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The Spiritual Values of Wilderness

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THE SPIRITUAL VALUES OF WILDERNESS

BY

JOHN COPELAND NAGLE*

The Wilderness Act of 1964 is the principal legal mechanism for preserving wilderness in the United States. The law now protects over 100 million acres of federal land, half of which is in Alaska. Yet the contested meaning of the term "wilderness" continues to affect the management of those wilderness areas, and the designation of additional lands as wilderness areas. Much current thinking about wilderness emphasizes the ecological and recreational interests that Congress cited when it enacted the law. These justifications for wilderness preservation are important, but they are incomplete. They are best supplemented by a better understanding of the spiritual values of wilderness. Religious conceptions have long informed American attitudes toward wilderness, beginning with the hostility that early settlers gleaned from Old Testament images of wilderness lands, and later appearing throughout the writings of John Muir. More recently, the witnesses testifying on behalf of the proposed Wilderness Act during the 1950s and 1960s repeatedly sounded spiritual themes, including biblical examples of the values of wilderness. The decades since the enactment of the law have produced a substantial theological literature that explores the meaning of wilderness. This article integrates the writing about the spiritual values of wilderness into the discussions of the management of wilderness areas, relying upon the examples of Alaskan wilderness lands to consider how to identify new wilderness areas and how to manage existing areas.

I.	INTRODUCTION	956
II.	WILDERNESS LAW.....	960
	A. <i>The Wilderness Act</i>	960
	B. <i>Alaskan Lands</i>	963
	C. <i>The Kenai National Wilderness Area</i>	965

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III. WILDERNESS THEOLOGY	969
A. <i>Religious Conceptions of Wilderness Before the Wilderness Act</i>	969
B. <i>Religious Influences on the Wilderness Act</i>	978
C. <i>Religious Conceptions of Wilderness Since the Wilderness Act</i>	987
IV. INTEGRATING SPIRITUAL VALUES AND WILDERNESS LAW	993
A. <i>Identifying Wilderness Areas</i>	994
B. <i>The Management of Wilderness Lands</i>	998
V. CONCLUSION	1002

I. INTRODUCTION

In 1964, Congress enacted a law to preserve those areas “where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.”¹ That law, the Wilderness Act,² has been extolled and imitated for seeking to protect the shrinking amount of wilderness lands in the United States and throughout the world.³ It now governs the use of more than one hundred million acres of land owned by the federal government throughout the United States.⁴ More than half of those lands were designated as wilderness by a single act, the Alaska National Interest Lands Conservation Act (ANILCA),⁵ passed by Congress in 1980.

But many are not satisfied with the amount of lands that have already been designated as wilderness in Alaska and elsewhere. For example, Alaska is still described as “the last wilderness,”⁶ 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 as wilderness. To achieve the latter, 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.”⁷ In addition, disputes over the management of the Kenai National Wilderness Area, also in Alaska, demonstrate that the meaning of the

¹ 16 U.S.C. § 1131(c) (2000).

² 16 U.S.C. §§ 1131–1136 (2000).

³ See, e.g., Kevin Hayes, *History and Future of the Conflict Over Wilderness Designations of BLM Land in Utah*, 16 J. ENVTL. L. & LITIG. 203, 207 (2001) (stating that “[m]any view the Wilderness Act as the zenith of preservationism”); William H. Rodgers, Jr., *The Seven Statutory Wonders of U.S. Environmental Law: Origins and Morphology*, 27 LOY. L.A. L. REV. 1009, 1009–10 (1994) (citing the Wilderness Act as one of the seven wonders of American environmental law).

⁴ The 677 wilderness areas comprise 106,509,199 acres of land, which is about 4.7% of the total land in the United States. The National Wilderness Preservation System: Wilderness Fast Facts, <http://www.wilderness.net/index.cfm?fuse=NWPS&sec=fastFacts> (last visited Nov. 20, 2005). The six states with no designated wilderness areas are Connecticut, Delaware, Iowa, Kansas, Maryland, and Rhode Island. *Id.*

⁵ 16 U.S.C. §§ 3101–3233 (2000).

⁶ See, e.g., STEPHEN HAYCOX, ALASKA: AN AMERICAN COLONY 273–312 (2002) (chapter entitled “Modern Alaska: The Last Wilderness”).

⁷ 151 CONG. REC. E159 (daily ed. Feb. 2, 2005) (statement of Rep. Markey). The bill has yet to be enacted.

Wilderness Act, and of the wilderness it protects, remains uncertain. ANILCA established the Kenai National Wilderness Area, which now comprises 1,350,000 acres and includes five kinds of ecosystems.⁸ Since its creation, the managers of the Kenai Wilderness have faced 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 Alaska Natives. Most recently, in *Wilderness Society v. United States Fish & Wildlife Service*,⁹ 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 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.

The answers to these questions about the meaning of wilderness 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.¹⁰ But writing two years after the Wilderness Act became law, Michael McCloskey (who later became president of the Sierra Club) argued:

[C]urrent 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 felt 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 these convictions to understand why the law exists. The convictions cannot be easily manipulated or refashioned to suit the administrators.¹¹

⁸ See Rick Johnston, *Kenai Wilderness: The Cornerstone of Wildlife Conservation on the Kenai Peninsula*, PENINSULA CLARION, Apr. 21, 2000, available at <http://alaska.fws.gov/nwr/kenai/overview/notebook/2000/apr/21apr00.htm>.

⁹ 353 F.3d 1051 (9th Cir. 2003) (en banc), amended, 360 F.3d 1374 (9th Cir. 2004) (en banc) (limiting the district court's discretion in formulating injunction to protection of current year's sockeye salmon fry stock).

¹⁰ See Max Oelschlaeger & 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 only a privileged and hardy few.").

¹¹ Michael McCloskey, *The Wilderness Act of 1964: Its Background and Meaning*, 45 OR. L. REV. 288, 294-95 (1966). See also Hayes, *supra* note 3, at 212 (cautioning that "[t]he lack of a unified concept of 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");

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."¹² 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."¹³ Muir 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 foundational truth we had been in one of God's own temples and had seen Him and heard Him working and preaching like a man."¹⁴ Indeed, Roderick Nash insists that "the major theme in [Muir's] writings about Alaska was the way that wilderness symbolized divinity."¹⁵

As Nash has explained in his exposition of *Wilderness in the American Mind*,¹⁶ religious themes have played a prominent role in the evolving American attitude toward wilderness. "Wilderness appreciation was a faith," writes Nash.¹⁷ 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."¹⁸ But that is not because the linkage has disappeared. According to the leading wilderness management text:

Spiritual development as a wilderness benefit has received little attention and study, in part because spiritual experiences are intensely personal, often

Jay Hansford C. Vest, *The Philosophical Significance of Wilderness Solitude*, 9 ENVTL. ETHICS 303, 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.").

¹² 151 CONG. REC. E159 (daily ed. Feb. 2, 2005) (statement of Rep. Markey) (quoting Udall). See also 151 CONG. REC. S2, 783 (daily ed. Mar. 16, 2005) (statement of Sen. Lieberman) (opposing drilling in the Arctic National Wildlife Refuge (ANWR) because of the biblical command to "work and guard the Garden of Eden" and the Psalm proclaiming that "the Earth is the Lord's and the fulness thereof"); 148 CONG. REC. S1, 525 (daily ed. Mar. 5, 2002) (statement of Sen. Durbin) (insisting that ANWR should "remain a wilderness as God created it").

¹³ JOHN MUIR, ALASKA (1888), reprinted in NATURE WRITINGS 649, 676 (William Conron ed., 1997).

¹⁴ JOHN MUIR, TRAVELS IN ALASKA 48, 53-54 (Modern Library ed. 2002) (1915).

¹⁵ RODERICK FRAZIER NASH, WILDERNESS IN THE AMERICAN MIND 280 (4th ed. 2001).

¹⁶ *Id.* The first edition of the book appeared three years 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. SUTTER, DRIVEN WILD: HOW THE FIGHT AGAINST AUTOMOBILES LAUNCHED THE MODERN WILDERNESS MOVEMENT 194-238 (2002); and MAX OELSCHLAEGER, THE IDEA OF WILDERNESS: FROM PREHISTORY TO ECOLOGY (1991).

¹⁷ NASH, *supra* note 15, at 238.

¹⁸ *Id.* at 268.

inexpressible, and because of the varied personal meanings of spirituality that has made it difficult to define them operationally. In addition, spirituality is often thought of in a religious notion, and as most wilderness research is federally funded, spirituality might have been avoided as something that would hinder approval of funding or research methods.¹⁹

Indeed, 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 in 1964 of the Civil Rights Act.²⁰ 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 recently 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.²¹ The recent litigation and other management issues confronting the Kenai 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 subject to an arguably distinct 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 II of this article describes the Wilderness Act in general and the legal issues involving the Kenai National Wilderness Area in particular. Part

¹⁹ JOHN C. HENDREE & CHAD P. DAWSON, *WILDERNESS MANAGEMENT: STEWARDSHIP AND PROTECTION OF RESOURCES AND VALUES* 11 (3d ed. 2002).

²⁰ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 243 (codified as amended in scattered sections of 42 U.S.C.). See generally DAVID L. CHAPPELL, *A STONE OF HOPE: PROPHETIC RELIGION AND THE DEATH OF JIM CROW* (2003) (describing the role of religious influences on the Civil Rights Act).

²¹ 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, 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 15, at 386–90; Holmes Rolston, III, *The Wilderness Idea Reaffirmed*, 13 ENVTL. PROFESSIONAL 370, 370–372 (1991).

III 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 III 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. The witnesses referred to the spiritual values of wilderness in general, the parallels to biblical events that occurred in the wilderness, and to four specific spiritual values: preservation of land as it was created by God, wilderness as a place of encountering God, wilderness as a place of spiritual renewal, and wilderness as a place of escape. 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 overlooked in current wilderness disputes. Part III 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. This writing identifies a fifth theme in the spiritual values of wilderness: wilderness as a place of spiritual testing. The work of Susan Power Bratton is especially helpful in examining all of these theological observations.²² Part IV 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 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.

II. 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.²³ 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 lands designated for preservation and protection in their natural condition."²⁴ 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 land to be designated as a wilderness area as:

²² See SUSAN POWER BRATTON, *CHRISTIANITY, WILDERNESS, AND WILDLIFE: THE ORIGINAL DESERT SOLITAIRE* (1993).

²³ The events leading up to the passage of the Wilderness Act are discussed in NASH, *supra* note 15, at 105-121, 200-226; CRAIG W. ALLIN, *THE POLITICS OF WILDERNESS PRESERVATION* 102-142 (1982); McCloskey, *supra* note 11, at 288, 295-301. See also *infra* Part III.B (describing the role of religious arguments in the debates preceding the Act).

²⁴ Wilderness Act, 16 U.S.C. § 1131(a) (2000).

[A]n 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.²⁵

Those wilderness areas "shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use."²⁶ The federal agencies responsible for any wilderness areas are "responsible for preserving the wilderness character of the area."²⁷ That general mandate is supplemented by provisions prohibiting some uses, permitting others, and preserving certain agency duties to manage land designated for specific purposes.²⁸

The act was the result of a congressional compromise. Many western officials and economic interests opposed wilderness legislation when it was first considered 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."²⁹ The Wilderness Act itself designated nine million acres of Forest Service land as wilderness areas.³⁰ The act also directed the Secretaries of Agriculture and the Interior to review whether additional federal lands

²⁵ *Id.* § 1131(c). The quoted paragraph is preceded by the first sentence of the Act's definition of wilderness, which is quoted in *supra* text accompanying note 1.

²⁶ *Id.* § 1133(b). See also McCloskey, *supra* note 11, at 309 (reporting that "there are two purposes of the act: preservation without impairment, and compatible public enjoyment") (emphasis in original); *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").

²⁷ Wilderness Act, § 1133(b).

²⁸ See *id.* § 1133(a) (describing the Act as "supplemental" to the purposes for which national parks, forests, and wildlife refuges are created); *id.* § 1133(c) (prohibition upon most commercial uses, roads, structures, and motorized equipment); *id.* § 1133(d) (authorizing aircraft and motorboats in areas where 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.* § 1133(d)(6) ("Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from state water laws."). 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).

²⁹ Wilderness Act, § 1131(a).

³⁰ See *id.* § 1132(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 1 (1994) (indicating that the "National Wilderness Preservation System was created with nine million acres of Forest Service land").

should be added to the wilderness system.³¹ That process yielded two studies during the 1970s, denominated RARE I³² and RARE II,³³ which identified 71 million acres of national forest lands that could qualify as wilderness, but Congress continues to debate many of those recommendations.³⁴ 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.³⁵

The creation of new wilderness areas is thus dependent upon further congressional legislation. As of 2002, Congress had enacted 132 statutes adding land to the wilderness system.³⁶ The more notable additions include the over 200 million acres of federal lands in the eastern United States designated by the Eastern Wilderness Act of 1975,³⁷ and the California Desert Protection Act of 1994,³⁸ which designated 7.5 million acres of wilderness lands.³⁹ Congress added another 500,000 acres to the wilderness system in 2002, most of which is in Nevada but also includes lands in California, Colorado, and South Dakota.⁴⁰ The most recent statute, the Ojito Wilderness Act, designated 11,183 acres of land in New Mexico as wilderness in 2005.⁴¹ But other wilderness proposals await congressional approval, and many observers object to the slow pace of wilderness designations.⁴²

³¹ Wilderness Act, § 1132(b)-(e).

³² FOREST SERV., U.S. DEP'T OF AGRIC., ROADLESS AND UNDEVELOPED AREAS, FINAL ENVIRONMENTAL IMPACT STATEMENT (1973). *See also* WILLIAM D. DORON, LEGISLATING FOR THE WILDERNESS: RARE II AND THE CALIFORNIA NATIONAL FORESTS 31 (1986) (describing how the Forest Service's wilderness evaluation procedure, dubbed "Roadless Area Review and Evaluation" (RARE), is also used to describe the Forest Service's findings).

³³ FOREST SERV., U.S. DEP'T OF AGRIC., ROADLESS AND UNDEVELOPED AREAS, FINAL ENVIRONMENTAL IMPACT STATEMENT (1979).

³⁴ *See* Zellmer, *supra* note 10, at 1044-45 (discussing Congress' reactions to RARE I and II, which was affected by the perceived procedural inadequacy of RARE II).

³⁵ *See* Michael C. Blum, *The Bush Administration's Sweetheart Settlement Policy: A Trojan Horse Strategy for Advancing Commodity Production on Public Lands*, 34 ENVTL. L. REP. 10,397, 10,404-09 (2004) (describing the controversy surrounding wilderness study areas in Utah).

³⁶ *See* HENDEE & DAWSON, *supra* note 19, at xiii-xiv; *see also id.* at 519-23 (listing the statutes in chronological order); *id.* at 525-87 (providing an abstract of each statute).

³⁷ 16 U.S.C. § 1132 note (2000). *See also* DOUG SCOTT, THE ENDURING WILDERNESS 71 (2004) (explaining that "the correct name is the Eastern Wilderness Areas Act. This title was mistakenly left out of the bill itself in a clerical error at the eleventh hour as it passed Congress in the hectic final two days of the session.").

³⁸ 16 U.S.C. § 1132 note (2000).

³⁹ *Id.*

⁴⁰ *See* AMERICAN WILDERNESS COALITION, WILD CARD: WILDERNESS REPORT CARD 2004, 37, available at <http://www.americanwilderness.org/wildcard/2004/index.html> (describing the four statutes enacted by the 107th Congress that established new wilderness areas).

⁴¹ Ojito Wilderness Act, Pub. L. No. 94, 119 Stat. 2106 (2005); *see also* 151 CONG. REC. H8871 (daily ed. Oct. 18, 2005) (statement of Rep. Udall of N.M.) (noting that the new wilderness area is "recognized for its high density of cultural and archeological sites, including sites that have religious significance to Pueblo Indians").

⁴² *See, e.g.,* John D. Leshy, *Contemporary Politics of Wilderness Preservation*, 25 J. LAND RESOURCES & ENVTL. L. 1 (2005) (outlining the factors influencing additional wilderness designations); Zellmer, *supra* note 10, at 1017-18 (asserting that "the cumbersome and compromise-ridden legislative process has not fulfilled the Wilderness Act's goal of 'securing an

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 than any that exists or, perhaps, ever existed in the lower forty-eight states."⁴³ 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."⁴⁴ Alaska remains the most sparsely 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 George Wilhelm Steller.⁴⁵ Within twelve years, John Muir arrived there for the first of seven visits. "For Muir," writes one historian, "Alaska was the epitome of nature's perfection."⁴⁶ Muir proclaimed that "[t]o the lover of pure wildness Alaska is one of the most wonderful countries in the world."⁴⁷ 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."⁴⁸ As early as 1937, Bob Marshall asked Congress to "keep northern Alaska largely a wilderness."⁴⁹ 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."⁵⁰ Justice William O. Douglas, for example, asserted in 1965 that

enduring resource of wilderness"). The debate over the designation of wilderness areas in Utah has been especially contentious. Sarah Krakoff, *Settling the Wilderness*, 75 U. COLO. L. REV. 1159 (2004); Blumm, *supra* note 35, at 10,404–09; 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, 475 (2003); Hayes, *supra* note 3, at 217–47.

⁴³ NASH, *supra* note 15, at 275.

⁴⁴ *Id.* at 274.

⁴⁵ For the history of Russian Alaska, see WALTER R. BORNEMAN, *ALASKA: SAGA OF A BOLD LAND* 30–105 (2003) and HAYCOX, *supra* note 6, at 37–146. The purchase of Alaska by the United States is detailed in BORNEMAN, *supra*, at 106–12; HAYCOX, *supra* note 6, at 147–56. Georg Steller's name lives on in environmental law through the species named after him. *See, e.g.*, NATIONAL RESEARCH COUNCIL, *DECLINE OF THE STELLER SEA LION IN ALASKAN WATERS: UNTANGLING FOOD WEBS AND FISHING NETS* (2003); *Endangered and Threatened Wildlife and Plants; Threatened Status for the Alaska Breeding Population of the Steller's Eider*, 62 Fed. Reg. 31,748 (1997); Sherry Marie Cote, Note, *The Manatee: Facing Imminent Extinction*, 9 FLA. J. INT'L L. 189, 192 (1994) (observing that a species of manatee known as Steller's sea cow "was exterminated by Russian hunters in the Bering Sea in 1768").

⁴⁶ HAYCOX, *supra* note 6, at 197.

⁴⁷ *See* NASH, *supra* note 15, at 272 (quoting Muir in 1879). Muir's Alaskan trips are described in BORNEMAN, *supra* note 45, at 120–26.

⁴⁸ Henry Gannett, *The General Geography of Alaska*, 12 NATIONAL GEOGRAPHIC 182, 196 (1901). *See also* NASH, *supra* note 15, at 279–90 (describing the early explorers of Alaska's wilderness).

⁴⁹ NASH, *supra* note 15, at 288 (quoting Robert Marshall, *Comments on the Report of Alaska's Recreational Resources Committee*, ALASKA—ITS RESOURCES AND DEVELOPMENT, H.R. Doc. No. 75-485, App. B, at 213).

⁵⁰ NASH, *supra* note 15, at 293.

"Alaska represents one last opportunity to preserve vast wilderness areas intact."⁵¹

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 from the lower forty-eight states.⁵² Sparsely populated lands thus played a central role in the state's evolution. The federal statehood legislation promised that over 100 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 were left unresolved.⁵³ Twelve years passed before Congress approved the Alaska Native Claims Settlement Act (ANCSA), which provided forty million acres and nearly one billion dollars for twelve regional corporations established for native Alaskans throughout the state.⁵⁴ 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).⁵⁵

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 twenty-six wild and scenic rivers, and produced various new conservation areas and national monuments.⁵⁶ ANILCA also designated 56.7 million acres of wilderness lands, thus doubling the size of the national wilderness preservation system in one fell swoop.⁵⁷ But the precise relationship between ANILCA's wilderness provisions and the Wilderness Act remains unclear. Section 707 of ANILCA states that "except as otherwise expressly provided for in this

⁵¹ WILLIAM O. DOUGLAS, A WILDERNESS BILL OF RIGHTS 134 (1965).

⁵² BORNEMAN, *supra* note 45, at 395.

⁵³ Alaska Statehood Act, Pub. L. 85-508, 72 Stat. 339, 340 § 6(b) (1958); BORNEMAN, *supra* note 45, at 403.

⁵⁴ 43 U.S.C. §§ 1603(b), 1605(a), 1611; *see also* Chickaloon-Moose Creek Native Ass'n, Inc. v. Norton, 360 F.3d 972 (9th Cir. 2004) (limiting the selection of lands comprising the Native Alaskans' acreage entitlements under ANCSA); BORNEMAN, *supra* note 45, at 470 (describing ANCSA's distribution of land and money to Alaskan Natives).

⁵⁵ 16 U.S.C. §§ 3101-3233 (2000). The enactment of ANILCA is described in BORNEMAN, *supra* note 45, at 502-10; NASH, *supra* note 15, at 296-315; *Congress Clears Alaska Lands Legislation*, 1980 CONG. Q. ALMANAC 575 (1980). After the November 1980 election produced a Republican President and Senate majority, but before those officials took office in January 1981, "environmental leaders in the House reluctantly decided that they would have to accept outright the less restrictive Senate provisions, in order to get any bill at all." *Congress Clears Alaska Lands Legislation*, *supra*, at 584. On the problems attendant with lame-duck legislation generally, *see* John Copeland Nagle, *The Lame Ducks of Marbury*, 20 CONST. COMMENT. 317 (2003); and John Copeland Nagle, *A Twentieth Amendment Parable*, 72 N.Y.U. L. REV. 470 (1997).

⁵⁶ *See Congress Clears Alaska Lands Legislation*, *supra* note 55, at 576-577.

⁵⁷ *See id.* at 577-578.

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.”⁵⁸ ANILCA allows for subsistence activities, mineral assessment, access to inholdings, sport hunting and fishing, and motorized access for traditional activities in wilderness areas.⁵⁹ The extent of such activities and the extent to which they can be regulated are still contested.

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 by the end of the nineteenth century for its large moose and its white sheep. 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 1957.⁶⁰ Each of those economic activities continue today, joined by increasing numbers of tourists, recreational visitors, and sport fishers who make the easy two-hour drive from Anchorage to the heart of the peninsula.⁶¹

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.⁶² It was not until 1941, though, that President Franklin D. Roosevelt designated the Kenai National Moose Range.⁶³ Then, in 1980, ANILCA added 250,000 acres to the land that comprised the moose range, renamed it the Kenai National Wildlife Refuge (NWR), and designated 1.35 million acres as wilderness (out of the refuge’s 1.97 million total acres).⁶⁴ 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, salmonids and other fish, waterfowl and other migratory and nonmigratory

⁵⁸ Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487, § 707, 94 Stat. 2371 (1980). See also 16 U.S.C. § 3101(a) (stating that one of the purposes of ANILCA is to preserve wilderness values); 43 U.S.C. § 1618(13) (providing that ANILCA’s definition of “wilderness” is the same as the Wilderness Act’s).

⁵⁹ See 16 U.S.C. § 3121 (subsistence activities); *id.* at § 3170 (mineral assessment); *id.* § 3169 (existing rights of access); *id.* § 1110(a) (access for traditional activities); *id.* § 3170(b) (access to inholdings); *id.* § 3201 (hunting and fishing).

⁶⁰ See BORNEMAN, *supra* note 45, at 404–12 (describing the “oil boom on the Kenai” peninsula).

⁶¹ See generally *The Kenai Peninsula*, ALASKA GEOGRAPHIC, 1994 (issue devoted to describing the geography, biology, and history of the Kenai Peninsula).

⁶² W.A. LANGILLE, THE PROPOSED FOREST RESERVE ON THE KENAI PENINSULA ALASKA (1904); Gary Titus, REFUGE NOTEBOOK, Sept. 21, 2001, <http://alaska.fws.gov/nwr/kenai/overview/notebook/2001/sep/21sep01.htm> (last visited Nov. 20, 2005).

⁶³ See Exec. Order No. 8979, 6 Fed. Reg. 6471 (Dec. 16, 1941).

⁶⁴ See Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487, §§ 303(4), 702(7), 94 Stat. 2371 (1980).

birds.”⁶⁵ Pursuant to section 1317 of ANILCA, in 1987 the regional director of the United States Fish and Wildlife Service (FWS) proposed the designation of additional wilderness lands from the Kenai NWR, but that has yet to happen.⁶⁶

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.”⁶⁷

The Kenai salmon runs have long impressed naturalists and politicians alike. In John Muir’s words:

As for the salmon . . . 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.⁶⁸

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.”⁶⁹ The Peninsula has long enjoyed the reputation for hosting some of the state’s most abundant salmon runs, and commercial fishing of salmon has occurred in the rivers flowing out of Tustumena Lake since the late nineteenth century.⁷⁰ Beginning in 1974, the state of Alaska began to add sockeye salmon fry to Tustumena Lake so that more salmon could be harvested by sport fishers and by the commercial fisheries operating outside the wilderness area.⁷¹ The program took sockeye salmon eggs from Tustumena Lake, incubated them in a hatchery outside the refuge,

⁶⁵ Alaska National Interest Lands Conservation Act, 16 U.S.C. § 668dd.

⁶⁶ See U.S. FISH & WILDLIFE SERV., KENAI NATIONAL WILDLIFE REFUGE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT FOR THE WILDERNESS PROPOSAL OF THE FINAL KENAI COMPREHENSIVE PLAN / ENVIRONMENTAL IMPACT STATEMENT / WILDERNESS REVIEW 1 (1988) [hereinafter KENAI WILDERNESS REVIEW] (describing environmental impacts of proposed wilderness additions).

⁶⁷ *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). Anadromous fish live most of their lives in salt water, but they return to freshwater to spawn.

⁶⁸ MUIR, *supra* note 14, at 162–163.

⁶⁹ ERNEST GRUENING, *THE STATE OF ALASKA: A DEFINITIVE HISTORY OF AMERICA’S NORTHERNMOST FRONTIER* 245 (1954).

⁷⁰ *Wilderness Soc’y v. United States Fish & Wildlife Serv.*, 316 F.3d 913, 917 (9th Cir. 2003) (*Wilderness Soc’y I*) vacated, 353 F.3d 1051 (9th Cir. 2003) (en banc), *amended*, 360 F.3d 1374 (9th Cir. 2004) (en banc).

⁷¹ *Id.*

and then released the new salmon fry back into the lake the following year.⁷² In 1993, the state contracted with the Cook Inlet Aquaculture Association (CIAA)⁷³ 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 expand the number of salmon in the Cook Inlet region.⁷⁴ 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.⁷⁵

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,⁷⁶ as did a divided Ninth Circuit panel.⁷⁷ 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."⁷⁸ 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" of 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.⁷⁹

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

⁷² See *Wilderness Soc'y v. United States Fish & Wildlife Serv.*, 353 F.3d at 1056 (9th Cir. 2003) (en banc) (*Wilderness Soc'y II*) (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.*

⁷³ See ALASKA STAT. § 16.10.380(a) (establishing the CIAA); *Wilderness Soc'y II*, 353 F.3d at 1057 (describing the CIAA).

⁷⁴ *Wilderness Soc'y II*, 353 F.3d at 1057.

⁷⁵ See *Wilderness Soc'y II*, *id.* at 1057–58 (recounting the environmental reviews); U.S. FISH & WILDLIFE SERVICE, KENAI FISHERY RESOURCE OFFICE, ENVIRONMENTAL ASSESSMENT: TUSTUMENA LAKE SOCKEYE SALMON ENHANCEMENT PROGRAM, KENAI NATIONAL WILDLIFE REFUGE 24, 26–30 (Aug. 1997) (describing public concerns about "alteration or dilution of the genetic composition of discrete spawning populations in the drainage from hatchery fish straying and spawning with these populations").

⁷⁶ *Wilderness Soc'y I*, 316 F.3d at 920.

⁷⁷ *Id.* at 925.

⁷⁸ *Id.* at 923.

⁷⁹ *Id.* at 923–24 (emphasis in original).

"artificial propagation programs" violated the "remarkably explicit" provisions of the Wilderness Act.⁸⁰

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.⁸¹ 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:

[A]n 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.⁸²

But, the court added, "the challenged activities do not appear to be aimed at furthering the goals of the Wilderness Act."⁸³ The court concluded that the purpose and effect of the program is to promote commercial fishing interests, and thus the program constituted a "commercial enterprise" that was expressly prohibited by Wilderness Act.⁸⁴

The litigation challenging the addition of salmon to Tustumena Lake is just one of the issues confronting the Kenai wilderness area. Snowmobile usage is an increasing problem, fueled by the increasing number of visitors

⁸⁰ *Id.* at 933 (Fletcher, J., dissenting).

⁸¹ See *Wilderness Soc'y II*, 353 F.3d at 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").

⁸² *Id.* at 1062. According to my observations in May 2004, the nearest McDonald's is about twenty miles north of Tustumena Lake in Soldotna (and about one mile from the Kenai National Wildlife Refuge headquarters). Wal-Mart has yet to reach the Kenai peninsula; the closest store is 160 miles away in Anchorage. For more instances of Wal-Mart'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 Env'tl. 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. Wal-Mart Stores*, 600 S.E.2d 576 (W. Va. 2004) (lawsuit charging improper stormwater drainage); but see Eryn Gable, *Wal-Mart Commits \$35 Million to Protect Wildlife Habitat*, LAND LETTER, Apr. 14, 2005 (reporting Wal-Mart's commitment "to conserve at least 1 acre of 'priority' wildlife habitat for every acre developed for company use").

⁸³ *Wilderness Soc'y II*, 353 F.3d at 1062-63.

⁸⁴ 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 (concluding that "[t]he primary effect of the Enhancement Project is to aid commercial enterprise of fishermen").

who travel from Anchorage or farther 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.⁸⁵ The size of the wilderness area could also be expanded. In 1988, FWS proposed adding 192,000 acres to the wilderness area, but Congress has yet to act on that proposal.⁸⁶ Most recently, FWS acquired the land where Captain James Cook came ashore during his Alaska expedition, and that land now forms the northern end of the Kenai wilderness area.⁸⁷

III. 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 hygienic."⁸⁸ 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. The twentieth century push for wilderness preservation relied upon other ethical insights and the utilitarian concerns stated in the Act. 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 meaning of wilderness.⁸⁹ According to Nash, "[w]ilderness was the basic ingredient of American culture."⁹⁰ The part of Nash's book that interests me most is his exposition of religious thought. Nash tells the story

⁸⁵ Telephone Interview with Robin West, Refuge Manager, Kenai National Wildlife Refuge (Apr. 19, 2004).

⁸⁶ See Johnston, *supra* note 8 (describing proposed, but not yet enacted, additions to the Kenai Wilderness); KENAI WILDERNESS REVIEW, *supra* note 66 (describing environmental impacts of proposed addition to the Kenai wilderness).

⁸⁷ See U.S. Fish & Wildlife Serv., Division of Realty, Significant Land Acquisition Accomplishments in FY 2002, <http://realty.fws.gov/Accomplishments2002.html> (last visited Nov. 20, 2005).

⁸⁸ LINDA H. GRABER, WILDERNESS AS SACRED SPACE ix-x (1976).

⁸⁹ See, e.g., Gregory H. Aplet, *On the Nature of Wildness: Exploring What Wilderness Really Protects*, 76 DENVER U. L. REV. 347, 362 (1999) (describing Nash's book as a "seminal and classic work"); J. Baird Callicott & Pricilla Solia Ybarra, *The Puritan Origins of the American Wilderness Movement*, <http://www.nhc.rtp.nc.us/tserve/nattrans/ntwilderness/essays/puritan.htm> (last visited Nov. 20, 2005) (describing Nash's book as "[t]he classic history" of the wilderness movement).

⁹⁰ NASH, *supra* note 15, at xi.

of how the Bible influenced attitudes toward wilderness throughout American history.⁹¹ 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.⁹² Indeed, wilderness is ubiquitous in the biblical account. The Bible mentions the wilderness nearly three hundred times, according to some translations.⁹³ There are two references to the wilderness in the opening book of 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.⁹⁴ 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."⁹⁵ Wilderness becomes a central stage for the events recorded in the books following Genesis. Moses was in the wilderness when he saw the burning bush and first encountered God.⁹⁶ Moses soon confronted Pharaoh with God's command to "[l]et my people go, so that they may hold a festival to me

⁹¹ See *id.* at 14–17.

⁹² See *id.* at 2–3.

⁹³ 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://search.americanbible.org> (last visited Nov. 20, 2005). Much of the disparity depends upon the interpretation of the Hebrew words that were rendered "wilderness" in the KJV but "desert" in the NIV. I will use the TNIV here unless otherwise noted, for its editors determined that "wilderness" is a better translation than "desert" used 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" are explored in Robert W. Funk, *The Wilderness*, 78 J. BIBLICAL LITERATURE 205 (1999).

⁹⁴ BRATTON, *supra* note 22, at 31. See *Genesis* 16:7 (NKJV) (indicating that the angel found Hagar "by a spring of water in the wilderness").

⁹⁵ *Genesis* 37:22.

⁹⁶ *Exodus* 3:1 (reporting that Moses led his flock "to the far side of the wilderness and came to Horeb, the mountain of God").

in the wilderness.⁹⁷ 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."⁹⁸ After the people escaped as God parted the Red Sea, they camped in the wilderness of Sinai while Moses met God on the mountain.⁹⁹ 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."¹⁰⁰ 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!"¹⁰¹ 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 the wilderness."¹⁰² 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."¹⁰³ 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."¹⁰⁴ The people are reminded of God's provision for the people during their wilderness journey again and again in the rest of the scriptures.¹⁰⁵

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.¹⁰⁶ 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

⁹⁷ *Exodus* 5:1. See also BRATTON, *supra* note 22, 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").

⁹⁸ *Exodus* 14:12 (NKJV). See *Exodus* 7:16 (repeating the request to Pharaoh); *Exodus* 8:27 (repeating the request to Pharaoh again).

⁹⁹ *Exodus* 18:5.

¹⁰⁰ RAYMOND BROWN, *THE MESSAGE OF NUMBERS* 16 (2002).

¹⁰¹ *Numbers* 14:2.

¹⁰² *Numbers* 14:33.

¹⁰³ *Deuteronomy* 8:2.

¹⁰⁴ *Deuteronomy* 8:16.

¹⁰⁵ See *Psalms* 78:40 (observing "[h]ow often they rebelled against Him in the wilderness"); *Psalms* 95:8 (reminding the people of the day of testing in the wilderness); *Psalms* 106:14 (noting that "in the wilderness they put God to the test"); *Psalms* 136:16 (praising God for leading "his people through the wilderness"); *Ezekiel* 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).

¹⁰⁶ See 1 *Samuel* 23:14 (noting that "David stayed in the wilderness" while Saul pursued him) 1 *Samuel* 26:13 (same); see also BRATTON, *supra* note 22, 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").

that he might die."¹⁰⁷ Instead, God appeared to Elijah with "gentle whisper," and Elijah later directly ascended to heaven without ever dying.¹⁰⁸ The Psalmists and the Prophets described how God used wilderness as a means of punishing and testing as well as 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."¹⁰⁹ By contrast, Jeremiah spoke of the day when God would "take up a lament concerning the wilderness grasslands. They are desolate and untraveled, and the lowing of cattle is not heard. The birds have all fled and the animals are gone."¹¹⁰

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."¹¹¹ Jesus came to John there, and John baptized him. "At once the Spirit sent Jesus out into the wilderness, and he was in the wilderness forty days, being tempted by Satan. He was with the wild animals, and angels attended him."¹¹² Later in the Gospels, Jesus "withdrew to a region near the wilderness, to a village called Ephraim, where he stayed with his disciples."¹¹³ The different Gospel writers tell these wilderness stories from a slightly different perspective. For example, "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."¹¹⁴ Matthew, in turn, "is more fascinated with mountains," including the wilderness mountain where Jesus was tempted, the sermon that Jesus delivered on the mount, and several other mountains that hosted

¹⁰⁷ 1 *Kings* 19:4.

¹⁰⁸ 1 *Kings* 19:12; see 2 *Kings* 2:11 (explaining that "Elijah went up by a whirlwind into heaven").

¹⁰⁹ *Isiah* 35:1. See also *Psalms* 65:12 (praising God because "[t]he grasslands of the wilderness overflow" in response to God's goodness); *Isiah* 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").

¹¹⁰ *Jeremiah* 9:10. See also *Joel* 1:20 (writing that "fire has devoured the pastures in the wilderness").

¹¹¹ *Mark* 1:4.

¹¹² *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 138-39 (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 place; 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"); 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").

¹¹³ *John* 11:54.

¹¹⁴ BELDEN C. LANE, THE SOLACE OF FIERCE LANDSCAPES: EXPLORING DESERT AND MOUNTAIN SPIRITUALITY 44 (1998).

key events in the life of Jesus.¹¹⁵ There are few references to the wilderness elsewhere in the New Testament until the concluding book of Revelation, which contains two references to future events that will occur in the wilderness.¹¹⁶

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."¹¹⁷ 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."¹¹⁸ Which of these contrasting perceptions—wilderness as hostile or wilderness as refuge—predominated is a contested question. Early desert monastics mimicked the experiences described in the biblical record.¹¹⁹ 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,"¹²⁰ which prompted Susan Bratton to ask "[w]hy would a liberally educated historian such as Roderick Nash assume Francis of Assisi was an anomaly?"¹²¹

The development of Protestantism influenced how Europeans moving to America perceived the wilderness. 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.¹²² Other scholars see a positive aspect to the wilderness views of the Protestant reformers. "To Calvin," observes one writer, "wilderness was essentially good because it was made by God in order to make himself known in various ways to man."¹²³ The European settlers of America feared wilderness

¹¹⁵ *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." *Id.* (citing Donaldson).

¹¹⁶ See *Revelation* 12:6 (describing a woman who "fled into the wilderness to a place prepared for her by God, where she might be taken care of for 1,200 days"); *Revelation* 17:3 (John reporting that "the angel carried me away in the Spirit into a wilderness").

¹¹⁷ NASH, *supra* note 15, at 17.

¹¹⁸ *Id.* at 18.

¹¹⁹ See JOHN CHRYSAVGIS, IN THE HEART OF THE DESERT: THE SPIRITUALITY OF DESERT FATHERS AND MOTHERS 33–36 (2003) (discussing the role that the desert landscape played in the spirituality of the early Christian monastics). For descriptions of the desert monastics, see Warner, *supra* note 93, at 344–47; LANE, *supra* note 114, at 46–49; PETER FRANCE, HERMITS: THE INSIGHTS OF SOLITUDE 20–51 (1996); and BRATTON, *supra* note 22, at 157–81.

¹²⁰ NASH, *supra* note 15, at 17.

¹²¹ BRATTON, *supra* note 22, at 230. On St. Francis generally, see, e.g., *id.* at 217–29; NASH, *supra* note 15, at 19; ROGER D. SORRELL, ST. FRANCIS OF ASSISI AND NATURE: TRADITION AND INNOVATION IN WESTERN CHRISTIAN ATTITUDES TOWARD THE ENVIRONMENT (1988).

¹²² BRATTON, *supra* note 22, at 232.

¹²³ 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 114, at 56 (agreeing that Calvin viewed wilderness in a positive light), with WILLIAMS, *supra* note 112, at 65 ("The Protestant Reformers were in no mood to flee into the wilderness, and were sober-minded about Paradise.").

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."¹²⁴ Nash also reports:

While 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."¹²⁵

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."¹²⁶ At the same time, Nash writes, "[a]ppreciation of wilderness began in the cities," and that "appreciation arose with the association of God and wilderness."¹²⁷

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 1820s, and "[o]ver the next several decades, [he] attracted wide attention as a celebrant of the American

¹²⁴ NASH, *supra* note 15, at 35. See also Robey E. Whitson, *Wilderness and Paradise: Symbols of American Religious Experience*, 5 RELIGION & INTELLECTUAL LIFE 7 (1987) (describing Puritan attitudes toward wilderness).

¹²⁵ NASH, *supra* note 15, at 38–39 (quoting Jonathan Edwards, *True Christian's Life*, in 4 THE WORKS OF PRESIDENT EDWARDS 575 (1852)). See also GEORGE M. MARSDEN, JONATHAN EDWARDS: A LIFE 99 (2003) (describing one of Edwards's "most beautiful meditations on the spiritual glories of nature"); McCloskey, *supra* note 11, at 291 (noting that "Jonathan Edwards used the omnipresent plan of nature as evidence of the planning of the God of his revealed religion").

¹²⁶ *Green v. Lister*, 12 U.S. (8 Cranch) 229, 248 (1814). Similar expressions appear in *Arnold v. Mundy*, 6 N.J.L. 1, 15 (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, hardships, 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 alienee, 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 reflecting the nineteenth century judicial hostility to wilderness lands).

¹²⁷ NASH, *supra* note 15, at 44–45. See also WILLIAMS, *supra* note 112, 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").

wilderness."¹²⁸ Cole expressed his view of wilderness in a remarkable "Essay on American Scenery" he wrote in 1836.¹²⁹ Cole proclaimed that "the wilderness is YET a fitting place to speak of God."¹³⁰ 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."¹³¹ 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."¹³² 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 undefined works, and the mind is cast into the contemplation of eternal things.¹³³

Cole joined this reverential appreciation for 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."¹³⁴ 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."¹³⁵ Even so, as Nash observes, Cole viewed wilderness with some ambiguity. Cole wrote 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."¹³⁶ Cole even

¹²⁸ NASH, *supra* note 15, at 78. See generally JAMES F. COOPER, KNIGHTS OF THE BRUSH: THE HUDSON RIVER SCHOOL AND THE MORAL LANDSCAPE 45–48 (1999) (discussing religion and nature in Hudson River School art); LOUIS LEGRAND NOBLE, THE LIFE AND WORKS OF THOMAS COLE 298–306 (Elliott S. Vesell ed., 1997) (outlining Cole's beliefs at the end of his life); THOMAS COLE: LANDSCAPE INTO HISTORY XI (William H. Truettner & Alan Wallach eds., 1994) (describing widespread contemporary admiration for Cole's work); WILLIAMS, *supra* note 112, 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"); McCloskey, *supra* note 11, at 291–93 (citing Cole, the Hudson River school, and the value of wilderness as a "cultural heritage"); Kenneth James La Budde, *The Mind of Thomas Cole* (1954) (unpublished Ph.D. dissertation, University of Minnesota) (on file with University of Rochester Library).

¹²⁹ Thomas Cole, *Essay on American Scenery*, AMERICAN MONTHLY MAGAZINE 1–12 (Jan. 1836).

¹³⁰ *Id.* at 2.

¹³¹ *Id.*

¹³² *Id.* at 3.

¹³³ *Id.* at 5.

¹³⁴ *Id.* at 5.

¹³⁵ *Id.* at 12.

¹³⁶ *Id.* at 4.

allowed that his concerns about the disappearance of wilderness were "a regret rather than a complaint; such is the road society has to travel."¹³⁷

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."¹³⁸ Nash credits Thoreau as the "philosopher" of American wilderness thought who demonstrated that "wildness and refinement were not fatal extremes but equally beneficent influences Americans would do well to imitate."¹³⁹ Other writers, including Max Oelschlaeger, give Thoreau even greater credit as the developer of a wilderness ideal than Nash's relatively brief chapter about Thoreau.¹⁴⁰

John Muir was the "publicizer" of wilderness.¹⁴¹ Beginning in 1868, Muir hiked thousands of miles throughout the wild areas of the southeast, Yosemite, and Alaska. Muir then wrote about his experiences, founded the Sierra Club, and worked to persuade federal and state officials to preserve the lands 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."¹⁴² He wrote of "the freedom and glory of God's wilderness."¹⁴³ He titled an 1876 article *God's First Temples: How Shall We Preserve Our Forests?*¹⁴⁴ He praised President Cleveland for establishing vast forest reserves containing "thousands of God's wild blessings."¹⁴⁵ The meaning of Muir's frequent use of such religious language is complicated by the continuing debate about Muir's own theological beliefs.¹⁴⁶ There is no questioning, though, either

¹³⁷ *Id.* at 12.

¹³⁸ See NASH, *supra* note 15, at 84 (quoting 9 HENRY DAVID THOREAU, THE WRITINGS OF HENRY DAVID THOREAU 275 (Houghton, Mifflin & Co. 1893) (1863)).

¹³⁹ *Id.* at 95.

¹⁴⁰ See OELSCHLAEGER, *supra* note 16, at 133-71 (detailing Thoreau's contribution to the wilderness ideal).

¹⁴¹ NASH, *supra* note 15, at 122.

¹⁴² *Id.* at 125.

¹⁴³ JOHN MUIR, *My First Summer in the Sierra* (1911), reprinted in NATURE WRITINGS 147, at 261 (William Cronon ed., 1997).

¹⁴⁴ See NASH, *supra* note 15, at 130.

¹⁴⁵ *Id.* at 138 (quoting John Muir, *The Wild Parks and Forest Reservations of the West*, 81 ATLANTIC MONTHLY 21, 24 (1898)).

¹⁴⁶ 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) (describing Muir's childhood). 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 (Creeside Press 1991) (1987) (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

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 Nash's story 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.¹⁴⁷ 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.¹⁴⁸ 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.¹⁴⁹ 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 Nash tells suggests that religious influences upon American attitudes toward

universe, was his constantly reiterated belief."). On the other hand, Nash and Oelschlaeger consider Muir to be a pantheist. See NASH, *supra* note 15, at 270 (referring to Muir's "simple, if sincere, pantheism"); OELSCHLAEGER, *supra* note 16, 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," *id.* 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.

¹⁴⁷ See JAMES M. GLOVER, *A WILDERNESS ORIGINAL: THE LIFE OF BOB MARSHALL* 11 (1996) (noting Marshall's family's Jewish beliefs); see also SUTTER, *supra* note 16 at 194–238 (discussing Marshall); NASH, *supra* note 15, at 200–208 (discussing Marshall); ROBERT MARSHALL, *ALASKA WILDERNESS: EXPLORING THE CENTRAL BROOKS RANGE* (2d ed. 1970) (omitting any discussion of religious values in his descriptions of Alaskan wilderness).

¹⁴⁸ See CURT MEINE, *ALDO LEOPOLD: HIS LIFE AND WORK* 506–07 (1988) (quoting Leopold's daughter as describing Leopold as a pantheist who did not believe in a personal God); OELSCHLAEGER, *supra* note 16, at 235–36 (noting Leopold's criticism of Judeo-Christian beliefs concerning the land). On Leopold, see generally SUTTER, *supra* note 16, at 54–99; NASH, *supra* note 15, at 182–99; OELSCHLAEGER, *supra* note 16, at 205–42; ALDO LEOPOLD, *A SAND COUNTY ALMANAC AND SKETCHES HERE AND THERE* (1949).

¹⁴⁹ 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, *supra* note 16, 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, *supra* note 16, at 125–26 (quoting Robert Sterling Yard, *But We Must Hold Our Heritage*, 47 NATIONAL PARKS BULLETIN 2 (1926)).

wilderness and efforts at wilderness preservation were inversely related to each other by the time Congress considered legislating to protect wilderness areas in the 1950s and 1960s.

B. Religious Influences on the Wilderness Act

Religious arguments appear throughout the legislative history of the Wilderness Act. That discovery comes as a surprise in light of the diminishing role of religious ideas respecting wilderness that Nash's narrative portrays. Of course, it should not be a surprise that such arguments influenced the congressional enactment of a statute in 1964, 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 1964.¹⁵⁰ As Nash observes, "[t]he names and ideas of Thoreau, Muir, Marshall, and especially of Leopold, appeared time and again."¹⁵¹ But those secular voices were joined by abundant references to the spiritual values of wilderness. Nash acknowledges Howard Zahniser, the Wilderness Society president who drafted the initial version of the Wilderness Act.¹⁵² 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

¹⁵⁰ See NASH, *supra* note 15, 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").

¹⁵¹ NASH, *supra* note 15, at 224; see also S. Res. 387, 108th Cong. (2004) (commemorating the fortieth anniversary of the Wilderness Act and citing the contributions of "great American writers such as Ralph Waldo Emerson, Henry David Thoreau, George Perkins Marsh, and John Muir," "poets like William Cullen Bryant, and painters such as Thomas Cole, Frederic Church, Frederic Remington, Albert Bierstadt, 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 and Adolph Murie, and conservationist David Brower").

¹⁵² See 151 CONG. REC. S4,101–102 (daily ed. Apr. 21, 2005) (statement of Sen. Feingold) (referring to "Wilderness Act author Howard Zahniser"); MARK HARVEY, WILDERNESS FOREVER: HOWARD ZAHNISER AND THE PATH TO THE WILDERNESS ACT 186 (2005) (asserting that "Howard Zahniser's campaign for a bill establishing a national wilderness preservation system is one of the great stories in American environmental history"); SCOTT, *supra* note 37, at 47–49 (describing Zahniser's speech and his role in drafting the Wilderness Act); *id.* at 41 (characterizing Zahniser as "one of the least known yet most influential conservationists of the twentieth century"); NASH, *supra* note 15, at 214–15 (quoting Howard Zahniser's statement referring to humility as "one of the spiritual benefits of a wilderness experience").

renewed from a living wilderness?"¹⁵³ Senator Hubert Humphrey, the initial sponsor of wilderness preservation legislation, asked his colleagues to consider the spiritual well-being of the American people.¹⁵⁴ 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."¹⁵⁵ 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 in 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."¹⁵⁶ According to one college student, "[t]he spiritual benefit which

¹⁵³ 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 "of finding one's self by seeking the wilderness." *Id.* at 66. According to a recent biography, Zahniser "brought many Christian tenets to his work as a conservation activist. He had no doubt that promoting the protection of . . . wilderness . . . involved an ethic of stewardship toward God's creation that the Bible had taught him." HARVEY, *supra* note 152, at 39. Zahniser's son offered another Christian argument for wilderness preservation in a 2000 address. See Ed Zahniser, Address at the Zahniser Institute for Environmental Studies at Greenville College: Work That Matters (Mar. 13, 2000), available at <http://www.greenville.edu/zies/whatsnew/ezchapel/htm>; see also Ed Zahniser, *Howard Zahniser: Father of the Wilderness Act*, NATIONAL PARKS, Jan.-Feb. 1984, at 12-14 (describing the religious influences upon his father's work).

¹⁵⁴ *National Wilderness Preservation Act: Hearing Before the Senate Interior and Insular Affairs Comm.*, 85th Cong. 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").

¹⁵⁵ Clinton Anderson, *This We Hold Dear*, AMERICAN FORESTS MAGAZINE, July 1963, at 24. See also 145 CONG. REC. S11, 126 (daily ed. Sept. 21, 1999) (statement of Sen. Bingaman) (quoting Sen. Anderson's statement).

¹⁵⁶ *National Wilderness Preservation Act: Hearing Before the Senate Interior and Insular Affairs Comm.*, 88th Cong. 223 (1963) [hereinafter *1963 National Wilderness Preservation Act Hearing*] (statement of Don R. Burnett, President, New Mexico Wildlife and Conservation Ass'n, Inc.). Accord *Wilderness Preservation System: Hearing Before the S. Comm. on Public Lands of the House Interior and Insular Affairs Comm.*, Pt. 2, 88th Cong. 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 Carlotta Belle, 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

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."¹⁵⁷ Even an oil company executive argued that "the reservation of such wilderness areas is essential to the spiritual well-being of millions of Americans."¹⁵⁸ 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."¹⁵⁹

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 a 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."¹⁶⁰ 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 read: 'I will lift up mine eyes unto the hills, from whence comes my help.'"¹⁶¹ A junior high school social studies teacher urged Congress to

Andrew Nowell Smith) (asserting the people who do not experience wilderness are "poorer spiritually"); *Wilderness Preservation System: Hearing Before the S. Comm. on Public Lands of the House Interior and Insular Affairs Comm.*, Pt. 3, 88th Cong. 748 (1964) [hereinafter *Wilderness Preservation System Hearing Part 3*] (statement of G.M. Baden) (citing the "cherished spiritual values" of wilderness lands); *id.* at 853 (statement of John W. Spencer, Izaak Walton League of America) (commending "the spiritual values to humans of the wilderness"); *id.* at 1015 (statement of Mrs. Henry Weber, California Federation of Wilderness Clubs) (describing "the importance of an adequate wilderness system, based on . . . a concern for the spiritual welfare of this and future generations"); *Wilderness Preservation System: Hearing Before the S. Comm. on Public Lands of the House Interior and Insular Affairs Comm.*, Pt. 1, 88th Cong. 49 (1964) [hereinafter *Wilderness Preservation System Hearing Part 1*] (statement of Frank Fickeisen as read by William F. Zauche) (crediting wilderness areas with "the maintenance of . . . spiritual health"); *National Wilderness Preservation Act: Hearing Before the Senate Interior & Insular Affairs Comm.*, Pt. 2, 85th Cong. 592 (1958) [hereinafter *1958 Hearing Part 2*] (statement Robert E. Frenkel) (describing "[t]he spiritual and mental well-being afforded by a wilderness trip"); *1957 Hearing*, *supra* note 154, at 187-90 (Wilderness Society statement describing the "spiritual values" of wilderness preservation").

¹⁵⁷ *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 539 (letter from Lawrence C. Jordan, Jan. 10, 1964).

¹⁵⁸ *Id.* at 513 (letter from David B. MacKenzie, Manager, Geology Department, Marathon Oil Co.).

¹⁵⁹ *Wilderness Preservation System Hearing Part 3*, *supra* note 156, at 729 (statement of Stanley B. Mulaik, Executive Secretary, Utah Nature Study Society).

¹⁶⁰ *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 536 (statement of Catherine Hurlbutt).

¹⁶¹ *1958 Hearing Part 2*, *supra* note 156, at 987 (statement of Harry G. Sims, State Representative, Colorado Wildlife Federation).

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."¹⁶²

The president of a local Audubon Society in Nevada referred to "biblical times when Christ and Moses each found inspiration in the wilderness."¹⁶³ 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.¹⁶⁴

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?¹⁶⁵

Additionally, some wilderness proponents challenged the traditional reading of the 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."¹⁶⁶

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 the human soul can rise to, because in so doing man looks upon

¹⁶² *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 508 (statement of Donald E. Drollinger).

¹⁶³ *Wilderness Preservation System Hearing Part 3*, *supra* note 156, at 732 (statement of John Davis, President, Lahontan Audobon Soc'y).

¹⁶⁴ *1958 Hearing Part 2*, *supra* note 156, at 471 (address prepared by Rev. Aron S. Gilmaster).

¹⁶⁵ *1958 Hearing Part 2*, *supra* note 156, at 1002 (statement of Elliott S. Barker).

¹⁶⁶ *Wilderness Preservation System Hearing Part 1*, *supra* note 156, at 201 (statement of Theron E. Strange, President, Seattle Audubon Society).

the work of the Creator and says that it is good beyond anything man has been able to manufacture."¹⁶⁷ 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."¹⁶⁸ Denver resident Susan Hurlbut explained to Congress that "to the religious, [wilderness] is an example of God's ultimate creativity."¹⁶⁹ In the words of an Iowa conservation leader, "[w]hen 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."¹⁷⁰

¹⁶⁷ *Wilderness Preservation System: Hearing Before the Subcomm. on Public Lands of the House Interior and Insular Affairs Comm.*, Pt. 4, 88th Cong. 1253 (1964) [hereinafter *Wilderness Preservation System Hearing Part 4*] (statement of Carl W. Buchheister, President, National Audubon Soc'y).

¹⁶⁸ *1958 Hearing Part 2, supra* note 156, at 680 (statement of Utah Governor George D. Clyde).

¹⁶⁹ *Wilderness Preservation System Hearing Part 2, supra* note 156, at 412 (statement of Miss Susan K. Hurlbut).

¹⁷⁰ *Wilderness Preservation System Hearing Part 3, supra* note 156, at 888 (statement of M.E. Clark, Secretary, Iowa Wildlife Federation); *accord Wilderness Preservation System Hearing Part 1, supra* note 156, at 91 (statement of L.L. White, President, Priest Lake Timber Protective Ass'n.) (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, supra* note 156, at 279 (statement of Charles I. Niles, Jr.) (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. DeVors) (explaining that "[o]ur wilderness areas are God given"); *1963 National Wilderness Preservation Act Hearing, supra* note 156, at 117 (statement of Ernest E. Day, Immediate Past President, Idaho Wildlife Federation) (arguing that we should "save some of this treasure for ourselves and our children in just the wonderful way it was left to us by our Creator"); *National Wilderness Preservation System Hearing Part 1, supra* note 156, at 30 (statement of Sen. McGee of Wyoming) (arguing that "[t]his bill would preserve a segment of the Nation's rich natural heritage, almost as God made it"); *1958 Hearing Part 2, supra* note 156, at 340 (statement of mattress manufacturer Leo Gallagher) (explaining that he visits wilderness areas "to see and enjoy the naturalness and beauty which God has created"); *id.* at 467 (statement of Margaret Oberteuffer) (recounting a wilderness trip in which "[t]he cloud bank low in the valley added a feeling that we were selected witnesses to God's majesty"); *id.* at 523 (statement of John G. Tyler on behalf of five nature organizations) (asserting that wilderness offers "an awareness of God"); *id.* at 580 (statement David R. Brower, Executive Director, Sierra Club) (answering that "[t]he wilderness is for all . . . who merely want to know some places are still as God made them"); *id.* at 1015 (statement of Mrs. A.A. Luckenbach) (describing "the increasing need for places of quiet where one can commune with nature as God has created it"); *id.* at 1051 (statement of Outdoor Nature Club of Houston, Tex.) (supporting wilderness legislation because "the appreciation and understanding of the Creator's world of nature"); *1957 Hearing, supra* note 154, at 70 (quoting a July 12, 1956 statement of Rep. Saylor) (observing that some "of our original wilderness . . . is still as God made it"); *id.* at 354 (statement of David Brower, Executive Director of the Sierra

Second, wilderness is 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.¹⁷¹ 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."¹⁷² Florence Baldwin of Bozeman, Montana, submitted her own poem to the congressional committee considering wilderness legislation in 1964:

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.¹⁷³

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."¹⁷⁴ 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

Club) (referring to "those places where the hand of God has not been obscured by the industry of man").

¹⁷¹ *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 402 (statement of Harry G. Sims).

¹⁷² *1958 Hearing Part 2*, *supra* note 156, at 461 (letter from Doris E. Winters, Director of the Pacific Region of the National Council of State Garden Clubs).

¹⁷³ *Wilderness Preservation System Hearing Part 1*, *supra* note 156, at 201 (letter from Florence W. Baldwin, Jan. 4, 1964); *accord Wilderness Preservation System Hearing Part 2*, *supra* note 156, 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 creation"); *Wilderness Preservation System Hearing Part 3*, *supra* note 156, at 743 (June 6, 1963 resolution of the Fullerton Saturday Morning Y's Men's Club) (linking wilderness to "communication with God"); *id.* at 752 (statement of Beth Wieman, Conservation Chairman, Sierra Hi-Teens Clubs) (explaining that "as a person does more hiking, he develops an awareness of God"); *id.* at 772 (statement of YMCA and YWCA camp manager Howard D. Liggett) (asserting that "[n]ature is used as a common denominator through which we interpret the recognition of God's existence and the appreciation of His gifts to man"); *id.* at 824 (statement of Bradley Graham Whyte, North Orange County YMCA & affiliated group organizations) (relating that "I also became closer to God, and more spiritually enriched, being in those unpopulated areas"); *1958 Hearing Part 2*, *supra* note 156, at 426 (statement of Yvonne Prater) (explaining that wilderness provides an opportunity to "commune with the God who made him what he is").

¹⁷⁴ *Wilderness Preservation System Hearing Part 1*, *supra* note 156, at 146 (statement of Elizabeth C. Moore).

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.¹⁷⁵

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."¹⁷⁶

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 1958.¹⁷⁷ 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

¹⁷⁵ *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 494 (statement of Robert D. Beard).

¹⁷⁶ *Wilderness Preservation System Hearing Part 1*, *supra* note 156, 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*, *supra* note 156, 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 place where "[t]he peace, closeness to nature, and all of God's creation soaked into our souls"); *id.* at 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*, *supra* note 156, 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 basically spiritual" and citing the need for people "to renew their spirits in wild and beautiful surroundings unblemished by works of man"); *id.* at 753 (statement of David B. McGlone, Vernon K. Lindsay & Erin Sparkman) (contending that "the renewal of mind and spirit" can only be obtained in the wilderness); *1963 National Wilderness Preservation Act Hearing*, *supra* note 156, at 95 (statement of Walter S. Boardman, Executive Director, The Nature Conservancy) (praising wild areas for "provid[ing] incomparable opportunity for reflection and spiritual enrichment in our modern culture"); *National Wilderness Preservation Act: Hearing Before the Senate Interior & Insular Affairs Comm.*, 85th Cong. 204 (1958) (statement of George D. Riley, AFL-CIO Legislative Representative) (endorsing wilderness legislation "for those people who derive physical and spiritual renewal from intimacy with nature"); *1958 Hearing Part 2*, *supra* note 156, at 419 (statement of Franklin W. Sturges) (stating that "in wilderness areas I have met people that were getting very definite physical and spiritual stimulation from their surroundings"); *id.* at 874 (statement of Fred A. Brinkman) (championing the "ever-increasing need for sanctuaries where man may go for physical and spiritual recreation"). Perhaps the most aggressive use of the mental health argument appears in the January 10, 1964 congressional testimony of a Colorado College physics professor who said that "[o]ne cannot help wondering if history might have been different if Lee Oswald, reported by psychiatrists to have been mentally ill, had been able to spend part of his boyhood in wilderness"). *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 321 (statement of Richard C. Bradley, Associate Professor of Physics, Colorado College).

¹⁷⁷ *1958 Hearing Part 2*, *supra* note 156, at 426 (statement of Yvonne Prater).

refresh them minds, restore their souls, and commune with God in a country unspoiled by man."¹⁷⁸ Simply put, wilderness areas provide solitude.¹⁷⁹

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 the failure to remember "the cardinal rule of stewardship."¹⁸⁰ 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."¹⁸¹ A Fort Collins, Colorado 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."¹⁸² And consider the congressional testimony of Catherine Hurlbutt, the woman quoted above

¹⁷⁸ *Id.* at 999 (statement of Elliott S. Barker of the New Mexico Wildlife and Conservation Association). See also *1963 National Wilderness Preservation Act Hearing*, *supra* note 156, 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*, *supra* note 156, at 862 (statement of Robert G. Bear, The Trailfinders) ("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").

¹⁷⁹ *Wilderness Preservation System Hearing Part 1*, *supra* note 156, at 151 (statement of Harry Lydiard, Olympic Conservation Council) (citing "the abundant intrinsic rewards of solitude").

¹⁸⁰ *1958 Hearing Part 2*, *supra* note 156, at 577 (statement of David R. Brower, Executive Director, Sierra Club). See also *Wilderness Preservation System Hearing Part 1*, *supra* note 156, 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 156, 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?'").

¹⁸¹ *Wilderness Preservation System Hearing Part 3*, *supra* note 156, at 862 (statement of Robert G. Bear, The Trailfinders). *Accord Wilderness Preservation System Hearing Part 1*, *supra* note 156, 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*, *supra* note 156, 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 and scientific 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 154, 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 place, these God-made wonders lose most of their value").

¹⁸² *1958 Hearing Part 2*, *supra* note 156, at 1036 (statement of Edward G. Duckworth).

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."¹⁸³ 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."¹⁸⁴

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."¹⁸⁵ Other opponents of wilderness legislation employed religious arguments of their own. The Mining Association 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 thy face shalt thou eat thy bread.'"¹⁸⁶ 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."¹⁸⁷ 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.¹⁸⁸ One religious studies scholar sees this provision as evidence that "the act makes solitude a central concept in our moral regard for nature."¹⁸⁹ 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 site¹⁹⁰ 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,¹⁹¹ and "tool # 9" discusses "Spiritual Values and the Wilderness Act of 1964."¹⁹² After reviewing the role that spiritual values played for supporters of the law, especially Howard Zahniser, that document states that

¹⁸³ *Wilderness Preservation System Hearing Part 2*, *supra* note 156, at 536 (statement of Catherine Hurlbutt).

¹⁸⁴ *Id.*

¹⁸⁵ *1963 National Wilderness Preservation Act Hearing*, *supra* note 156, at 78 (statement of Warrick Downing).

¹⁸⁶ *1958 Hearing Part 2*, *supra* note 156, at 668 (statement of the Mining Association of Southern California).

¹⁸⁷ Wilderness Act, 16 U.S.C. § 1133(b) (2000).

¹⁸⁸ *Id.*

¹⁸⁹ Vest, *supra* note 11, at 303.

¹⁹⁰ The Wilderness Society, at <http://www.wilderness.org> (last visited Nov. 19, 2005).

¹⁹¹ THE WILDERNESS SOCIETY, THE LAND ETHIC TOOLBOX (2004), available at <http://www.wilderness.org/aboutus/LandEthicToolbox/index.cfm?TopLevel=about>.

¹⁹² *Id.* at 41.

"[t]he actual wording of the Act is more vague on matters of spirituality as one might expect in a legislative document."¹⁹³ 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."¹⁹⁴

C. Religious Conceptions of Wilderness Since the Wilderness Act

Spiritual arguments have continued 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."¹⁹⁵ In 1968, President Johnson asked Congress to establish new wilderness areas that "can and will be enjoyed by millions of our people seeking the solitude and splendor of the land as God made it."¹⁹⁶ 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."¹⁹⁷ 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."¹⁹⁸ 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."¹⁹⁹ 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.²⁰⁰

¹⁹³ *Id.* at 42

¹⁹⁴ *Id.*

¹⁹⁵ Olson, *supra* note 10, at 212.

¹⁹⁶ SCOTT, *supra* note 37, at 13 (quoting President Johnson's March 29, 1968 letter to Congress).

¹⁹⁷ Remarks on Signing Four Bills Designating Wilderness Areas, 1984 PUB. PAPERS 879, 880 (June 19, 1984). See also Jonathan Cannon & Jonathan Riehl, *Presidential Greenspeak: How Presidents Talk About the Environment and What it Means*, 23 STAN. ENVTL. L.J. 195, 232-48 (2004) (collecting additional presidential statements concerning the spiritual values of wilderness and of environmental preservation generally).

¹⁹⁸ 134 CONG. REC. 19,065 (1988) (statement of Sen. Hecht). For additional congressional acknowledgments of the spiritual values of wilderness lands, see, e.g., 149 CONG. REC. S15, 935 (daily ed. Nov. 25, 2003) (statement of Sen. Byrd) (celebrating Thanksgiving as a reminder of those who "settled in a wilderness so that they could worship God as they chose"); 135 CONG. REC. 23,653 (1989) (statement of Rep. Kildee) (indicating that the Wilderness Act protects lands "much as they came from the hand of God"); and 131 CONG. REC. 36,263 (1985) (statement of Sen. McConnell) (asserting that "[w]ilderness has deep symbolic and spiritual value").

¹⁹⁹ Wayne Owens, *Wilderness in the Hand of God*, SUWA SPRING 1999 NEWSLETTER - SPECIAL INSERT (1999), available at <http://www.suwa.org/newsletters/1999/spring/insert.html>. See also 137 CONG. REC. 6224 (1991) (statement of Rep. Owens) (describing the "higher spiritual value" of wilderness lands).

²⁰⁰ See *Is Wilderness Really Sacred, and, If So, So What?*, <http://www.j21c.org/wildern.htm> (last visited Nov. 19, 2005) (citing SUWA's congressional testimony and advertising); *Utah Public Lands Management Act of 1995: Hearing Before the Forests and Public Land*

The debate over Alaskan lands has elicited similar thoughts. "We do have the spiritual resources of wilderness," proclaimed Alaska Governor Jay Hammond during the congressional hearings preceding the enactment of ANILCA.²⁰¹ Representative John Seiberling was particularly outspoken in promoting those values. He testified that he had "often thought it was significant from an environmental or conservationist point that before Christ started his missionary phase of his life, he spent 40 days in the wilderness to get inspiration."²⁰² On the other hand, the Alaskan lands debate provoked many more religious objections to the establishment of wilderness lands. An Alaskan state senator captured the attitude when he testified that "I sincerely believe God gave us the land and waters and all the sources thereon and therein . . . for man to use and improve if we can, but not to waste."²⁰³ Don Young, Alaska's lone and longtime member of the U.S. House of Representatives, articulated both sides of the religious perspective on wilderness in 1977 when he said that Alaska "will remain a wilderness by God's help, because that's the way he made it," while adding that "[w]hat I am seeking as the Alaska Representative is to arrive at a logical position that will allow this Nation to reap those resources that God gave us to insure economic growth."²⁰⁴

Apart from the law, the most significant scholarly development since 1964 is the renewed consideration of the implications of scriptural and

Management Subcomm. of the Senate Energy and Natural Resources Comm., 104 CONG. REC. 72-74 (1995) (testimony of author and naturalist Terry Tempest Williams articulating Mormon spiritual arguments for Utah wilderness preservation); see also SUWA, Ongoing Work, http://www.suwa.org/page.php?page_id=98 (last visited Nov. 20, 2005) (quoting an individual supporter's belief that "this wild portion of God's creation will be preserved").

²⁰¹ *Inclusion of Alaska Lands in National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers System: Hearings Before the Subcomm. on General Oversight and Alaska Lands of the House Interior and Insular Affairs Comm.*, Pt. 1, 95th Cong. 689 (1977) (testimony of Alaska Governor Jay S. Hammond). See also, e.g., *id.*, pt. 3, at 461 (statement of Dr. Michael W. Fox of the Humane Soc'y of the United States) (arguing that Alaskan wilderness should be protected "to insure for our own future generations a *spiritual resource*"); *id.*, pt. V, at 127 (testimony of Edward B. Williams) (referring to "the spiritual necessity, spiritual resource of this wilderness"); *id.*, pt. X, at 64 (testimony of Philip Hudler) ("Wilderness areas . . . are the places I go to regroup my thoughts and reinforce my perspective on life.").

²⁰² *Id.*, pt. 4, at 91 (testimony of Rep. Seiberling); see also *id.*, pt. IX, at 8 (testimony of Rep. Seiberling) (describing wilderness as "a spiritual resource"); *id.*, pt. 10, at 60 (statement of Rep. Seiberling) ("We may have to return to nature to revitalize. . . . Not only revitalizing in a biological sense but in a spiritual sense.").

²⁰³ *Id.*, pt. XI, at 90 (testimony of W.E. Bradley, Alaska State Senator). See also *id.*, pt. VII, at 173 (testimony of Tom Tahanan) (asking for "a balance between use and preserving the wilderness" because "I do not have to sit on a glacier to feel lonely or alone with God or anyone else"); *id.*, pt. IX, at 192 (testimony of Lavorev Medford) (objecting to the establishment of wilderness areas because "I think God put timber on this land for us to use"); *id.*, pt. XI, at 117 (testimony of B.A. "Pete" Green) (noting that God "created the wilderness," but then commanded people to subdue the earth, "and the only way that you can subdue it is to do something with it; that is, use it for man's use"); *id.*, pt. XI, at 373 (testimony of Thomas Shaw) (acknowledging that "[t]here are areas in Alaska that God intended to be total wilderness and it will always be that way," but favoring the multiple use management of "the great majority of land").

²⁰⁴ *Id.*, pt. VI, at 3 (testimony of Rep. Young); see also *id.*, pt. IX, at 81 (testimony of Rep. Young) (insisting that "man is part of this whole structure that God created").

Christian teaching concerning wilderness. This writing 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.²⁰⁵ In that 1993 book, Bratton analyzed the role of wilderness in the scriptures and in later Christian writings and she then applied the insights that she gleaned 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*,²⁰⁶ 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*.²⁰⁷ 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.²⁰⁸ 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."²⁰⁹ 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 combine to overwhelm."²¹⁰

Second, people find God in the wilderness. In the words of an African-American spiritual, "Yo' Wan'na Fin' Jesus, Go in de Wilderness."²¹¹ Bratton

²⁰⁵ BRATTON, *supra* note 22. Bratton's other scholarship includes an extremely thoughtful application of Christian ethics to modern environmental pollution problems. See Susan Power Bratton, *Penning the Goring Bull: Evaluating Five Potential Christian Ethical Responses to Environmental Pollution*, in *ECOLOGY AND RELIGION: SCIENTISTS SPEAK* 111–133 (John E. Carroll & Keith Warner eds., 1998).

²⁰⁶ WILLIAMS, *supra* note 112.

²⁰⁷ MAUSER, *supra* note 112.

²⁰⁸ See Kathleen Braden, *On Saving Wilderness: Why Christian Stewardship is Not Sufficient*, 2 CHRISTIAN SCHOLAR'S REVIEW 254 (1998) (arguing for the application of the Biblical principles in Matthew 5 to effectively preserve wilderness); Warner, *supra* note 93, at 335 (arguing that, even if Christians do not intrinsically value wilderness, they should preserve it because God uses it as a stage for divine encounters).

²⁰⁹ BRATTON, *supra* note 22, at 253. See also *id.* at 302 (asserting that "[i]f wild nature praises God, that alone justifies its existence").

²¹⁰ David Douglas, *The Spirit of Wilderness and the Religious Community*, SIERRA, May–June 1983, at 56–57.

²¹¹ WILLIAMS, *supra* note 112, at 120.

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."²¹² "The traditional Christian wilderness experience is an intense confrontation with God," she adds.²¹³ Wilderness was the location of many signal events recorded in the scriptures. It is "the stage which brightly illumines God's power."²¹⁴ Wilderness thus "demonstrates God's majesty, love, joy in creation, righteousness, transcendence, and omnipotence."²¹⁵ Wilderness is a place to experience God.²¹⁶

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."²¹⁷ 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."²¹⁸ Bratton describes "the possibility for spiritual transition or transformation" as a "key element in wilderness spiritual experience."²¹⁹

²¹² BRATTON, *supra* note 22, at 272.

²¹³ *Id.* at 242.

²¹⁴ MAUSER, *supra* note 112, at 21. *See also id.* at 14 ("In the majority of the 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 had loved his people."); BRATTON, *supra* note 22, at 245 (noting that "wilderness became a site of major revelation"); WARNER, *supra* note 93, 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").

²¹⁵ BRATTON, *supra* note 22, at 253. *See also* Dannen, *supra* note 123, at 104-08 (describing Calvin's attitude toward wilderness).

²¹⁶ Consider Susan Bratton's discussions of this idea. *See* BRATTON, *supra* note 22, 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").

²¹⁷ MAUSER, *supra* note 112, at 87-88.

²¹⁸ LANE, *supra* note 114, at 46.

²¹⁹ BRATTON, *supra* note 22, 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 112, 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,

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 ready 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.²²⁰

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 the pastoral setting of most biblical events did not create a need to leave large urban communities in order to experience such spiritual renewal.²²¹

Fourth, wilderness is a place of escape. It is a place of retreat.²²² It allows people to gain a better perspective on culture.²²³ Mauser described wilderness as "the land where man takes refuge when he is driven from the community."²²⁴ 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."²²⁵ 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.²²⁶

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 214, 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.").

²²⁰ BRATTON, *supra* note 22, at 251–52.

²²¹ *Id.* at 249.

²²² See *id.* 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).

²²³ See *id.* 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").

²²⁴ MAUSER, *supra* note 112, at 37. See also *id.* at 140 ("All wilderness passages in Mark imply the notion of retreat.").

²²⁵ WILLIAMS, *supra* note 112, at 5.

²²⁶ BRATTON, *supra* note 22, at 245. See also *id.* at 53 ("The isolation provided by the wilderness seems necessary to God's purposes in the Exodus.").

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."²²⁷ 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."²²⁸ Mauser explains that temptation as "an inevitable and significant concomitant phenomenon of the wilderness," and the most frequent one in the scriptures.²²⁹ 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."²³⁰ A wilderness environment is a threatening environment. It strains the ability of people to rely upon their 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."²³¹ Wilderness was both a place of punishment in the scriptures and a place of purification.²³² Wilderness, says Bratton, "separates the sojourner from evil cultural influences and aids in eliminating sin."²³³

²²⁷ LANE, *supra* note 114, at 43.

²²⁸ WILLIAMS, *supra* note 112, at 5.

²²⁹ MAUSER, *supra* note 112, 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 22, at 71 (for David, "[w]ilderness experience built strength, stamina, and leadership and survival skills"); WILLIAMS, *supra* note 112, at 16 ("those in Israel looked back upon the forty years as a time of temptation, of testing, and of sifting").

²³⁰ MAUSER, *supra* note 112, at 34.

²³¹ BRATTON, *supra* note 22, 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 112, at 21 ("The wilderness is the place that threatens the very existence of Yahweh's chosen people"); WILLIAMS, *supra* note 112, at 12-15 (noting that the wilderness was viewed as the place of demons and death).

²³² See WILLIAMS, *supra* note 112, 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 112, at 37 ("Wilderness and sin are correlated; whenever sin occurs even the good land can be turned into desert (Jeremiah 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 ("[T]he setting of the wilderness as such to Ezekiel is the place of judgment alone—the horror of God's punishment to the evildoers are connected with this locality.").

²³³ BRATTON, *supra* note 22, 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 112, at 39 (noting that Basil the Great referred to "the wilderness where the people, purified, received the law"); MAUSER, *supra* note 112, 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").

Bratton 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 wilderness practice and basic wisdom concerning the value of the desert."²³⁴ In other words, 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 wilderness lands, which leads us back to the role of the law in protecting such lands.

IV. 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."²³⁵ 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.²³⁶ 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 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.

²³⁴ BRATTON, *supra* note 22, at 241. Bratton refutes those who would dismiss the modern value of wilderness to Christians by identifying eleven "misconceptions about wilderness experience in a Christian context," including, for example, that "wilderness experiences is for prophets or those with a prophetic calling" and that "it is necessary to stay in the wilderness for a long period, such as forty days, to develop a wilderness spirituality." *Id.* at 260-264.

²³⁵ *Id.* 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.").

²³⁶ See generally John Copeland Nagle, *Christianity and Environmental Law*, in CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT 435-52 (Michael W. McConnell et al. eds., 2001) (describing stewardship theories); John Copeland Nagle, *Playing Noah*, 82 MINN. L. REV. 1171, 1226-29 (1998) (citing sources for different stewardship theories).

A. Identifying Wilderness Areas

The scriptures tell us much 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 some 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. 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.²³⁷

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. 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.²³⁸ 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 sites of divine encounters were in any way natural wonders or exceptionally beautiful."²³⁹ Wilderness in the Bible is also known by its opposite, the garden.²⁴⁰ The organizing principle seems to be simply that they were areas away from people—"untrammelled by man," in the Wilderness Act's evocative phrase—and thus conducive to people becoming closer to God. The implication 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

²³⁷ 1958 *Hearing Part 2*, *supra* note 156, at 316 (statement of R.E. Kerr, Chairman of the Oregon Farm Bureau Federation's Natural Resource Committee).

²³⁸ See WILLIAMS, *supra* note 112, 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) (describing biodiversity in deserts).

²³⁹ BRATTON, *supra* note 22, at 246.

²⁴⁰ See WILLIAMS, *supra* note 112, at 11-12 (contrasting wilderness and the garden).

colonized, and thus as economists teach us, more valuable.²⁴¹ The wilderness that remains faces continued pressure from the widening scope of human activities throughout the United States and the world. The resulting 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.²⁴² The Wilderness Act expressly provides that wilderness areas should provide "outstanding opportunities for solitude."²⁴³ 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."²⁴⁴ 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."²⁴⁵ 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."²⁴⁶

²⁴¹ The importance of scarcity in the increased value of wilderness is noted in NASH, *supra* note 15, at 249, 343; McCloskey, *supra* note 11, at 288, 314.

²⁴² See Vest, *supra* note 11, 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) (describing the discipline of solitude).

²⁴³ Wilderness Act, 16 U.S.C. § 1131(c) (2000).

²⁴⁴ PATRICK REED, *KENAI WILDERNESS MANAGEMENT GUIDE* 18 (1984) (document prepared for the Kenai National Wildlife Refuge).

²⁴⁵ KENAI WILDERNESS REVIEW, *supra* note 66, at 72–73 (evaluating the Chickaloon Flats Unit).

²⁴⁶ *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 area.

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 should have access to wilderness areas. The twelve million visitors to wilderness areas each year indicate that existing areas are accessible.²⁴⁷ But there are two problems with such substantial numbers of visitors. First, wilderness areas are unevenly distributed throughout the United States, largely because federal lands are primarily located in western states. There are wilderness areas in eastern states, and Congress enacted an Eastern Wilderness Act²⁴⁸ 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 for 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.²⁴⁹ Other federal lands also satisfy wilderness needs, 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, wildlife reserves, forest reserves, and national monuments."²⁵⁰ 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.²⁵¹ Zellmer

²⁴⁷ See Wilderness.net, The National Wilderness Preservation System: Threats to Wilderness, at <http://www.wilderness.net/index.cfm?fuse=NWPS&sec=threats> (last visited Nov. 19, 2005) (citing visitor statistics as of 2004).

²⁴⁸ Eastern Wilderness Act, 16 U.S.C. § 1132 note (2000).

²⁴⁹ See 134 CONG. REC. S10, 101 (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 22, 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 wildness in order to complete itself, to finalize its reign." Thomas H. Birch, *The Incarceration of Wildness: Wilderness Areas as Prisons*, 12 ENVTL. ETHICS 3, 9-10 (1990).

²⁵⁰ Zellmer, *supra* note 10, at 1050.

²⁵¹ *Id.* at 1063 (citing Antiquities Act, 16 U.S.C. § 431 (2000)).

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.²⁵² 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.²⁵³ State parks and other lands owned by state and local governments may possess wilderness characteristics, too.²⁵⁴ 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. Young Life, a Christian ministry to high school students, owns eighteen camping 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."²⁵⁵ The Nature Conservancy, the largest private organization dedicated to land conservation, acknowledges the importance of spiritual values in its work.²⁵⁶ And some writers insist that the spiritual values of wilderness can even be enjoyed in urban areas.²⁵⁷

Such efforts convinced John Sprankling that "[p]rivate preservation is a vital counterpart to the Wilderness Act."²⁵⁸ No congressional action is required before a private landowner decides to preserve its land in a wilderness condition. But Sprankling contends that "[m]odern American property law remains hostile to preservation of privately owned

²⁵² *Id.*

²⁵³ *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1106 (9th Cir. 2002) (citing 36 C.F.R. § 294.12(b)). *See also* *Wyoming v. U.S. Dept. of Agriculture*, 277 F. Supp. 2d 1197 (D. Wyo. 2003) *vacated as moot*, 414 F.3d 1207 (10th Cir. 2005) (holding that the agency's roadless rule violated the Wilderness Act's provision authorizing Congress to establish wilderness areas). *See generally* Zellmer, *supra* note 10, at 1078–81 (arguing that the roadless rule is permitted by the Wilderness Act).

²⁵⁴ *See* SCOTT, *supra* note 37, at 140–42 (describing efforts to protect state-owned wilderness lands).

²⁵⁵ Young Life, What Adults Want to Know, <http://www.younglife.org/camping/whatadults.htm> (last visited Nov. 20, 2005). *See also* *Maurer v. Young Life*, 779 P.2d 1317 (Colo. 1989) (describing Young Life and its camps, and holding that Young Life's lands are eligible for a tax exemption because they are 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").

²⁵⁶ *See* *Portraits of Faith*, NATURE CONSERVANCY, Spring 2003, at 24; The Nature Conservancy, Spiritual Awakenings, <http://www.nature.org/magazine/summer2003/features/> (last visited Nov. 20, 2005) (describing issue of Nature Conservancy magazine devoted to spiritual aspects of conservation and resulting positive reader responses).

²⁵⁷ *See* SALLIE 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").

²⁵⁸ Sprankling, *supra* note 126, at 566.

wilderness. . . . All things being equal, the system tends to resolve use and title disputes concerning such land by favoring the exploiter over the preserver.”²⁵⁹ 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 onto undeveloped lands.²⁶⁰ Property law also threatens wilderness preservation through zoning ordinances that encourage development and the government’s use of eminent domain to develop wilderness lands. These rules should be changed. The law should show a greater sensitivity to efforts to manage private lands as wilderness in order to facilitate the values of wilderness, including the spiritual values.

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 2005.²⁶¹ Before Congress approved additional wilderness areas in California in 2004, Senator Dianne Feinstein was careful to say that “horsepacking is an important use of wilderness” and that the state could still issue hunting and fishing licenses.²⁶² Grazing, the 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, including subsistence uses by Native Alaskans.²⁶³

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.”²⁶⁴ Spiritual values, like other wilderness values, will usually operate to protect wilderness lands from activities that would interfere with natural conditions. For example, Judge Gould’s hypothetical Wal-Mart 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

²⁵⁹ *Id.* at 556.

²⁶⁰ *Id.* at 567–84.

²⁶¹ 151 CONG. REC. E864 (daily ed. May 4, 2005) (statement of Rep. Boucher).

²⁶² 150 CONG. REC. S11, 794 (daily ed. Nov. 20, 2004) (statement of Sen. Feinstein).

²⁶³ See *supra* text accompanying notes 8–9.

²⁶⁴ Wilderness Act § 2(c), 16 U.S.C. 1131(c) (2000).

reconciling competing uses,²⁶⁵ religious teachings do 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,²⁶⁶ though the probable effects of such activities upon the Alaskan landscape continue to be debated with respect to the status of the Arctic National Wildlife Refuge at the northern edge 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.²⁶⁷ Wilderness areas are not just about landscapes; they are communities of living creatures. They often provide a refuge for plants, animals, and 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. The Kenai Wilderness Area, for example, was originally established as a moose reserve and now 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 wilderness 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 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

²⁶⁵ Cf. Gatta, *supra* note 214, at 263 (observing that "the New Testament contains no treatise on land management").

²⁶⁶ See 1958 *Hearing Part 2*, *supra* note 156, at 463 (statement of Dixie M. Baade of Ketchikan) ("Even in Alaska where it is assumed that wilderness is without limit, the threat is already evident. . . . What happened when oil interests invaded the Kenai Moose Refuge is a very painful example.").

²⁶⁷ See BRATTON, *supra* note 22, at 280–313 (outlining the relationship between Christian teaching, wilderness, and wildlife); Warner, *supra* note 93, at 335 (asserting that "wilderness . . . is the most critical element needing preservation for the continued existence of other life forms").

urban residents who expend substantial sums to encounter the wilderness on public and private lands alike.²⁶⁸ 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."²⁶⁹

The most important purpose served by managing wilderness areas to facilitate each of these experiences is to promote 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."²⁷⁰ Another possible conflict arises when a solitary but careless hiker compromises wildlife habitat. It may also be difficult to experience multiple values of wilderness at the same time. Bratton, for example, sees wilderness recreation in tension with the realization of some of the spiritual values of wilderness.²⁷¹

One solution to these conflicts would employ a zoning approach 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."²⁷² Zoning would be especially helpful in preserving the solitude upon which 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. In contrast, some activities are not appropriate anywhere within a wilderness area. 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.²⁷³ 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.²⁷⁴ Other activities are more contested. In Kenai, for

²⁶⁸ Sarah Krakoff, *Mountains Without Handrails . . . Wilderness Without Cellphones*, 27 HARV. ENVTL. L. REV. 417, 434 (2003).

²⁶⁹ *Id.* at 418.

²⁷⁰ 1957 *Hearing*, *supra* note 154, at 167 (statement of the Wilderness Society).

²⁷¹ See BRATTON, *supra* note 22, 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").

²⁷² See REED, *supra* note 244, at 21; see also McCloskey, *supra* note 11, at 303 (describing the Wilderness Act's provisions in terms of "non-conforming uses" and "variances").

²⁷³ Wilderness Act, 16 U.S.C. § 1133(c) (2000).

²⁷⁴ See NASH, *supra* note 15, at 215 (quoting an opponent of a proposed Colorado dam who, "[i]n the tradition of John Muir," told Congress that "we have had money changers in our

example, snowmobile enthusiasts see the wilderness area as the perfect place to engage in recreational activities, but snowmobiling can be incompatible with maintaining solitude and 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.”²⁷⁵ Braden illustrates that desire through the comments of visitors to the Bridger Wilderness Area in Wyoming, 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.”²⁷⁶ 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.”²⁷⁷ Instead,

[t]he 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.²⁷⁸

The solution, says Braden, is that “[w]e must change our role from managers to witnesses.”²⁷⁹ Or maybe not even witnesses: Braden also wonders “[c]an we treat wilderness as sacred ground by not visiting it but still appreciating it?”²⁸⁰

On this view, the sockeye salmon enhancement program at the Kenai wilderness area was problematic precisely because it interfered with the

temple before”); Nunez, *supra* note 21, at 330 (“Muir’s notion of a pristine nature kept inviolate from human commerce underlies the Wilderness Act of 1964”).

²⁷⁵ Braden, *supra* note 208, at 264.

²⁷⁶ *Id.* at 264.

²⁷⁷ *Id.* at 262.

²⁷⁸ *Id.* at 268.

²⁷⁹ *Id.* The oxymoron of wilderness management is also noted by NASH, *supra* note 15, 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 21, 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 21, at 343 (“We cannot ‘go wild’ if nature is everywhere transformed to meet human needs and desires.”).

²⁸⁰ Braden, *supra* note 208, at 257 n.6.

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 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. Of course, the salmon enhancement program is not the only threat to the existing condition of the wilderness area. For example, purple loosestrife was recently found near Anchorage, and scientists worry that the invasive species could "drive out native plants, and fish passages" on the Kenai Peninsula and otherwise dramatically change the area.²⁸¹ 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,²⁸² 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.

V. 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.²⁸³ 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, spiritual values support preservation when other arguments are lacking. And there are other religious arguments for wilderness preservation

²⁸¹ Doug O'Harra, *Horrific Weed Posed to Invade Southcentral*, ANCHORAGE DAILY NEWS, Oct. 13, 2005, at A1.

²⁸² See, e.g., James Peak Wilderness and Protection Area Act, 107 Pub. L. No. 216, § 7(a), 116 Stat. 1055, 1060 (2002) (providing that the establishment of a new wilderness area in Colorado "shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area"); SCOTT, *supra* note 37, at 135 (noting that "Congress has routinely included in wilderness designation bills a provision prohibiting any buffer zones").

²⁸³ Wilderness Act, 16 U.S.C. § 1131(c) (2000).

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 reflected in recent wilderness preservation decisions.²⁸⁴ Any consideration of the spiritual values of wilderness lands enriches 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.

²⁸⁴ See, e.g., 151 CONG. REC. H8871 (daily ed. Oct. 18, 2005) (statement of Rep. Udall of N.M.) (noting that the new Ojito Wilderness is "recognized for its high density of cultural and archeological sites, including sites that have religious significance to Pueblo Indians"); 134 CONG. REC. 10,603 (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 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 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 policy makers apply objective criteria free from religious bias." *Is Wilderness Really Sacred, and, If So, So What?*, *supra* note 200. The short answer to this assertion is that the recognition of the spiritual values underlying the Wilderness Act represents the government's accommodation of religion. See, e.g., *Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 334 (1987) (stating that the "Court has long recognized that the government may (and sometimes must) accommodate religious practices and that it may do so without violating the Establishment Clause" (quoting *Hobbie v. Unemployment Appeals Comm'n of Fla.*, 480 U.S. 136, 144-145 (1987) (footnote omitted))); Michael W. McConnell, *Accommodation of Religion: An Update and Response to the Critics*, 60 GEO. WASH. L. REV. 685, 687-88 (1992) (asserting that accommodation of religion is "sometimes required" and "always permitted" within certain limitations); Michael W. McConnell, *Accommodation of Religion*, 1985 SUP. CT. REV. 1, 36 (discussing accommodation of religion). A more extensive answer would explore the substantial literature discussing the legal protection of sacred sites, especially places of importance to Native American spiritual beliefs that occur on federal lands. See generally, American Indian Religious Freedom Act (AIRFA), 42 U.S.C. § 1996 (declaring federal policy of allowing Native access to religious sites on federal lands); *Bear Lodge Multiple Use Ass'n v. Babbitt*, 2 F. Supp. 2d 1448, 1454 (D. Wyo. 1998), *aff'd*, 175 F.3d 814 (10th Cir. 1999) (rejecting an establishment clause challenge to the temporary closure of Devil's Tower); Sandra B. Zellmer, *Sustaining Geographies of Hope: Cultural Resources on Public Lands*, 73 U. COLO. L. REV. 413, 442 (2002) (discussing tribal rights to "cultural items" on federal lands). The management of federal wilderness areas to accommodate people seeking spiritual experiences presents an even easier case than the Native American claims which depend upon *exclusive* access to certain lands.
