

## COPING WITH EXTREME POINTS OF VIEW

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### INTRODUCTION

Should snow sensors remain in wilderness areas? This controversial question has persisted since the Wilderness Act was passed by Congress in 1964. In 1989, the Western Snow Conference (WSC) reaffirmed its position by publishing a brief policy statement. To gauge public sentiment, responses to this policy statement were solicited. This was not a poll. Rather, it was a probing of official positions and public opinion in order to identify critical issues and bring them into focus. To this end, different questions were asked of different people. This paper summarizes a range of viewpoints on this question, and suggests how this information could help derive a political solution to this problem.

### THE PLAN

"Wilderness preservation in our headwater forests,....., is watershed protection, and thus a prime concern in the conservation of water resources," wrote the late Bernard Frank in 1946, a founder of the Wilderness Society and a USDA Forest Service watershed researcher. Bernard Frank also knew that to make wilderness watershed workable, the environment needs to be monitored---as well as preserved. In a continuing effort to foster a consensus on these points, WSC adopted the following position statement in April 1989:

#### \*\*\*\*\*WILDERNESS POLICY STATEMENT of the WESTERN SNOW CONFERENCE\*\*\*\*\*

"The Western Snow Conference recognizes the important need for wilderness. We believe that Congress established many wilderness areas in part to protect important watersheds as critical sources of pure water. And, we assert that Congress did not intend to exclude a reasonable level of data gathering in wilderness for the purpose of managing this water resource wisely downstream.

"Sufficient hydrometeorologic information (snow, precipitation, streamflow, temperature and other data) is the key to wise management of these wilderness waters downstream, outside of wilderness. The data gathering required is limited in scope, lays lightly on the land, and has no significant impact on the environment. In fact, Congress made provisions for gathering such data when it legislated in the Wilderness Act of 1964 (see sections 2 and 4 of the Act). Moreover, the Congressional Committee overseeing this legislation took pains to 'offer its guidance as to how the Wilderness Act should be interpreted as it relates to certain resource activities.' In this context, the Committee was quite specific:

"Snow gauges, water quantity and quality measuring instruments, and other scientific devices are located in many wilderness areas and are entirely appropriate to further the scientific, educational, and conservation purposes of wilderness areas as stated in sections 2 and 4 of the Wilderness Act (1964) (House Report 95-540)."

"It is ironic, then, that the USDA Forest Service has in many instances construed the Wilderness Act of 1964 to exclude needed snowpack data gathering sites and activities from wilderness. The Western Snow Conference asserts that this stance misconstrues Congress's intent in passing the Wilderness Act of 1964 and subsequent wilderness acts. Indeed, it appears to us that the current unreasonable inhibitions placed on gathering hydrometeorologic data by the USDA Forest Service, inhibit the designation of more lands as wilderness by Congress.

"The Western Snow Conference urges Congress to make it clear to the USDA Forest Service that a reasonable level of data observation, collection and transmission in wilderness is essential to water management. Moreover, we would like to see Congress make the language included in Title III Section 305 of the Utah Wilderness Act of 1984 apply to all wilderness in the western United States. The Act states:

".....(T)he Wilderness Act (1964) shall not be construed to prevent the installation and maintenance of hydrologic, meteorologic, climatological, or telecommunications facilities, or any combination of the foregoing, or limited motorized access to such facilities when non-motorized access means are not reasonably available or when time is of the essence, subject to such conditions as the Secretary of Agriculture and Secretary of the Interior deem desirable, where such facilities or access are essential to flood warning, flood control or reservoir operation purposes."

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"The Western Snow Conference believes strongly that with reasonable care hydrometeorologic data gathering and wilderness are compatible. Moreover, the information derived is essential to western water management and useful in western wilderness management. We look forward to an alliance between water and wilderness activists and managers on this issue. We feel certain this confusion over Congressional intent can be quickly and amicably resolved to the benefit of all."

The special provision in the Utah Wilderness Act of 1984 has produced some long-desired results in Utah. The May 1989 Supplemental Memorandum of Understanding (MOA) stemming from this Act clearly designates decision-making officials and decision-making criteria. Forest Supervisors have been quite cooperative in following the decision flowchart contained in this MOA, and District Rangers been equally helpful (J.Werner 1990). This brief experience clearly demonstrates that WSC is on the right track in urging that a clause like the one found in the Utah Wilderness Act be applied to all wilderness in the western U.S. The Utah wilderness environment is being preserved and monitored at the same time. This is as it should be.

To spread this successful solution, in 1989, WSC sent a copy of its wilderness statement to each member of Congress. Later, the author circulated copies to selected wilderness advocates and advocacy groups. Copies were also sent to President Bush, the Chief of the Forest Service, and the USFS Regional Forester in California. Responses were written and verbal. Follow-up questions were asked of some respondents, to gain a deeper understanding of their concerns.

#### WHAT WAS LEARNED

A few Congressmen sent polite replies to WSC. U.S. Senator Conrad Burns (Montana), who is working on a wilderness bill for Montana, wrote WSC that he intends to include a provision that will ensure the continued operation of snow sensor sites in any new wilderness areas. Even more heartening was that shortly after WSC's mailing, Congress passed the Nevada Wilderness Preservation Act of 1989. Section 10 of the Nevada Act, titled "Climatological Data Collection", states:

"Subject to such reasonable terms and conditions as the Secretary (of Agriculture) may prescribe, nothing in this Act or the Wilderness Act (1964) shall be construed to prevent, where appropriate, the installation and maintenance of hydrologic, meteorologic, or climatological collection devices within the wilderness areas or additions thereto designated by this Act, where such facilities and access thereto are essential to flood warning, flood control and water reservoir operation purposes."

The role that WSC's mailing played in the adoption of this legislation was not determined; however, this is an important advance, particularly for Nevada.

In pursuit of a nation-wide solution, what was learned from responses to WSC's statement and follow-up questions? Three interdependent issues took shape:

- 1) Are snow sensors and their maintenance acceptable in wilderness?,
- 2) Is a reasonable level of hydrometeorologic monitoring allowed in wilderness under the Wilderness Act?, and
- 3) If the answer to question 2 is no (or uncertain), does the Wilderness Act need to be amended to permit a reasonable level of needed hydrometeorologic and climatological monitoring in wilderness?

Regarding issue one, two persons responded that they want no sensors in wilderness. They also want no trails in wilderness. One person responded that he wants no restrictions placed on siting and access to sensors. He also wants no lands designated as wilderness. These extreme points of view appear to be rare. The overwhelming sentiment of the respondents was that wilderness snow sensing is acceptable if done with environmental sensitivity.

The USDA Forest Service got a similar public response in 1982 when they asked a slightly different question: Should snow sensors be established in California wilderness for a period of up to fifteen years? This was a statewide scoping effort in support of an Environmental Assessment or EA (I.Steinblums et. al. 1982). Response was light, only twenty responses, despite a press release, advertising, and hundreds of directly mailed inquiries. This in a State with the largest population, a well-organized wilderness

movement, and the longest contiguous block of wilderness---145-miles along the crest of the High Sierra Nevada---of any State in the lower-48 (T.Palmer 1988). The low response-rate indicates that this issue was not very controversial. (Controversial issues, like new ski areas and Forest Plans, often generate over a thousand responses.) Moreover, on this issue all who responded favored the preferred alternative, and most said that wilderness snow sensing is acceptable if environmental impacts are minimized (USDA Forest Service 1982).

In the EA that followed this scoping process, the Forest Service considered three alternatives: A) no action, B) temporary wilderness sensors at a few existing snow measurement courses, and C) temporary wilderness sensors near a few existing snow courses. Though the State of California (DWR) and others pushed hard for it, establishment of a minimal network of permanent wilderness snow sensors was not considered. The Forest Service deemed this alternative to be prohibited by the Wilderness Act, and therefore could not be considered.

Issue two, subject to reasonable terms and conditions, does the Wilderness Act allow snow sensing in wilderness? Congress says, yes it does (House Reports 95-540 and 98-40). The Sierra Club says, yes it does (M.McCloskey 1977). The California Wilderness Coalition says, yes it does (J.Eaton 1990). The Wilderness Society says, yes it can, if needed (G.T.Frampton 1990). Moreover, the USDI National Park Service permits snow sensors in wilderness, under reasonable terms and conditions. The position that the Wilderness Act prohibits snow sensors, and that snow sensors are non-conforming improvements which must be removed, eventually (R.O.Benjamin 1990), is almost unique to the USDA Forest Service.

Not only is it almost unique to the Forest Service, it is not universal in the Forest Service. Responding for President Bush, the Chief of the Forest Service, F. Dale Robertson, wrote: "The Forest Service recognizes the importance of snow sensing sites in wilderness and it is our policy to allow the measurement of snow on these sites to continue." Further, "We feel that the establishment of new sites are not in accordance with wilderness designation unless they are part of projects established by the President under the provisions of Section 4(d)(4) of the Wilderness Act or as designated by Congress in specific wilderness legislation (F.D.Robertson 1990)."

This is a more favorable interpretation, but ignores that Congress intended that snow sensors be permitted in wilderness under Section 2 (scientific, educational, and conservation purposes) of the Wilderness Act (H.Reports 95-540 & 98-40). The implication of this omission is that either Congress has to pass special legislation covering each State or the President must be involved when wilderness snow sensor networks are modified. This is an unworkable situation.

Asked directly, does the Forest Service hold that it need not follow the Congressional guidance provided in House Reports 95-540 and 98-40? Mr. Benjamin, responding for the Regional Forester in California, wrote: "The Forest Service must follow Congressional direction as literally expressed in specific legislation signed into law by the President and is not bound by information in House Reports."

Such statements are viewed with suspicion by many wilderness advocates. The late Senator Frank Church, wilderness advocate and floor manager for the passage of the Wilderness Act, accused the Forest Service of purposefully misconstruing the intent of Congress as to how wilderness areas should be managed (F.Church 1977). Or as the Sierra Club put it: "In some instances, the strictest interpretation of the Wilderness Act has led to stringent 'purity' criteria, which have prejudiced the potential recommendation of an area for further wilderness consideration (M.McCloskey 1977)." According to Bob Barnes, a director of the California Wilderness Coalition and an organizer of the California Wilderness Conference, this is a recurring problem (B.Barnes 1990).

Issue three, if the USDA Forest Service continues to construe the Wilderness Act to prohibit snow sensors in wilderness, does the wilderness act need to be amended to permit a reasonable level of needed hydrometeorologic monitoring in wilderness? This is where WSC's wilderness statement drew the most fire from wilderness advocates. As mentioned, most wilderness advocates feel that Forest Service spawned this problem by misinterpreting Wilderness Act. Amending the Wilderness Act is deemed unnecessary by wilderness advocates and fraught with needless peril (M.McCloskey 1977, J.Eaton 1990, G.T.Frampton 1990, and others).

Moreover, there is some trepidation about the language in the Utah Wilderness Act clause on hydrometeorology (previously quoted), particularly with regard to "limited motorized access" and "telecommunications facilities." Wilderness advocates are more comfortable with the language of Section 10 of the Nevada Wilderness Preservation Act (previously quoted). Including a clause like Section 10 in new wilderness bills is generally acceptable. However, amending the Wilderness Act is likely to meet with stiff resistance on principle.

Advocates for snow sensing need to understand that the Wilderness Act comes under attack frequently by special interest groups, proposing amendments that could damage or disrupt the wilderness. Advocates for wilderness need to understand that snow sensing will not damage or disrupt wilderness, but help it to meet its scientific, educational, and conservation purposes.

Amending the Wilderness Act can be avoided by bringing the Forest Service to accept and follow the Congressional direction included in House Report 95-540 and reaffirmed in House Report 98-40. A coalition of wilderness advocates, water resource conservation advocates, the Congress, and the President and his Secretary of Agriculture can make this happen. The solution is as simple----and as difficult---as that.

#### CONCLUSION

Not surprisingly, a few people have extreme views on wilderness. However, the vast majority want wilderness, and they want it to be well managed. The best way to achieve the goal of an adequate hydrometeorologic network---adequately maintained---is for those interested in watershed monitoring to form a coalition with those interested in wilderness preservation.

Insisting that the Wilderness Act must be amended is potentially harmful to this coalition and possibly counter-productive. The best way to cope with extreme points of view on the issue of wilderness snow sensors is to avoid being led or driven unnecessarily into a permanent extreme position. WSC should modify its Wilderness Policy Statement to reflect that a Wilderness Act amendment may not be necessary, and should work closely with wilderness advocacy groups, Congress, and the Administration to get the Forest Service to agree that snow sensors may be and "are located in many wilderness areas and are entirely appropriate (U.S. Congress 1977)."

Well-managed wilderness watersheds providing the nation with a secure-source of pure-water is an idea whose time has come.

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