

# THE CONGRESS PROJECT

## *Assignment Prompt Sheet*

### **Wilderness Act of 1964**

#### **Overview**

**Act Title:** The Wilderness Act of 1964

**Congress:** 88<sup>th</sup> Congress (1963-1964)

**Session/Sessions:** 1-2

**Statute No:** 78 Stat. 890-96

**Public Law No:** 88 PL 577

**Eid:** 880577

**Gid:** 231-015

**Bill:** S 4

**Sponsor:** Sen. [Clinton Anderson \(D-NM\)](#)

**House Committees:** Interior and Insular Affairs

**Senate Committees:** Interior and Insular Affairs

**Companion Bill:** HR 9070

**Related Bills:** HR 9162

**House Rules:** Hres 804

**Past Bills:** 87 S 174; 87 HR 776

**Introduced Date- Law Date:** February 24, 1977-November 10, 1978

**House Floor Days:** 3

**Senate Floor Days:** 2

**Roll Call Votes:** 5 (1 in the House on HR 9070; 4 in the Senate on S 4)

**Issues:** environment; executive delegation

**Procedures:** floor amendments; open rule; committee power

**Last Updated:** 1/22/23



*(Above): Rep. John P. Saylor (R-PA), the author of the Wilderness Act of 1964 in the House. Dubbed “St. John” by some environmentalists, Saylor was widely viewed as being “ahead of his time” on issues related to conservation.*

*Photo credit: [Indiana University of Pennsylvania](#)*

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## Legislative History Comments

Sponsored by Senator Clinton Anderson (D-NM), the Wilderness Act of 1964 passed after a decade of pressure from environmental conservation groups. The measure established a “National Wilderness Preservation System and placed in it, immediately, about 9.1 million acres of federal lands from the National Forest System that had not yet been commercially exploited ([CQ Almanac 1964](#)).” Since its passage, “more than 100 laws designating wilderness areas have been enacted ([Hoover and Johnson 2018](#)).” Clinton and Lapinski (2006) rated the measure the 15<sup>th</sup> most impactful law passed by the 88<sup>th</sup> Congress (1963-1964).

The Wilderness Act is often credited as “the beginning of the modern, broad-based conservation movement ([Collins 1984](#)).” While some have argued that updating the act with a more interventionist approach to conservation would be welcome, the Wilderness Act is still frequently held up as “a shining moment in American environmental ethics ([Slate 2014](#)).” The most consistent criticism made against the Wilderness Act is that it has been underutilized and underfunded by Congress (see e.g. [the Atlantic 2019](#)).

Its passage in the 88<sup>th</sup> Congress was relatively straight-forward. It was adopted by the Senate [73-12](#). In the House, it was considered under an open rule and passed overwhelmingly by [a 374-1 vote](#). But this masked broader conflict over the measure that persisted since its original proposal decades earlier. Specifically, legislation had been proposed and killed by Western mining interests 1949 and more recently 1961. You’ll notice below that consideration of the 1961 measure (S 174 in the 87<sup>th</sup> Congress) is included in the process sections below. That measure was blocked by the House committee chairman.

The Senate passed S 4 at the start of the 88<sup>th</sup> Congress. Like the measure it passed in the previous congress, this bill was wildly supported by conservationists. The version of the bill that passed the House the following year (HR 9070) was viewed as a compromise measure. It included two major concessions to Western lobbying interests. First, it required mineral claims be permitted until 1983. Second, it included a requirement that new lands added to the system would first necessitate an act of Congress. Twenty-three pages long, opposition was largely concentrated among Southern Democrats and Western Republicans.

Regardless, procedurally, this measure should be pretty straight-forward. Passage occurred after five roll call votes, four in the Senate (three on amendments) and one in House. The House bill passed 375-1 and the conference report cleared both chambers by voice vote.

The U.S. Fish & Wildlife Service has a short video introducing folks to the Wilderness Act. It’s worth a look if you want a bit more background:

- <https://www.youtube.com/watch?v=Om6XLzPCyRY>

Don’t hesitate to e-mail me if you have additional questions.

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## Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1.

#2.

#3.

## Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

The Stathis (2014) piece might worth a citation here.

What happened in previous congresses regarding this? Had Congress considered comparable legislation? With this question, see [CQ Almanac \(1964\)](#).

2. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time?

As noted above, this measure has been credited as “the beginning of the modern, broad-based conservation movement ([Collins 1984](#)).” Explain this movement. Who was Howard Zahniser? What groups supported the effort? Who opposed it? How long had supporters been pushing for this law? Harvey (2009) and Ochs (1998) might be useful sources on these questions.

3. What specifically does this law do? What did existing federal policy look like in this specific issue area? Why did reformers feel it needed to be changed? Specifically, what is the National Wilderness Preservation System? How does it differ from the National Parks System?

What made the issue of executive branch delegation so contentious during consideration of this act?

[CRS \(2022\)](#) is worth looking at here.

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## Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. First session index for consideration of S 174 in the 87<sup>th</sup> Congress can be found below in the upper left. First and second session indices for S 4 are also below (second session is lower right). The second session index for HR 9070 is lower left.

S. 174—To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Mr. Anderson, Mr. Jackson, Mr. Kuchel, Mr. Lausche, Mr. Humphrey, Mrs. Neuberger, Mr. Randolph, Mr. Proxmire, Mr. Scott, Mr. Williams of New Jersey, Mr. Douglas, Mr. Byrd of West Virginia, Mr. Wiley, and Mr. Clark; Committee on Interior and Insular Affairs, 142, 368.—Reported with amendments (S. Rept. 635), 13633.—Debated, 18015, 18042, 18048, 18070, 18110, 18331, 18352, 18374.—

S. 174—Continued

Amended and passed Senate, 18400.—Referred to House Committee on Interior and Insular Affairs, 18652.

S. 4—To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Mr. Anderson, Mr. Kuchel, Mr. Humphrey, Mr. Jackson, Mr. Church, Mr. Lausche, Mr. Douglas, Mr. Williams of New Jersey, Mr. Randolph, Mr. Clark, Mr. Proxmire, Mrs. Neuberger, Mr. Metcalf, Mr. McGovern, Mr. Brewster, Mr. Yarborough, Mr. Long of Missouri, Mr.

S. 4—Continued

Mundt, Mr. Nelson, Mr. Hart, Mr. Morse, and Mr. Keating; Committee on Interior and Insular Affairs, 190, 467, 1179, 2785.—Reported with amendments (S. Rept. 109), 5628.—Ordered placed on the calendar, 5628.—Debated, 5754, 5885, 5922.—Amended and passed Senate, 5943.—Referred to House Committee on Interior and Insular Affairs, 6209.

S. 4—To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Amended and passed House (in lieu of H.R. 9070), 17458.—House insists on its amendments and agrees to a conference, 18612.—Conferees appointed, 18612.—Senate disagrees to House amendments and asks for a conference, 18024.—Conferees appointed, 18026.—Conference report (H. Rept. 1829) submitted in House and agreed to, 20626.—Conference report submitted in Senate and agreed to, 20601.—Examined and signed, 20812, 20926.—Presented to the President, 21048.—Approved [Public Law 88-577], 22024.

H.R. 9070—To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Reported with amendment (H. Rept. 1538), 15982.—Debated, amended, and passed House, 17427.—Proceedings vacated, laid on the table (S. 4 passed in lieu), 17458.

### *#1. Senate Consideration of S 174 (September 5-6, 1961)*

On September 5, 1961, Senate Majority Leader Mike Mansfield (D-MT) moved the Senate considered S 174, the proposed Wilderness Act. This was agreed to by voice vote. During debate, the Senate defeated a motion to recommit S 4 to committee by Senator Allen Ellender (D-LA) by a vote of [32-41](#).

Much of the two-day debate in the Senate focused on a provision in Senate bill that allowed the executive branch to determine which lands would be protected under the law. The decision to allow the executive branch to determine what measures would be protected under the act followed the approach taken in the Antiquities Act of 1906. This approach was strongly

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supported by the Kennedy administration, but had been opposed by a number of influential members of Congress.

Consistent with this, the leading opponent of the measure in the Senate, Senator Gordon Allott (R-CO), had introduced an amendment that would allow Congress to initiate process of protecting “wilderness areas.” This amendment was eventually defeated [32-53](#).

In support of the bill, Senator Wayne Morse (D-OR) argued that “one of the soundest reasons for support of the wilderness bill is from the standpoint of what it will do for the spiritual needs of Americans.” He accused opponents of carrying out the will of “powerful special interest lobbies (*Congressional Record*, 87<sup>th</sup> Congress, September 6, 1961, 18353).” Allott retorted that Morse’s arguments about spirituality stemmed from arrogance and despairingly asked him “by what right does [Morse] claim a closer kinship to God than I do? (*Congressional Record*, 87<sup>th</sup> Congress, September 6, 1961, 18358).”<sup>1</sup>

The Senate adopted S 174 [by a 78-8 margin](#) later in the day on September 6.

S 174 was not taken up by the House, which opted instead to consider HR 776. Language in HR 776 allowed by congressional control over wilderness lands in the same manner as the Allott amendment. House opposition to the Senate bill was led by the Chairman of the House Interior Committee, Rep. Wayne Aspinall (D-CO). Supporters of the measure, including Howard Zahniser, the executive director of the Wilderness Society and the man widely credited with drafting the Senate bill, aggressively criticized Aspinall.<sup>2</sup>

## ***#2. Senate Consideration of S 4 (April 9, 1963)***

On January 9, 1963, Senator Clinton Anderson (D-NM), introduced S 4, the Wilderness Act, which was promptly referred to the Committee on Interior and Insular Affairs. As Anderson, the committee chairman noted: “The measure, as introduced, is identical to the wilderness bill passed by this body on September 6, 1961, by a vote of 78 yeas to 8 nays with the exception of a change of one word, which is of no particular significance (*Congressional Record*, 88<sup>th</sup> Congress, January 9, 1963, 211).”

The measure had been reported out of committee on April 4, 1963. Later that week, Senator Mike Mansfield (D-MT), the Majority Leader, received unanimous consent to take up the bill on April 9<sup>th</sup>.

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<sup>1</sup> See also “Wilderness Bill Passes Senate by 78 to 8 Vote,” *Washington Post*, September 7, 1961.

<sup>2</sup> For example, Zahniser wrote that by blocking the Senate bill, Aspinall was taking the position of a champion of Congress, but in obstructing the Wilderness bill he has been frustrating Congress itself (Zahniser, Howard. 1962. “Letters to the Editor.” *The New York Times*, December 15.)

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In support of the measure, Senator Frank Church (D-ID) asserted it would be “regarded as one of the great landmarks in the history of conservation (Congressional Record, 88<sup>th</sup> Congress, April 9, 1963, 5942).”

Opposition to S 4 focused on both the potential impact the law would have on development and once again on the issue of executive power. In regards to the development issue, Allott (R-CO), had called the bill “a travesty” that “would lock up forever vast areas now visited by only a few.”<sup>3</sup> Allott was out of the chamber during debate over the measure, so opposition was led by Senator Peter Dominick (R-CO).

Two Dominick-Allott amendments were considered and defeated on the Senate floor shortly after the bill was brought up. The first of these sought to permit mineral claims until 1977. This fell [26-56](#). An amendment that would have excluded 6,000,000 “primitive” lands from inclusion was defeated [21-61](#).

Much of the Senate floor debate on April 9<sup>th</sup> was focused on another amendment requiring congressional approval of protected lands. This was also offered by Dominick (R-CO) on Allott’s behalf.<sup>4</sup> In support, he asserted the amendment would allow Congress to “retain its control over the National Park System (Congressional Record, 88<sup>th</sup> Congress, April 9, 1963, 5933-5934).” Opponents, like Church, argued the delegation was more effective and consistent with previous legislative action. Church took issue with the word “retain,” arguing the Dominick amendment really sought “to restore powers in Congress which have been hitherto delegated away.”<sup>5</sup> The congressional control amendment [was defeated 35-49](#).<sup>6</sup>

The Senate adopted S 4 by [a 73-12 margin](#).

### ***#3. House Consideration of HR 9070 & S 4 (July 28 & July 30th, 1964)***

Several companion bills had been introduced in the House. The two that generated the most attention were HR 9162, sponsored by Rep. John Dingell (D-MI) and HR 9070, drafted by Rep.

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<sup>3</sup> Blair, William M. 1963. “Senate Votes Wilderness Bill.” *The New York Times*, April 10.

<sup>4</sup> As noted above, Dominick had offered the amendment on Allott’s behalf, as the Allott was out of the chamber due to a death in the family. Allott’s amendment was defeated in 1961 by a 54-33 margin. See Duscha, Jessica. 1963. “Wilderness Bill Faces Key Senate Test Today.” *The Washington Post*, April 9; Blair, William M. 1963. “Feud Threatens Wilderness Bill.” *The New York Times*, April 10.

<sup>5</sup> Church continued: “The question is not one of retaining congressional power, but adoption of a method by which we shall re- capture congressional power (Congressional Record, 88<sup>th</sup> Congress, April 9, 1963, 5933-5934).”

<sup>6</sup> At least one member, Senator Thomas Dodd (D-CT) pointed to the executive delegation as justification for his opposition to the bill. Dodd stated: “Though I support the objective of this bill, I oppose its passage because it permanently delegates to the executive branch a constitutional power of the Congress (*Congressional Record*, 88<sup>th</sup> Congress, April 9, 1963, 5941).”

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John Saylor (R-PA). Conservationists preferred the S 4 to both of these measures. The House Interior and Insular Affairs committee would eventually report Saylor's bill, HR 9070, to the floor on July 2, 1964. A "compromise agreement" had been worked out weeks earlier in committee. Newspaper coverage noted the House measure included congressional control over Wilderness Lands, as it did in the previous Congress, in order "to satisfy the timber industry." HR 9070 also included a 25-year grace period on mineral claims.<sup>7</sup>

Prior to considering HR 9070, the House Rules Committee reported Hres 804. Rep. William Colmer (D-MS), noted that Hres 804 would make "in order consideration of [HR 9070]" under an open rule (*Congressional Record*, 88<sup>th</sup> Congress, July 28, 1964, 17224)." The rule was adopted by voice vote with minimal debate.

On July 30, 1964, as permitted by the rule, Aspinall moved the House consider HR 9070. This was agreed to by voice vote and debate on the bill commenced. Floor debate was overwhelmingly positive. Rep. James Haley (D-FL) praised Aspinall for not having "delegated to bureaucracy, so to speak, the prerogatives of the House (*Congressional Record*, 88<sup>th</sup> Congress, July 30, 1964, 17430)." And Rep. Mo Udall (D-AZ) asserted "if this Congress keeps up the way we are going I think we are going to be known as the "conservation Congress (*Congressional Record*, 88<sup>th</sup> Congress, July 30, 1964, 17438)."

Others took a more measured approach. Rep. James O'Hara (D-MI), for instance, noted that "this is a compromise bill and it is a good bill. It does not do everything that I would wish (*Congressional Record*, 88<sup>th</sup> Congress, July 30, 1964, 17435)."

After considering several floor amendments, the House adopted HR 9070 by [a 374-1 vote](#), with Rep. Joe Pool (D-TX) the lone no vote. The text of HR 9070 was then inserted into S 4 and S 4 was adopted by voice vote.

### ***#3. House Consideration of the Conference Report on S 4 (August 20, 1964)***

On August 20, 1964, Aspinall moved the House consider the conference report on S 4. He argued the final measure was essentially "the language of the House bill," with a few changes which were "not of major importance (*Congressional Record*, 88<sup>th</sup> Congress, August 20, 1964, 20629)."

The conference report agreement included the House language on congressional control, but lowered the grace period on mineral claims from 25 years to 20 ([CQ Almanac 1964](#)).

In support of the conference report, Saylor argued that "for those of us who are dedicated to conservation, today is a red letter day (*Congressional Record*, 88<sup>th</sup> Congress, August 20, 1964, 20630)."

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<sup>7</sup> See "House Unit Approves Wilderness Measure; Compromise Bill Likely to Clear Congress," *Wall Street Journal*, June 19, 1964.

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After several positive statement, the House adopted the conference report by voice vote.

## *#1. Senate Consideration of the Conference Report on S 4 (August 20, 1964)*

On August 20, 1964, Anderson moved the Senate consider the conference report on S 4.

In support of the conference report, Sen. Hubert Humphrey (D-MN), who had authored the measure in 1956, praised Howard Zahniser. Zahniser, the measure's primary advocate, had passed away several months earlier. Humphrey argued that in the eight years since he had authored the original Senate bill "we have learned" "that is one thing to speak out for the preservation of this Nation's precious wilderness areas, and it is quite another thing to enact a sound, fair, and meaningful national policy which makes that preservation possible (*Congressional Record*, 88<sup>th</sup> Congress, July 30, 1964, 20602)."

After a short debate, the conference report was adopted in the Senate by voice vote.

## **Member Spotlight**

Choose one of the following for your member spotlight:

**#1.** Sen. Mike Mansfield (D-MT); Sen. Allen Ellender (D-LA); Sen. Wayne Morse (D-OR); Rep. Wayne Aspinall (D-CO); Sen. Hubert Humphrey (D-MN)

**#2.** Sen. Clinton Anderson (D-NM); Sen. Frank Church (D-ID); Sen. Peter Dominick (D-CO); Sen. Thomas Dodd (D-CT); Gordon Allott (R-CO)

**#3.** Rep. John Saylor (R-PA); Rep. William Colmer (D-MS); Rep. Joe Pool (D-TX); Rep. James Haley (D-FL); Rep. Mo Udall (D-AZ); Rep. James O'Hara (D-MI)

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## Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing? As noted above, conservationists made several significant concessions in order to enact this measure. Were they still happy with the end result?
2. How has this law evolved over time? Has it been featured in any major Supreme Court cases? What impact did the Courts have? See e.g. Ruckel (1998).

What about Congress? Was this significantly altered by subsequent legislation? How often had Congress added and withdrawn lands from it? What were some of the more notable instances? For example, what happened with the Alaska National Interest Lands Conservation Act (96 PL 487)?

3. How have scholars viewed this measure? Successful? Limited? The *Wall Street Journal* asserted that under the enacted bill “the wilderness system would do little more, initially, than put a statutory fence around lands that are already shielded from development by U.S. Forest Service regulations.”<sup>8</sup> This view seems to be contradicted by subsequent analysis. Is that the case? Why or why not?

Specifically, how impactful were the compromises? Was the 20-year grace period for mineral claims problematic? What about the decision to require new lands be declared by an act of Congress instead of the executive branch? For example, some suggest the threat of the executive invoking the Antiquities Act has made the Wilderness Act more viable (see e.g. Lee 2018).

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<sup>8</sup> See “House Unit Approves Wilderness Measure; Compromise Bill Likely to Clear Congress,” *Wall Street Journal*, June 19, 1964.

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## Suggested Sources

### *Scholarly Articles*

Harvey, Mark WT. *Wilderness forever: Howard Zahniser and the path to the Wilderness Act*. University of Washington Press, 2009.

Ochs, Matthew J. "Defining wilderness: from McCloskey to legislative, administrative and judicial paradigms." *Denv. UL Rev.* 76 (1998): 659.

McCloskey, Michael. "Wilderness Act of 1964: Its Background and Meaning, The." *Or. L. Rev.* 45 (1965): 288.

McCloskey, Michael. "Wilderness movement at the crossroads, 1945-1970." *Pacific Historical Review* 41.3 (1972): 346-361.

Cawley, R. McGregor. "Biodiversity: Lessons from the US wilderness act." *Society & Natural Resources* 1.1 (1988): 205-214.

Callicott, J. Baird, and Michael P. Nelson, eds. *The great new wilderness debate*. University of Georgia Press, 1998.

Kammer, Sean. "Coming to terms with wilderness: The Wilderness Act and the problem of wildlife restoration." *Environmental Law* (2013): 83-124.

Marafiotte, Tracy. *Gender, race, and nature: A cultural history of the Wilderness Society and the Wilderness Act of 1964*. The University of Utah, 2006.

Lee, E. Scott. "The threat of monument designation as a technique for successful wilderness legislation: Using the Antiquities Act as a carrot or a stick." *The Social Science Journal* 55.4 (2018): 413-421.

Steinhoff, Gordon. "Interpreting the wilderness act of 1964." *Mo. Env'tl. L. & Pol'y Rev.* 17 (2009): 492.

Ruckel, H. Anthony. "The Wilderness Act and the Courts." *Denv. UL Rev.* 76 (1998): 611.

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## *Newspaper Pieces*

- <https://www.nytimes.com/2014/07/06/opinion/sunday/the-wilderness-act-is-facing-a-midlife-crisis.html>
- <https://www.nytimes.com/2019/09/09/opinion/letters/wilderness-trump-politics-extremists.html>
- <https://www.nytimes.com/2010/09/05/opinion/105wilderness.html>
- [https://www.washingtonpost.com/opinions/what-the-wilderness-act-gave-virginia/2014/09/05/4bd8c902-32ed-11e4-a723-fa3895a25d02\\_story.html](https://www.washingtonpost.com/opinions/what-the-wilderness-act-gave-virginia/2014/09/05/4bd8c902-32ed-11e4-a723-fa3895a25d02_story.html)
- <https://www.pewtrusts.org/~media/legacy/uploadedfiles/peg/publications/report/people20protecting20wildernesspdf.pdf>
- [https://www.washingtonpost.com/wp-srv/style/longterm/movies/videos/thewildernessideanrfilas\\_a09ea9.htm](https://www.washingtonpost.com/wp-srv/style/longterm/movies/videos/thewildernessideanrfilas_a09ea9.htm)
- <https://www.washingtonpost.com/archive/sports/1984/12/23/acting-for-wilderness-the-word-is-vigilance/dce4e227-d49a-4668-bf08-0e2c2b08fc89/>
- <https://slate.com/technology/2014/07/wilderness-act-turns-50-is-it-still-useful.html>
- <https://www.vox.com/2016/5/16/11666602/global-warming-national-parks>
- <https://www.theatlantic.com/national/archive/2014/03/a-caretaker-and-a-killer-how-hunters-can-save-the-wilderness/284416/>
- <https://www.theatlantic.com/science/archive/2017/03/how-the-epa-and-us-environmental-law-works-a-civics-guide-pruitt-trump/521001/>
- <https://www.theatlantic.com/science/archive/2016/12/how-the-environmental-movement-can-recover-its-soul/509831/>
- <https://www.wpr.org/conservationist-says-wilderness-act-had-huge-impact-revision-now-needed>
- <https://www.mtpr.org/arts-culture/2016-02-29/john-gatchell-on-the-history-of-the-wilderness-act>
- <https://www.resources.org/resources-radio/a-history-of-americas-public-lands-with-john-d-leshy/>
- [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5313909.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5313909.pdf)
- <https://www.nps.gov/subjects/wilderness/law-and-policy.htm>
- <https://www.motherjones.com/environment/2014/10/wilderness-act-most-underrated-law-1964/>
- <https://slate.com/technology/2014/07/wilderness-act-turns-50-is-it-still-useful.html>
- <https://www.nytimes.com/2014/09/02/opinion/still-time-for-a-conservation-legacy.html>