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MINORITY VIEWS ON S. 174

While in complete sympathy with the concept of preserving the primitive aspects of certain public lands, we who oppose enactment of S. 174 are convinced that this measure would deprive Congress of its constitutional authority over the territory of the United States, would deny to all but an infinitesimal fraction of the people of this country -- less than 2 percent -- their rights to land which belongs to them all, and would put a brake on the development of the West, where most of the potential "wilderness" lies. We believe that enactment of the bill would nullify the very purpose it professes, "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness," for we believe its effect would be to lock away from the use and enjoyment by the people of America great tracts of land and thus keep from them the benefits of recreation as well as other uses this land might afford them. The proponents of S. 174 say they wish to preserve these "wilderness" areas for the people. How many people have the physical and financial resources to pack into these practically inaccessible areas? Only a handful at best.

As a matter of fact, S. 174 is "class legislation" in that it proposes to set aside vast tracts of public land for the exclusive use of a small minority of well-endowed citizens, while excluding from its vaunted recreational delights the great numbers of citizens who probably need it most -- those retired men and women who, having completed their contributions to their country, now have time to travel and see the natural beauties of that country, but who have not the physical stamina nor the rather considerable funds necessary to indulge in arduous, expensive pack trips; the families who want to take the children and drive into the country to enjoy the great outdoors; and all others except the favored few who can ride horses or hike for long distances. There is ample terrain already set aside as wilderness to accommodate these fortunate ones.

In recent years increasing public attention has been directed to certain segments of the national forests that have been designated as "wilderness," "wild," or "primitive." More than 14 million acres of lands in these categories have been officially set aside for more than 20 years and have remained unused or unknown by over 98 percent of the American people. Nevertheless, legislative proposals designed to add 50-100 million more acres of untouchable lands and to create within this country a "wilderness system" have appeared with regularity, each with an "urgent" label tagged on it by its supporters. Although these bills have varied considerably in detail, they all seek congressional action blanketing into a "wilderness" system many millions of acres of public lands, the natural resources of which have never been inventoried.

While S. 174 as amended in this committee is a decided improvement over earlier bills, we feel not only that the legislation is premature, but that we could not, in any event, lend support to a bill dealing with large areas of the public lands unless the bill were amended to allow Congress to retain a positive control over the inclusion of each separate area that would go into the wilderness system. The Constitution gives Congress exclusive power to dispose of territory of the United States. To us this indicates affirmative action by Congress on any proposal to dispose of a tract of public land, certainly including the locking away of thousands of acres of land and its resources, known and unknown, from use

by the people of the United States. The courts have ruled that no appropriation of public land can be made for any purpose but by authority of Congress, and we are unalterably opposed to Congress giving away that authority to the executive branch of the Government or anyone else.

MAIN FEATURES OF THE BILL

Through enactment of S. 174, Congress would permanently incorporate into a wilderness system some 44 separate tracts of national forest lands, totaling almost 7 million acres, which have heretofore been classified by administrative action as "wilderness," "wild," or "canoe." It should be emphasized that we have no objection to this phase of the bill. The lands in question have been carefully studied and classified; they are now and have been for years classified as wilderness or the equivalent. Their incorporation into the wilderness system would be by positive action of Congress upon this bill being enacted into law.

The bill, however, would also blanket into the wilderness system almost 8 million acres of unclassified national forest lands presently designated as "primitive," and make possible the inclusion of an estimated 22 million acres of lands presently contained in national parks, monuments, and other units of the national park system, and an estimated 24 million acres in wildlife refuges and game ranges. Within 10 years the desirability of having these areas, totaling approximately 54 million acres, made a permanent part of the wilderness system would be reviewed by the Secretary of the Interior. This official would report to the President who would in turn make his recommendations to Congress. If, during one full session, neither House of Congress took action to disapprove any such recommendation, the areas included within such recommendation would become a permanent part of the wilderness system.

The appalling significance of this abdication of congressional authority over such a large portion of public lands becomes clear when viewed in connection with the act's prohibition within the wilderness system of commercial enterprise, permanent roads, use of motor vehicles, motorized equipment, or motorboats --

> or landing of aircraft nor any other mechanical transport or delivery of persons or supplies, nor any temporary roads, nor any structure of installation, in excess of the minimum required for the administration of the area for the purposes of this act * * * .

(These prohibitions are subject to certain limited exceptions authorized by the President upon his determination that such expected uses in the specific area will

> better serve the interests of the United States and the people thereof than will its denial.)

Stripped of their rich rhetorical raiment, these phrases mean simply land that is not used by man except to a very, very limited extent by a very, very limited number of the species. Granted that man does not live by bread alone, we submit that he cannot live by communion with nature alone either. He does need bread, and the citizens of the public land States should not be denied their right to develop the natural resources of their States, on which their economy -- their bread -- depends.

The bill defines "wilderness" in such nebulous but high-sounding terms as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain", "an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, * * * which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's works substantially unnoticeable; (2) has outstanding opportunities for solitude * * *."

CONGRESS LEFT IN A WILDERNESS

As noted, S. 174, as amended, provides that any time within 10 years, the President may recommend to Congress the permanent inclusion within the wilderness system of areas which now total approximately 54 million acres. His recommendation will then have the force of law if neither the Senate nor the House of Representatives approves a resolution rejecting such recommendation. This type of provisions has been dubbed a "congressional veto" and as "negative approval" by Congress. It purports to be a safeguard against an unconstitutional delegation of express congressional powers and responsibilities with respect to the disposition of public lands. In the actual practices of government, however, it clearly amounts to a disguised delegation of congressional authority without a hint of legislative standards. As such it is unquestionably a violation of the purpose of those provisions in the U.S. Constitution vesting in Congress the authority to dispose of and make all needful rules and regulations respecting federally owned property as well as the principle of separation of powers between Congress and the executive branch of Government.

Aside from any constitutional objections, the bill, by divesting both the House and Senate Interior Committees and Congress itself of any meaningful role in creating wilderness areas, and abdicating such authority to the executive branch, would represent extremely bad legislative policy. Logic and orderly procedure call for inventory, evaluation with public hearings, and reclassification of the primitive areas to their highest use before Congress takes action with respect to them. Before any proposal to create a new wilderness area is acted upon by Congress, the Governor of the State in which it is located should be afforded the opportunity to submit his views on the matter, and, where possible, separate public hearings should be held in the affected States for each separate tract to be incorporated into the wilderness system. It is well-known that such separate hearings usually precede the creation of national parks by Congress.

THE BURDEN OF PROOF

A thoughtful consideration of the varied interests represented by people in the Western States who are dependent upon the multiple-use concept of management of public lands dictates that the burden of justifying the reservation of portions of those lands for single-use purposes should be placed squarely upon those seeking such reservations. Once land is placed in a wilderness system, even though tentatively, it is reasonable to expect that enormous pressures will be exerted to prevent removal of any parts found after study to be primarily valuable for other purposes. An almost impossible burden of proof will be imposed by S. 174 upon those communities which see their future welfare and economic development completely dependent upon multiple-use of public lands.

Actually under the restrictions imposed by the wilderness bill, it is doubtful that the potentialities of the areas concerned would ever be discovered. Who can say today what treasures will be found in any area tomorrow? Several decades ago the presence of uranium under the surface of the West was unknown, and in all probability it would not have been discovered there had the area been locked up in a "wilderness system."

It was only slightly more than a century ago that Daniel Webster, objecting to the annexation of the Oregon Territory, dismissed the area that now comprises 17 prosperous States as "a vast and worthless area." Speaking on the floor of the Senate he asked:

> What do we want of that vast and worthless area -- that region of savages and wild beasts, of deserts, of shifting sands and whirling winds, of dust, of cactus, of prairie dogs? To what use could we even put those endless mountain ranges? What could we do with the western coast of 3,000 miles, rockbound, cheerless, and uninviting?

That West the grandiloquent Daniel so arrogantly condemned today produces untold quantities of coal, oil, timber, and other riches. Tomorrow it may provide us with a substance as yet unguessed at but which will prove vital to the development of the West and the expense of our country.

The present absence of resource inventories of the "primitive" areas would combine with the restriction on exploration imposed by S. 174 to render practically meaningless the provisions of S. 174 for certain allowable exceptions to the ban on development in wilderness areas. Communities or individuals could apply to the President under this section for permission to carry on limited nonwilderness activities in predominantly wilderness areas. However, the dearth of factual data and the ironclad restrictions on obtaining such data would leave them virtually no way to justify their request.

Members of Congress from affected Western States find little consolation in the availability of the procedures of the Reorganization Act of 1949 in their efforts to get a "congressional veto" of a Presidential recommendation which would commit more acreage in their States to eternal wilderness. When the provisions of that act are carefully studied it must be concluded that the obstacles the congressional representatives of any one State would face in attempting to influence Congress to a veto would, for all practical purposes, be insurmountable.

WHY THE ADDITIONAL 54 MILLION ACRES?

When there are almost 7 million acres of national forest lands which admittedly have been properly classified as wilderness and about which there is little opposition to Congress setting aside and preserving in a wilderness system, reasonable minds should inquire why the sense of urgency to persuade Congress to blindly dump into the wilderness system an additional 8 million acres of unclassified "primitive" lands in the national forests. Is there any immediate danger that "wilderness values" in primitive areas are being lost? Are these areas vulnerable to invasion by hordes of humanity? Is their continued preservation in their present state unprotected by law or adequate regulation? Quite the contrary, for as the Secretary of Agriculture has pointed out, these primitive areas were all established between 1930 and 1939, and they have been managed in accordance with the regulations

applicable to wilderness areas ever since 1939. The argument has been made by advocates of immediate enactment of S. 174 that wilderness or primitive areas could be wiped out overnight by administrative action. No one has produced any tangible evidence that there is any likelihood of this happening before the 1962 report of the Outdoor Recreation Resources Review Commission can be analyzed. To make any such possibility even more remote, last year Congress, for the first time gave official recognition to wilderness as an authorized use of national forest land in the Multiple Use Act of 1960.

Is there urgent need for immediate congressional action to preserve the wilderness status of national park lands? No one will seriously dispute the fact that national park wilderness was assured in the act of 1916. According to Director Wirth, 90 percent of the national park system qualifies under a reasonable definition of wilderness and it is the National Park Service's plan to keep it that way. The national wildlife refuges and game ranges were established for wildlife management purposes rather than for wilderness values.

THE WILDERNESS USE

We do not choose to engage in the arena of emotional controversy which on the one hand sees a "wilderness experience" as an equivalent of fine music and the other arts, or on the other sees the purpose of the wilderness system as being designed to keep people out. That there are recreational values in wilderness areas, we feel is beyond dispute. There is a wide divergence of opinion, however, upon both the question of the extent of the demand for this type of recreation for our expanding population, and the amount of land that can and should be preserved to meet such needs consistent with other justifiable demands upon our public lands. While it may be conceded that 9 out of 10 who visit our national parks choose to stay within close proximity to at least meager traces of civilization, roads, and automobiles, how many of those who venture away from the roads and beaten paths must go as far as 1 mile, 5 miles, or 25 miles into wilderness to enjoy a wilderness-type recreation? How does the demand for this type of recreation compare with other varied types of outdoor recreational activities that have been expanding so rapidly in our Western States? Very little factual information has been presented which is relevant to these questions. It would seem that the marshaling of all pertinent facts bearing upon these issues would be regarded as an imperative necessity before millions of acres of public lands, containing unknown natural resources, are dedicated to such purpose.

THE HORSE BEFORE THE CART

Fortunately, there is presently underway a comprehensive study of wilderness that will most surely provide many answers to these questions. The Outdoor Recreation Resources Review Commission, which is making an inventory of the Nation's recreation resources, and which is scheduled to report early in 1962, has contracted a study of wilderness with the wildlife research center at the University of California. The broad objective of the study is to make a careful appraisal of the place of wilderness and wild areas in the national pattern of outdoor recreation. Various Federal and State agencies are cooperating with the study, and views on major aspects of wilderness problems are being sought from various interest groups and users of the areas.

While the charge of the ORRRC is to review all present and future recreation resources and opportunities, it is clear that wilderness is being given special emphasis. The Commission has said:

> This is a prominent national issue on which there should be some policy recommendations from the Commission. What should be the standards and criteria for establishment of wilderness areas? How should wilderness areas be defined? How should the desires of those who wish wilderness experience be balanced with those who want other recreational activities? How can preservation of extensive wilderness areas be justified in the face of demands on our resources from other land uses?

If answers to these and similar questions are contained in the report of the ORRRC, and if Congress may utilize fully the information contained in that report before taking action upon wilderness legislation affecting millions of acres of public lands, the 3 years spent on the Commission's study may prove to have been a good investment. For Congress to take affirmative action on S. 174 before the benefit of that report is available to Congress would be a waste of the taxpayers' money. Some $2.5 million have been appropriated for this study, and the Commission has scheduled a meeting at Colorado Springs within a matter of weeks to finalize its report.

WHERE IS THE FIRE?

Literally hundreds of witnesses have appeared and testified before this committee on S. 174 and earlier wilderness measures, yet there has been a failure of the numerous proponents of such legislation to produce any satisfactory evidence of substantial injury or threatened injury to the wilderness values of the areas included within S. 174. There has not been the slightest suggestion that existing administrative regulations protecting wilderness are breaking down. It has not been demonstrated that the recreational appetites of any sizable segment of our population have taken a sudden shift to wilderness. Why, then, the "sense of urgency" which has surrounded this legislation?

The explanation for this urgency given by the Secretary of the Interior was that "further delay can only open up additional problems which will make enactment of legislation even more difficult * * *." What are these additional problems which will interfere with later passage of sound wilderness legislation? Could they result from factual data likely to appear in the 1962 ORRRC report relating to the numbers of visitors to wilderness areas or the numbers and size of wilderness areas needed for this type of recreation? Surely such problems do not arise from any contemplated relaxation of administrative regulations protecting the status quo in wilderness type areas.

We feel that the "sense of urgency" that lies behind the drive for enactment of this legislation is artificial and fictitious. We do not attempt to challenge the motives of our colleagues who sincerely support this legislation, but we firmly believe that the "problems which will make enactment of (such) legislation even more difficult" in the event of further delay are among the following:

1. An analysis of the 1962 report of the ORRRC may well disclose that the 7 million acres presently classified as wild, wilderness, or canoe will be more than adequate to meet the recreational needs of those rugged few who seek the solitude of these areas.

2. Further administrative study of many primitive areas will likely disclose that they are not all of true wilderness quality or will produce insufficient justification to support affirmative action by Congress incorporating such areas into a wilderness system in an orderly fashion, area by area.

3. That any further efforts to compile inventories of the total natural resources within primitive areas or game ranges and refuges could upset the unproven premise that wilderness is the highest type of use to which these areas could or should be dedicated.

In the event any one of these three possibilities becomes a reality, then further delay in action on this legislation will have been justified.

THE IMPACT ON WESTERN STATES

In effecting a permanent incorporation into the wilderness system of an area of many thousand or possibly hundreds of thousands of acres of public land, a positive approach requiring affirmative action by Congress is not only the constitutional approach, it is not only sound legislative policy, but such approach is imperative as applied to the varied factors and influences affecting the public lands which are located almost entirely in our Western States. The economy and the foundation for future growth and development of these Western States are largely dependent upon the production of minerals, oil and gas, and forest products as well as grazing, tourism, and other commercial recreational activities within the public lands located within their borders. Well over 50 percent of the land area of the 11 Western States and Alaska is in Federal ownership or management. The total population of these States is expected to increase more than 25 percent during the decade of the 1960's.

In looking to the possible impact of S. 174 upon these 12 States, we find that more than 90 percent of the land areas affected by S. 174 are located in these 12 States. The extent to which the land areas of these States would be affected by S. 174 is clearly illustrated by the following table:

(Cont'd.)

Proportion of Federal lands in 11 Western States and Alaska which would be reserved for single purpose use by S. 174

	Federally owned land (acres)	Percent of State's total land area	Federally owned land committed by S. 174 to single use (acres)	Percent of Federal lands committed to single purpose use by S. 174
Alaska	362,194,000	99.1	25,885,978	7.1
Arizona	32,396,000	44.6	3,752,927	11.6
California	45,071,000	44.9	5,792,274	12.9
Colorado	24,156,000	36.3	1,329,125	5.5
Idaho	34,050,000	64.3	3,129,916	9.2
Montana	27,815,000	29.8	4,196,007	15.1
Nevada	60,726,000	86.4	3,287,909	5.4
New Mexico	27,300,000	35.1	1,389,837	5.1
Oregon	31,580,000	51.2	1,355,163	4.3
Utah	36,466,000	69.2	630,000	1.7
Washington	12,666,000	29.6	2,615,390	20.6
Wyoming	30,219,000	48.4	4,770,652	15.8

The official concern of these States over wilderness legislation has been demonstrated through resolutions, memorials, and letters from the governmental officials of those States. Either the legislatures or other officials having jurisdiction over natural resources of the following States have taken a stand against the restrictive provisions of S. 174 or a similar bill in the 86th Congress: Alaska, Arizona, California, Colorado, Idaho, Nevada, New Mexico, Utah, Washington, and Wyoming. The State house of representatives in Oregon passed a resolution to like effect, whereas, no official position of the State of Montana has been communicated to Congress.

A VITAL AMENDMENT NEEDED

We have deep concern over the provisions of S. 174 which would initially blanket into a wilderness system millions of acres of public landswhich have never been classified as wilderness. Nevertheless, we feel that our fears could be largely laid to rest by adoption of one simple amendment to section 3 (f) of the bill so as to provide that before any recommendation of the President made in accordance with that section shall take effect, Congress shall approve a concurrent resolution expressing itself in favor of such recommendation.

We are heartily in favor of such an amendment, and we strongly urge that S. 174 not be adopted without this, or a comparable amendment.

HENRY DWORSHAK.
J. J. HICKEY.
BARRY GOLDWATER.
GORDON ALLOTT.

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EXERPT FROM INDIVIDUAL VIEWS OF SENATOR ERNEST GRUENING ON
S. 174, THE WILDERNESS BILL

....Some of the more extreme, and, I regret to say, even fanatical, of my fellow conservationists would like to keep all of Alaska a wilderness--even to denying the accessibility upon which the enjoyment of wilderness is predicated. They oppose the harnessing of rivers and lakes for hydro. They are more concerned for a nesting duck and an anadromous salmon than for the economic welfare of a multitude of people. Their error, as I see it, is that they do not believe, as I do, that we conserve natural resources, whether wildlife, timber, water courses, soil, and scenic beauty, not for themselves but for the future enjoyment of human beings. We preserve moose not for the sake of the moose, but so that coming generations can ever see moose, photograph moose, hunt moose--in undiminished supply. A wilderness that few, if any, can ever get to and hence enjoy, may furnish a snobbish and selfish pleasure to the few exceptional ones who can manage, at great expense not available to their fellow citizens, to get there, but it is not in keeping with what I deem the premise of our national park system, of our national forest wonderlands, and, indeed, of the proposed wilderness preservation system. Kings enjoyed such solitary monopolistic privileges in the Old World, in the days of feudalism, but they are unsuited to a contemporary and future democracy.

There is, on the other hand, the fear--a legitimate fear--on the part of various interested groups that natural resources which may well be needed by the Nation--resources of timber, waterpower, minerals, oil--may be locked up in such a way that when the Nation needs them, they may not be available....