describe how these spiritual values help to answer the questions about preserving wilderness raised by the example of the Kenai wilderness area and Alaskan wilderness more generally.

A. Identifying wilderness areas

The scriptures tell us a lot about the spiritual values of wilderness, but they do not tell us precisely which federal lands should be preserved as wilderness areas. And, of course, lands that are designated as wilderness are unavailable for other purposes. In 1958, an official of the Oregon Farm Bureau Federation told Congress that “wilderness areas should be preserved for those who are able and needful of the spiritual catharsis that the solitude of the wilderness gives them. The Farm Bureau . . . is deeply devout and respects the attitude of those who enter the wilderness as acolytes into a temple.

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212 BRATTON, supra note 18, at 281. See also id. at 307 (“We are mistaking the exegetical task when we look for conservation directives in the Scriptures. . . . The best way to learn to live with wild nature is to understand God as Creator and Savior.”).

But the extent and nature of such a temple should be within reason, with proper regard for the needs of others and recognition of the various other uses to which natural resources may be beneficially put.”214 This statement of the need for balance is perfectly sensible in the abstract. It contributes little, however, to the difficult practical decisions concerning the status of particular lands, and those decisions are best informed by an appreciation of the full range of wilderness values, including the spiritual values discussed here.

Initially, it is important to recognize that many different kinds of lands hosted the wilderness stories recorded in the scriptures. The desert was the most common venue, but other events occurred in the mountains, near rivers, and in what we would describe today as a variety of ecosystems.215 These lands were not always distinguished by their spectacular scenic landscapes or other special qualities. As Bratton observes, “[t]he stories in Genesis contain no evidence . . . that the site of divine encounters were in any way natural wonders or exceptionally beautiful.” 216 Wilderness in the Bible is also known by its opposite, the garden.217 The organizing principle seems to be simply that they were areas away from people – “untrammeled by man,” in the Wilderness Act’s evocative phrase – and thus conducive to people becoming closer to God. The obvious implications of this for designating wilderness areas is that all sorts of ecosystems can satisfy these spiritual values, and lands that fail to strike us as somehow remarkable are nonetheless candidates for wilderness protection.

An obvious difference between the wilderness lands of biblical times and the situation we confront today is that wilderness lands are disappearing. We live in an age in which wilderness has become more scarce than it was at the time that the Bible was written and North America was colonized, and thus as economists teach us, more valuable.218 The wilderness that remains faces continued pressure from the widening scope of human activities throughout the United States and the world. The resulting

214 1958 Hearing Part 2, supra note 161, at 316 (statement of R.E. Kerr, Chairman of the Oregon Farm Bureau Federation’s Natural Resource Committee).

215 See WILLIAMS, supra note 97, at 12 (indicating that the wilderness lands in the Bible include “sandy and rocky desert, steppe, and forest”). Contrary to popular perception, desert ecosystems in fact host abundant biodiversity. See JOHN COPELAND NAGLE & J.B. RUHL, THE LAW OF BIODIVERSITY AND ECOSYSTEM MANAGEMENT 745-52 (2002).

216 See BRATTON, supra note 18, at 246.

217 See WILLIAMS, supra note 97, at 11-12 (contrasting wilderness and the garden).

218 The importance of scarcity in the increased value of wilderness is noted in NASH, supra note 13, at 249, 343; McCluskey, supra note 9, at 288, 314.
increasing scarcity of wilderness helps explain why efforts began to preserve the wilderness that remains. But we are often content to allow scarce commodities to disappear if we have no use for them. The Wilderness Act insists that we do value wilderness lands, and the spiritual values of wilderness can only be experienced if we preserve sufficient wilderness lands.

Solitude plays a critical role in the spiritual experiences in the wilderness.219 The Wilderness Act expressly provides that wilderness areas should provide “outstanding opportunities for solitude.”220 A draft wilderness management guide that was prepared for the Kenai wilderness area explained that wilderness facilitates solitude “because 1) permanent human habitation and modification is generally prohibited, 2) the likelihood of confronting past evidence of temporary human habitation or modification is minimal, and 3) encounters among users are relatively rare.”221 Thus, in 1988 the FWS reviewed each possible addition to the Kenai wilderness area by its contribution to solitude. One recommended area, for example, was “large and remote,” with “limited and difficult access,” so it was “unlikely that visitors to the unit would encounter other humans while visiting this unit.”222 By contrast, another area was bisected by a road and contained some hiking trails, leading the agency to conclude that “[a]lthough solitude can be found within the unit, people visiting the unit are likely to encounter other people in all but the most remote locals [sic] of the unit, particularly during the busy summer season.”223

219 See Vest, supra 9, at 330 (claiming that “the significance of wilderness solitude is moral regard – religion – whereby we know the good as wildness in its manifold claims of creation”). The bountiful Christian writing on solitude includes HENRI J.M. NOUWEN, OUT OF SOLITUDE: THREE MEDITATIONS ON THE CHRISTIAN LIFE (1st rev. ed. 2004); RICHARD J. FOSTER, CELEBRATION OF DISCIPLINE: THE PATH TO SPIRITUAL GROWTH 96-109 (rev. ed. 1988) (chapter describing the discipline of solitude).

220 Wilderness Act § 2(c).


223 Id. at 79 (evaluating the Skilak Loop / Lake Unit). See also id. at 33 (comparative summary of five alternative wilderness designations); id. at 74 (solitude at the Lark Lake Unit); 76 (solitude at the Research Center Unit); id. at 78 (solitude at the Moose River / Mystery Creek Unit); id. at 82 (solitude at the Tustumena Outlet Unit); id. at 85-86 (impact of proposed action on area not proposed for wilderness); id. at 89-90 (impact of proposed action on area proposed for wilderness); id. at 95 (impact of no additional wilderness designations); id. at 101-02 (impact of maximum use on area not proposed for wilderness); id. at 105-06 (impact of maximum use on area proposed for wilderness); id. at 110 (impact of minimal use on area not proposed for wilderness); id. at 114 (impact of minimal use on area proposed for wilderness); id. at 117-18 (impact of all wilderness). Congress declined to add any of the units to the Kenai wilderness
Like solitude, most of the other spiritual values of wilderness are realized by those who visit the wilderness. Encounters with God, spiritual renewal, and a place of escape presume the presence of the affected individual in a wilderness area; only an appreciation of wilderness as God’s creation does not necessarily require an actual visit to the wilderness. The fact that most of these spiritual values occur on wilderness lands suggests that people have access to wilderness areas. The twelve million visitors to wilderness areas each year indicate that existing areas are accessible. But there are two problems with these visitor statistics. First, wilderness areas are unevenly distributed throughout the United States, largely because federal lands in general are primarily located in western states. There are wilderness areas in eastern states, and Congress enacted an Eastern Wilderness Act in the 1970s, but the amount of federal lands and the amount of untrammeled lands of any ownership is greater in the west than in the east. Second, and more importantly, the very popularity of wilderness areas strains the ability of those areas to host these spiritual experiences (as well as many of the other values of wilderness). That is why, for example, roads are prohibited in wilderness areas. And that makes it difficult for many people, especially those whose mobility is limited by physical or financial constraints, to visit designated wilderness areas. This dilemma is true for any of the values associated with human uses of wilderness areas, and in this respect the spiritual values are no different. Wilderness areas will necessarily be located away from where people live, and will be difficult from some people to enjoy them. The inability to access wilderness lands could be a factor, though, in deciding to establish new wilderness areas where none exist to date.

Thankfully, the spiritual values of wilderness are not dependent upon being in formally designated wilderness lands. Other federal lands satisfy wilderness needs, too, as Sandi Zellmer has documented so well. “Long before the enactment of the Wilderness Act,” Zellmer reports, “the executive branch played a critical role in preserving public lands and resources from exploitation by designating oil reserves, area.

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225 See 134 CONG. REC. S10101 (daily ed. July 27, 1988) (statement of Sen. Hecht) (observing that “[w]e can have wild areas without the regulatory burden associated with Federal wilderness designation”); BRATTON, supra note 18, at 264 (“Today, wilderness in the sense of a designated wilderness area may not be necessary to our spiritual explorations.”). Indeed, one writer has argued that “designated wilderness areas become prisons, in which the imperium incarcerates unassimilable wilderness in order to complete itself, to finalize its reign.” Thomas H. Birch, The Incarceration of Wilderness: Wilderness Areas as Prisons, 12 ENVTL. ETHICS 3, 9-10 (1990).
wildlife reserves, forest reserves, and national monuments.” Zellmer highlights the nearly seventy million acres of lands that comprise the 123 national monuments designated by presidents since Teddy Roosevelt pursuant to the Antiquities Act. Zellmer also observes that presidential authority under the Antiquities Act has acted as a catalyst for congressional action to establish wilderness areas pursuant to the Wilderness Act. Similarly, “vast national forest acreage, for better or worse, was more committed to pristine wilderness” by the roadless rule that the Forest Service promulgated at the very end of the Clinton Administration. State parks and other lands owned by state and local governments may possess wilderness characteristics, too. Such lands do not enjoy the formal designation or protections of the Wilderness Act, but they can nonetheless facilitate the spiritual values of wilderness.

Private lands may offer similar experiences. Numerous religious organizations operate camps that are designed to encourage spiritual experiences while in the presence of God’s natural creation. For example, Young Life is a Christian ministry to high school students that own eighteen properties throughout the United States. It extols the camps as places where “[i]n an atmosphere of high adventure, with the backdrop of God’s beautiful creation, kids open up to their leaders, sharing their struggles, fears and thoughts about God.” The Nature Conservancy, the largest private organization dedicated to land conservation, acknowledges the importance of spiritual values in its work. And some writers insist that the spiritual values of 

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226 Zellmer, supra note 8, at 1050.

227 Id. at 1062.

228 Id. at 1063.

229 Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094, 1106 (9th Cir. 2002). In 2003, a federal district court held that the agency’s roadless rule violated the Wilderness Act’s provision authorizing Congress to establish wilderness areas, see Wyoming v. U.S. Dept’ of Agriculture, 277 F. Supp.2d 1197 (D. Wyo. 2003); the Tenth Circuit heard oral argument on the appeal of that decision in May 2005. See Enviros Appeal Roadless Rule Injunction, GREENWIRE, May 5, 2005; see generally Zellmer, supra note 8, at 1078-81 (arguing that the roadless rule is permitted by the Wilderness Act).

230 What Adults Want to Know, available at <www.younglife.org . . .>. See also Maurer v. Young Life, 779 P.2d 1317 (Colo. 1989) (describing Young Life and its camps, and holding that the lands eligible for a tax exemption provided to properties used for religious worship and charitable purposes). For another example, see Christward Ministry v. County of San Diego, 13 Cal. App. 4th 31 (Cal. Ct. App. 1993) (rejecting an environmental objection to a landfill located near a camp that is designed to serve as a “‘wilderness sanctuary for the experience of God-in-nature’”).

wilderness can even be enjoyed in urban areas.\textsuperscript{232}

Such efforts convinced John Sprankling that “[p]rivate preservation is a vital counterpart to the Wilderness Act.”\textsuperscript{233} No congressional action is required before a private landowner decides to preserve its land in a wilderness condition. But Sprankling contends that that “[m]odern American property law remains hostile to preservation of privately owned wilderness. . . . All things being equal, the system tends to resolve use and title disputes concerning such land by favoring the exploiter over the preserver.”\textsuperscript{234} Sprankling blames a variety of legal rules, including the doctrine of waste, which prefers productive use of land; the fact that “it is easier to adversely possess wilderness land than nonwilderness land;” the mistaken improver doctrine’s consent to actions taken on wilderness lands; and the manner in which nuisance law forces unwanted uses into undeveloped lands.\textsuperscript{235} Property law also threatens wilderness preservation include through zoning ordinances that encourage development, and the government’s use of eminent domain to develop wilderness lands. A greater sensitivity to efforts to manage private lands as wilderness is especially important to facilitate the spiritual values of wilderness.

B. The management of wilderness lands

Many users compete for acceptance in wilderness areas. “Recreational activities such as hunting, camping, canoeing, kayaking, swimming, picnicking, backpacking, bird watching, horseback riding, cross-country skiing, snowshoeing, spelunking, rock-climbing, and many other outdoor activities would be continued and encouraged in the new Wilderness Areas” proposed by the Virginia Ridge and Valley Act of 2005.\textsuperscript{236} Senator Diane Feinstein was careful to say that “horsepacking is an important use of wilderness” and that the state could still issue hunting and fishing licences before Congress approved additional wilderness areas in California in 2004.\textsuperscript{237} Grazing, the

\textsuperscript{232} See SALLE MCFAGUE, SUPER, NATURAL CHRISTIANS: HOW WE SHOULD LOVE NATURE 125 (1997) (asserting that “the radical, inclusive love of others, especially the most oppressed others, which is at the heart of Christian faith, demands . . . that we work for pockets of wildness in our cities, so that ordinary people, especially poor people, can experience nature directly”).

\textsuperscript{233} Sprankling, supra note 111, at 556.

\textsuperscript{234} Id. at 556.

\textsuperscript{235} Id. at 567-84.


reintroduction of endangered species, fire suppression, mining, dams, and aircraft use are at issue in other wilderness areas. Also, as noted above, ANILCA contains special provisions for the management of wilderness lands in Alaska.\footnote{See text accompanying note 50 \textit{supra}.}

The management question is how to allow for the spiritual values of wilderness in conjunction with each other and with the other recreational, educational, and scientific values. The Wilderness Act requires that a wilderness area be “protected and managed so as to preserve its natural conditions.”\footnote{Wilderness Act § 2(c).} Spiritual values, like other wilderness values, will usually operate to protect wilderness lands from against activities that would interfere with natural conditions. For example, Judge Gould’s hypothetical WalMart along Tustumena Lake would interfere with recreational activities, wildlife habitat, and opportunities for spiritual renewal as well. Occasionally, though, wilderness values – including spiritual values – conflict with each other. While there is no single answer to any of the common problems of reconciling competing uses,\footnote{\textit{Cf.} Gatta, \textit{supra} note ?, at 263 (observing that “the New Testament contains no treatise on land management”).} the religious teaching does offer some suggestions for management decisions.

Each of the spiritual values of wilderness would benefit from a slightly different management regime. The common refrain that wilderness areas preserve land in the condition that God created it suggests that wilderness lands should be kept in their natural condition. Thus human activities that would alter that condition should be prohibited. The proposals to pursue oil and gas development within the Kenai wilderness area are likely to be problematic under this standard, though the probable effects of such activities upon the Alaskan landscape continues to be debated with respect to the status of the Arctic National Wildlife Refuge at the northern tip of the state.

The spiritual value of preserving the land as God created it also supports efforts to preserve biodiversity on wilderness lands. Professor Bratton and Father Warner both specifically relate Christian teachings about wilderness to a general concern about preserving biodiversity.\footnote{See \textit{BRATTON}, \textit{supra} note 18, at 280-313 (outlining the relationship between Christian teaching, wilderness, and wildlife); Warner, \textit{supra} note 79, at 335 (asserting that “wilderness . . . is the most critical element needing preservation for the continued existence of other life forms”).} Wilderness areas are not just about landscapes; they are communities of living creatures. They often provide a refuge for plants, animals, and
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Birds, just as they provide a similar refuge for people, except that the boundaries of wilderness areas are drawn to exclude areas where the people themselves are native there. Kenai, for example, was originally established as moose reserve, and now the wilderness area also hosts abundant fish, bear, and other wildlife. Wilderness areas could play an important role in preserving ecosystems and species that are disappearing elsewhere. The Kenai wilderness area does not host any species that have been identified as endangered or threatened, but such species occur in wilderness elsewhere.

The other categories of spiritual values of wilderness anticipate human use of the land. Experiencing God in the wilderness, pursuing spiritual renewal in the wilderness, and escaping from modern culture to the wilderness each involve trips to the wilderness. There are some management implications for each of these values. The desire to experience God or to enjoy spiritual renewal could be satisfied anywhere, but land that still reflects the imprint of God's creative activities is especially suitable, so management could be designed to achieve that end. Escape from modern culture and the virtues of wilderness as a place of testing each counsel that the trappings of human society that culture should be excluded from wilderness areas. On this view, the burgeoning market for "wilderness experience programs" is problematic. As Sarah Krakoff describes, such programs are run by such groups as Outward Bound and fueled by wealthy urban residents who expend substantial sums to encounter the wilderness on public and private lands alike.242 Those efforts are not necessarily directed at the spiritual values of wilderness, and the expensive equipment they employ is designed precisely to avoid the threatening and dangerous aspects of the wilderness. Thus Krakoff refers to such efforts as the "consumption of wilderness," and she longs for "wilderness without cellphones."243

The most important implication for managing wilderness areas to facilitate each of these experiences is to ensure solitude. Many of the spiritual experiences in wilderness and the solitude that facilitates them are compatible with other wilderness purposes. But there are some possible conflicts. The Wilderness Society explained in 1956 that "[s]cenery and solitude are intrinsically separate things; the motorist is entitled to his full share of scenery, but motorway and solitude together constitute a contradiction."244 Or a solitary but careless hiker could compromise wildlife habitat. It may also be difficult to experience multiple values of wilderness at the same time.

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243 Id. at 418.

244 1957 Hearing, supra note 139, at 167 (statement of the Wilderness Society).
Bratton, for example, sees wilderness recreation as in tension with the realization of some of the spiritual values of wilderness.\footnote{See BRATTON, \textit{supra} note 18, at 267 (warning that “[o]ur recreational orientation may, in fact, limit the framework of spiritual perception or forward goals that interfere with more advanced spiritual practice”).}

One solution to these conflicts would employ a zoning approach to find places within wilderness areas in which each value could be best accommodated. Such zoning was proposed in a Kenai wilderness management proposal that would have established three categories of wilderness uses within wilderness areas. The premise of the Kenai proposal was that “[n]either the Wilderness Act nor [ANILCA] suggest that the whole of the wilderness need be managed identically nor managed for each and every possible use.”\footnote{See REED, \textit{supra} note 221, at 21; see also McCloskey, \textit{supra} note 9, at 303 (describing the Wilderness Act’s provisions in terms of “non-conforming uses” and “variances”).} Zoning would be especially helpful in preserving the solitude upon which many of the spiritual values depend. Of course, wilderness areas already represent an exercise in zoning of federal lands, for most federal lands are subject to some kind of multiple-use requirement. And some activities are not be appropriate anywhere within a wilderness area.\footnote{See NASH, \textit{supra} note 13, at 215 (quoting an opponent of a proposed Colorado dam who, “[i]n the tradition of John Muir,” told Congress that “[w]e have had money changers in our temple before’’”; Nunez, \textit{supra} note 17, at 330 (“Muir’s notion of a pristine nature kept inviolate from human commerce underlies the Wilderness Act of 1964.”).} Roads are anathema to all kinds of wilderness experiences, so wilderness areas are defined by the absence of roads. Likewise, the Wilderness Act’s commercial use prohibition reflects a belief that commerce and wilderness are incompatible. Several writers have suggested that the commercial use prohibition reflects religious ideas of wilderness, as John Muir’s metaphorical reference to wilderness as a temple suggested. Other activities are more contested. In Kenai, for example, snowmobile enthusiasts see the wilderness area as the perfect place to engage in recreational activities, but snowmobiling is problematic for the desire for solitude and the preservation of biodiversity.

There is another implication of the spiritual values of wilderness which calls into question any human use or management of wilderness lands. Human use is problematic because too many visitors to the land threaten to compromise the very wilderness values that they come to experience. Human management is problematic because it eliminates wildness. Thus Kathleen Braden warns that “[w]e are in danger of loving wilderness to death in an effort to derive our own benefits from it in terms of recreation and refreshment. But we want it to be safe to love.” Braden illustrates that desire through the comments of visitors to the Bridger Wilderness Area in Wyoming,
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who asked the federal land managers to please “avoid building trails that go uphill,” “spray the wilderness to rid the area of” pests, and “eradicate these annoying” coyotes which “made too much noise and kept me awake.” Braden adds, “The very idea that wilderness can be stewarded may be flawed because it calls for a management ethic where management becomes anathema to wilderness.” Instead,

The Christian faith can offer modern American society an alternative to a wilderness policy based on management ethic and service to human desires. The saving blood of Jesus Christ allows us to accept the risk of the wild that has haunted the human species since pre-Neolithic days; it models for us the agape love relationship that respects the independent role of the Other; and especially, it gives us a direct call for restraint and meekness that may save the remnant to witness God’s creative action.

The solution, says Braden, is that “[w]e must change our role from managers to witnesses.” Or maybe not even witnesses: Braden also wonders “[c]an we treat wilderness as sacred ground by not visiting it but still appreciating it?”

On this view, the sockeye salmon enhancement program at the Kenai wilderness area was problematic precisely because it interfered with the ecosystem’s wild processes. Efforts to help the wilderness may be well intentioned, but they come at the cost of reducing wildness. Judge Graber identified the problem when she asked whether management decisions should allow natural conditions to continue to change, or whether instead the current conditions should be preserved. A hands-off approach fits with both the scientific teaching concerning the dynamic character of ecosystems and the theological notion that natural ecological changes are in fact directed by divine command. It could come at a great environmental cost, though, as illustrated by the threat that the Kenai ecosystem faced in 1959 when natural erosion threatened to render the area’s streams uninhabitable for the native salmon. And what if human actions outside of a wilderness area affect the land within that area? That is what both the

248 BRADEN, supra note 184, at 268. The oxymoron of wilderness management is also noted by NASH, supra note 13, at 341 (writing that management “can be totally disruptive to people seeking wilderness. The paradox of wilderness management is that the necessary means defeat the desired end.”); Rolston, supra note 17 at 371 (“The architectures of nature and culture are different, and when culture seeks to improve nature, the management intent spoils the wildness. Wilderness management, in that sense, is a contradiction in terms – whatever may be added by way of management of humans who visit the wilderness, or of restorative practices, or monitoring, or other activities that environmental professionals must sometimes consider. A scientifically managed wilderness is conceptually as impossible as wildlife in a zoo.”); and Nunez, supra note 17, at 343 (“We cannot ‘go wild’ if nature is everywhere transformed to meet human needs and desires.”).

249 BRADEN, supra note 184, at 257 n.6.
Wilderness Society and FWS alleged in the Kenai case: the Wilderness Society worried that the introduction of hatchery-raised fish would harm the genetic diversity of the sockeye salmon that were native to Tustumena Lake, while FWS defended the program as an effort to compensate for the reduction in the number of fish caused by the commercial fisheries operating outside the wilderness area in Cook Inlet. Buffer zones could protect wilderness areas from the effects of some activities that take place outside their boundaries, but such zones have been politically unacceptable to Congress, and no buffer will be effective in avoiding widespread impacts such as global warming. The witnesses whom Braden commends could be reduced to watching the disappearance of the wilderness.

IV. CONCLUSION

There are many reasons for preserving wilderness. The preservation of biodiversity, the opportunities for recreation, and the “ecological, geological, or other features of scientific, educational, scenic, or historical value” each serve to explain why we now have established more than one hundred million acres of wilderness areas. The spiritual values of wilderness complement these other reasons, often providing additional reasons for preservation decisions that could be justified on other grounds. In other instances, the spiritual values serve to support preservation when the other arguments are lacking. And there are other religious arguments for wilderness preservation beyond the spiritual values articulated during the congressional hearings regarding the Wilderness Act and the theological writings about wilderness. There are countless other religious traditions that offer their own teachings about the value of wilderness, perhaps most notably including certain Native American spiritual beliefs that are reflected in recent wilderness preservation decisions. Any consideration of


251 Wilderness Act § 2(c).

252 See, e.g., 141 CONG. REC. H1021 (daily ed. Feb. 1, 1995) (statement of Rep. Richardson) (proposing wilderness designation of a tract that “has been used for hundreds of years by the Taos Pueblo people as a sacred religious area for ceremonies, pilgrimages and other private observances”); 134 CONG. REC. H10603 (daily ed. Oct. 20, 1988) (statement of Rep. Udall) (supporting “these religious leaders [who] seek to protect the Badger-Two Medicine as wilderness to insure that the religious heritage of the area is not compromised”). There is also a possible objection to the reliance upon any religious values in formulating policies governing wilderness lands. The only place that I have seen it articulated is on the website of the Jefferson 21st Century Institute, which insists that “[n]eo-pagan religious arguments for designation of wilderness areas must be identified by policymakers and promptly discarded, not because they misrepresent the Bible, but because the Establishment Clause and the Wilderness Act require that
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the spiritual values of wilderness lands provides for a richer discussion by ensuring that all of the reasons for preserving wilderness are considered. These spiritual values are embedded in the history of the Wilderness Act, and they are values that are important to private landowners as well, so the law should be designed to respect them.