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Constructing wilderness: the nexus of preservation and ocean-space in the United States

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CONSTRUCTING WILDERNESS:
THE NEXUS OF PRESERVATION AND OCEAN-SPACE
IN THE UNITED STATES

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

in

The Department of Geography & Anthropology

by

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December 2012

Pour Mélanie, sans toi, je n'aurais jamais atteint la fin de cette aventure.

Pour Jacques Cousteau, sans lui, je ne connaîtrais guère l'océan.

Per la mia famiglia

For Carrie, Ronnie, and Wayne

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ABSTRACT

The ocean has long played a minor role in human geography; imagining it as natural space rather than an extractive space even less significant. This dissertation explores the most revered kind of American nature preservation: wilderness. Despite the millions of acres set aside as wilderness in the United States, no such designation exists for ocean-space as a discrete entity. Through the analysis of congressional hearings, bills, resolutions, public laws, and maps, this dissertation uncovers the complex constructs of the production of legal wilderness. Furthermore, it uncovers a novel vein of inquiry, that of the ocean as a preserved natural space. Looking to the Wilderness Act of 1964 and the Marine Protection, Research, and Sanctuaries Act of 1972, this research establishes how the former fails to construct ocean wilderness and how the latter does much the same. Despite the ocean's prominent place as the largest earth covering, the largest wilderness, and one of the most economically viable spaces on the planet, we systematically fall short in its preservation. With the limited exception of the 2006 advent of the Marine National Monument, most spaces are protected in varying degrees of conservation (resource extractive) rather than preservation (protection for inherent value). Furthermore, human geography has largely and paradoxically overlooked the spatial qualities of ocean-space; often looking only to its fringes (the littoral) and its surface-space as viable social domains. This dissertation proposes an additional layer of spatial construction, where volume and water column are as integral to the concept of the ocean as littoral and surface spaces; and, where the ocean is its own standalone, singular feature, rather than an appendage to adjoining lands.

CHAPTER 1—AN INTRODUCTION TO CONSTRUCTING MARINE WILDERNESS

*We do not discover new lands without first consenting to long lose sight of shore.*¹

André Gide

I have always known the ocean to be a natural space. In fact, I scarcely remember a time in my life where the ocean and its nature was not part of my cultural identity. I have always personally constructed ocean-space as nature, but it was not until I undertook formal environmental studies in graduate school that I realized that the United States does not legally construct the ocean as an equitable space of nature. Nearly at the same time I became interested in an American wilderness ethic and the distinct category of natural space that wilderness represents. It was not long before my JSTOR® searches combining ocean and wilderness came up with few returns. I wanted to know why wilderness exists and how it includes or precludes oceans from its framework. So, I created a framework for this dissertation that included an exploration and analysis of wilderness and ocean protection schemes. As a national tradition wilderness is the highest rung of protection and reverence that a natural space can achieve. Wilderness is as much a legal category as it is a cultural ideal, and understanding its origins within a culturally-informed legal framework of the United States is the basis and goal for this project.

The following research questions help guide this research toward its goals: (1). How does the United States construct legal wilderness? (2). How does the federal government of the United States construct protected ocean-space; and do those spaces constitute wilderness? The first question is a basis for the entire project with one simple caveat; I use an “ocean lens” in order to explore this question. The construction of wilderness is not a novel subject, however, the construction of wilderness vis-à-vis ocean-space is very much so. If we protect wilderness as the highest rung of uninterrupted nature, how then do we protect the nature of the ocean? Do we or can we bestow this honor on ocean-space? Through the analysis of legal documents, maps, brochures, images, and many other sources, I

¹ André Gide, *Les Faux Monnayeurs* (Paris: Gallimard (1972 (1926))); translation by Ryan Orgera.

create an accountability of pieces leading toward an in-depth account of a national construction of the natural characteristics of ocean-space.

This research builds a narrative, from disparate government documents, of a national statutory and regulatory engagement of ocean-space as nature. Using the research questions as guiding rails, the trajectory of this research follows the progression of these questions: from wilderness/ocean to ocean/wilderness. As this is fundamentally an inquiry into the natural space of the ocean as a legal entity, the field of geography's situation and tradition are important to this overarching engagement. Chapter 1 explores geography's ocean and wilderness traditions, and offers readers a thorough exploration of how my research builds on and bifurcates from considerable geographic precedence. The following analytical and empirical chapters are focused explorations of pertinent kinds of governmental oceanic engagement.

My analysis of federal marine systems begins with Chapter 2. Therein, I analyze the passage of the Wilderness Act. Through the analysis of hearings, bills, and resolutions, this chapter elucidates the congressional wilderness sentiment vis-à-vis ocean-space. Chapter 2 provides a basis for the remainder of the dissertation as it explores the legal basis for wilderness designation in the United States. As the Wilderness Act endows those appropates and defines hose wilderness agencies, Chapters 3 and 4 assess how different agencies engage ocean-space.

Chapter 3 analyzes the United States Department of Agriculture as the first of the wilderness department. Through its U.S. Forest Service, it manages large swathes of coastal wilderness in the state of Alaska. In Chapter 3 I propose a new category of "coastal wilderness," and establish those designated wildernesses in the Forest Service as either coastal or otherwise. The Forest Service exhibits a systematic convolution unlike any other wilderness agency when it comes to the construction of their ocean-space. Nearly half of the time maps and other documents portray the ocean as being integral parts to coastal

wildernesses within their holdings, and others do quite the opposite. The consequent chapter explores the Department of the Interior as the other wilderness department.

Chapter 4 explores the interface of wilderness and ocean within the various agencies of the Department of the Interior (DOI). Much like the Forest Service, the Bureau of Land Management has a dual role of economic and natural guardians, and very much shares the Forest Service's ambiguity toward ocean-space. The National Park Service and the U.S. Fish and Wildlife Service both show conscious ocean-space engagement, and manage considerable marine spaces when compared to the other wilderness agencies. Their engagement though, especially concerning ocean wilderness, is nonetheless complicated. The engagement of DOI's agencies underscores the need for clear ocean wilderness guidelines in the federal government.

Chapter 5 explores the idea of wilderness and its applicability to those ocean spaces that the federal government protects. It also explores the various ways in which the executive and the legislative branches of the federal government protect ocean-space, and to what extent wilderness designation is feasible. Furthermore, like Chapter 3, it engages congressional constructs of ocean-space vis-à-vis wilderness through the Marine Protection, Research, and Sanctuaries Act of 1972 (among others). This time, instead of looking for ocean concepts in hearings dealing with wilderness, I looked for wilderness concepts present in congressional hearings pertaining to ocean-space.

METHODS

Analyzing the social and legal construction of ocean-space/wilderness requires the use of a wide array of documents. In understanding why government policy includes or excludes ocean-space in wilderness (legally), we can better understand how socially we arrive at these conclusions. This research deals largely with legal documents, and analyzes two major pieces of legislation: the Wilderness Act of 1964

and the Marine Protection, Research, and Sanctuaries Act of 1972.² These two acts have the closest ties to wilderness in both terrestrial and marine settings. The Wilderness Act, written by Howard Zahniser of the Wilderness Society,³ is a document of tremendous importance to wilderness protection in the United States. What the document does not mention is marine environments. This is where the MPRS takes the baton from the Wilderness Act. What we know is that Zahniser and the Wilderness Society are/were principally concerned with terrestrial space.⁴

There are several ways to investigate a bill's passage and committee selection. First, I consulted the following for complete committee and member information on both bills: Congressional Almanac, Congress and the Nation, Congressional Digest, and Digest of Public General Bills and Resolutions 1936-1990. Each of these is available at LSU's Middleton Library, and is a reference that explains each part of passage or failure of legislation, amendments, and modifications of a bill. The debate and testimony that took place in the committee will be the central focus of my research. Using the CCH Congressional Index, which is part of the Federal Collection at the Paul M. Hebert Law Center, I obtained transcripts of all public hearings surrounding a bill's creation and ratification. Therein lays my primary research tool: qualitative content analysis.

Such analysis takes many forms, but carries the common thread of assisting in systematizing subjective material. It is "also useful for examining trends and patterns."⁵ While the analysis is dependent on the researcher, using systematic measures allows for more consistent results. For instance, searching for a common set of words in congressional hearings standardizes the search parameters, and leads to an evenhanded approach for the various hearings treated throughout this dissertation. Each hearing is a singular document and exists only at the will of a committee's

² Amended and reauthorized in 1980, 1984, 1988, 1992, 1996, and 2000.

³ Peter Landres et al., "The Wilderness Act and Fish Stocking: An Overview of Legislation, Judicial Interpretation, and Agency Implementation," *Ecosystems* 4, no. 4 (2001), 287-295.

⁴ The Wilderness Society, "About Us," 1 July 2012, <http://wilderness.org/about-us> (accessed 21 July 2012).

⁵ Steve Stemler, "An Overview of Content Analysis," *Practical Assessment, Research, and Evaluation* 7, no. 17 (2001), <http://PAREonline.net/getvn.asp?v=7&n=17> (accessed 15 July 2012).

chairperson. Hearings often stray from an assigned topic, usually briefly, but nonetheless it occurs. Analyzing a hearing is similar to literary analysis, but requires a stricter framework expected of social scientists. Qualitative analysis is very much a set of tools used to limit subjectivity in analysis, and I employed it to these ends.

The task I assigned is to try and glean several things from the witness testimony, the statements by the elected members, and the general back-and-forth that occurs during these meetings. From the passage of the Wilderness Act, I sought to find out whether or not there is mention of marine environments. Moreover, I was able to gauge whether or not congress considered ocean wilderness as part of its deliberations of the Wilderness Act of 1964. Additionally, I applied the same tools to the passage of the Marine Protection, Research, and Sanctuaries Act of 1972, where I sought to find mention of wilderness during these ocean-themed hearings. The analysis throughout this dissertation is qualitative in spirit but based on datasets I created from legislative and executive documents. The datasets included frequency of the repetition of ocean themes and the rate of occurrence and lengths between the omissions thereof. With the assistance of Nvivo9 software, I was able to create datasets which led to the construction of narratives about the concept of ocean-as-wilderness in the legislative process. Nvivo9, and most similar content analysis software, allows researchers to find structure using unstructured materials. For instance, I uploaded a hearing document (PDF) into the Nvivo9 interface and created parameters from extensive possibilities. These parameters are adjustable depending on the format of the result sought: chart, table, bookmarks, or raw text. I used each of these outputs as they add layers to the complex stories born from congressional hearings. Using assistive software is the most efficient method to achieve this kind of research. Much of the software's output is in an abridged, albeit extensive, format. This requires traditional methods of "close-reading" analyses. Close-reading borrows heavily from the humanities.

Many scholars celebrate the use of such “mixed methods.” For instance, in *The Sage Handbook of Qualitative Geography*, Sarah Elwood’s condones the use of two diverse methods to arrive at one final product.⁶ Maria Mies too believes that blending is possible and often necessary.”⁷ Moreover, Jean-Bernard Racine believes that the divide can be subtle in research, and that there is no reason why researchers cannot take advantage of both traditions.⁸ Following their models, I undertook a set of methods that worked well and thoroughly together; all-the-while adhering to the rigors of Cartesian-inspired qualitative analysis framework.

The kinds of documents used in this analysis vary from chapter to chapter, but almost universally include the use and understanding of some form of policy. The analysis of policy is complex as it changes depending on one’s angle of research. My research does not question the legality of individual policies, rather it looks at how the legal confines preclude or include ocean-space. My understanding of policy as a research datum comes in part from Jill Blackmore and Hugh Lauder thoughtful framework for “Research Policy.”⁹ As they indicate, policy exists in many forms and requires clear goals in using it as a research tool. This dissertation uses a variety of policy and less formal documents ranging from public laws to congressional hearings.

⁶ Sarah Elwood, “Mixed Methods, Thinking, Doing, and Asking in Multiple Ways,” in *The Sage Handbook of Qualitative Geography*, ed. Dydia Delyser et al., (Thousand Oaks, Calif.: Sage, 2001) (electronic edition), 94-102.

⁷ Maria Mies, “Quantitative and Qualitative Methods in the Social Sciences: Current Feminist Issues and Practical Strategies,” in *Beyond Methodology*, ed. Mary Margaret Fonow & Judith A. Cook (Bloomington: Indiana University Press, 1991), 66-80.

⁸ Jean-Bernard Racine, “Géographie quantitative – géographie qualitative: le sens et la portée d’un débat,” in *Quantitative and Qualitative Geography*, ed. Hugh French and Jean-Bernard Racine (Ottawa: Occasional Papers, 1971), 1-14.

⁹ Jill Blackmore & Hugh Lauder, “Researching Policy,” in *Research Methods in the Social Sciences*, ed. Bridget Somekh and Cathy Lewin (Thousand Oaks, Calif.: Sage, 2005), 97-104.

WILDERNESS SPACE AND OCEAN-SPACE IN GEOGRAPHIC TRADITION

*In Wildness is the preservation of the world.*¹⁰

-Henry David Thoreau

The discipline of geography is expansive; having developed studies as varied as dune field migration in Mexico to considerations of political affect in London. Human geographers practice the study of *locus*; where we are as humans in every sense possible. The social sciences in general understand most keenly the *land* on which we live, and to a lesser degree the ocean on which we border. Geographic analysis of the social engagement of ocean-space pales in comparison to its rich traditions of terrestrial studies. Considering ocean-space as a part of a social patchwork is something that geography tends to approach with reticence. Conversely, geographers have, with little reticence, spent considerable energy on the study of wilderness. Despite the exact contradiction to civilization that wilderness represents, social scientists have been able to engage legal wilderness space in a more systematic fashion. Wilderness, like the ocean, is a space where humans do not abide. In fact, for at least two millennia, the Western concept of wilderness poses humans at odds with nature. Wilderness has long been a space of foreboding, fearsome forces. While there are still elements of fear in American constructs of wilderness: wolf packs, charging grizzlies, sweltering deserts, or languid swamps; there is also reverence. This cultural reverence and fear betrays commonalities in both the ocean and *terra firma*. If wilderness, as experienced socially, requires a sense of otherness, a sense of reverence, and a sense of fear, then ocean wilderness is fundamentally similar to terrestrial wilderness space; however, both spaces remain divided as drastically dissimilar social spaces. I argue that in order to further develop the idea of wilderness, we must look seaward, and in order to protect the ocean in a spirit of equality, we must look to wilderness.

¹⁰ Henry David Thoreau, "Walking," *The Atlantic Monthly* 9, no. 56 (1862), 667.

This dissertation research draws from framework established by historians Bernard Bailyn and Jerry Bentley, as well as geographers M.W. Lewis, Karen Wigen, and Philip Steinberg. We share the conviction that the study of the ocean as a distinct feature rather than a sinewy connector between landmasses is a new paradigm.¹¹ Furthermore, I believe that geographers must be at the helm of these new lines of inquiry. As masters of the study of spaces, geographers have largely overlooked the watery mass of the ocean and focus most keenly on its fringes (the littoral) and its surface-space. For instance, Jerry Bentley explores the social importance of the world-ocean, and criticizes historians for focusing too keenly on the nation-state, and not on larger, less politically contiguous units like the oceans.¹² “They [oceans] are especially useful for bringing focus to processes of commercial, biological, and cultural exchange, which have profoundly influenced the development of both individual societies and the world as a whole.”¹³ Bentley seeks to create a web-like connection between land and oceans; a larger tableau of interconnectedness. However, Bentley refers most accurately to the water’s surface, as a sort of liquid roadway between continents and ideas. Though, Bentley shows there are often themes that spill over the boundaries of national borders, and require larger, broader vistas. Bentley suggests that we look to oceanic basins: Atlantic world or Mediterranean world, rather than simply looking to Brazil and/or Malta. This is something that Martin Lewis and Karen Wigen underline in their article “A Maritime Response to the Crisis in Area Studies.”¹⁴ Bentley, like Lewis & Wigen, believes that the ocean is more about trans-oceanic connections rather than the collision of seawater to nation-state. Once again, that what both Bentley and Lewis & Wigen neglect is the actual space of the ocean, and for them, the Atlantic is more a means of transport (commerce) than any standalone feature existing outside of the terrestrial and the human. As historian Bernard Bailyn points out, using geographer Donald Meinig

¹¹ Martin W. Lewis & Karen. Wigen, “A Maritime Response to the Crisis in Area Studies,” *Geographical Review* 89, no. 2 (1999), 161-168.

Bernard Bailyn, *Atlantic History* (Cambridge, Mass.: Harvard University Press, 2005).

Jerry Bentley, “Sea and Ocean Basins as Frameworks of Historical Analysis,” *Geographical Review* 89, no. 2 (1999), 215-224.

¹² Bentley, “Sea and Ocean Basins as Frameworks of Historical Analysis.”

¹³ *Ibid.*, 215.

¹⁴ Lewis & Wigen, “A Maritime Response to the Crisis in Area Studies,” 161-168.

for support, the shift toward a formalized Atlantic history means that the Atlantic basin becomes a circuit board rather than the traditional void.¹⁵ Ideas and cultures, per Bailyn and Meinig, are in flux, a flux where the idea of the ocean itself is part of social exchange. Meinig writes that the Atlantic was “the scene of a vast interaction rather than merely the transfer of Europeans onto American shores.”¹⁶ This dissertation research builds on the goals of Bentley, Lewis and Wigen, Bailyn, and Meinig: a more meaningful engagement of ocean connections; however, my scholarship seeks to insert the ocean as its own natural feature, as its own un-terrestrial space worthy of understanding. While these authors make the case for inserting the ocean into mainstream social science research, they nonetheless focus on the surface-space of the ocean, and neglect the fact that the ocean is a natural space as well. My research engages more than just surface-space, and emphasizes the spatial makeup of ocean-space rather than the idea of its breadth. Thus, through engaging the natural space of the ocean, I provide an additional dimension to geographic ocean scholarship.

Though two disparate traditions in geography, the study of ocean and wilderness, I find two fundamental lacunae. The first is the lack of oceanic engagement by those geographers studying wilderness, and the second is the lack of wilderness engagement by marine-coastal geographers. The ocean is the largest wilderness on the planet, and while this is true, much of geographic scholarship engages the idea of legal wilderness. American ocean-space is overwhelmingly not legal wilderness. The reasons for this are complex and often convoluted; they range from a politically-charged desire to render the oceans first an extractive space, to an inability to imagine ocean-as-nature. This dissertation uses the framework established by both wilderness and marine traditions to question the legal and social oceanic engagements of the United States. While both traditions are separate scholarly entities, they stand to enrich themselves through mutual engagement. Wilderness studies have a considerable

¹⁵ Bailyn, *Atlantic History*, 55.

¹⁶ Donald W. Meinig, *The Shaping of America: A Geographical Perspective on 500 Years of History: Atlantic America, 1492-1800* (New Haven: Yale University Press, 1986), 64.

history in the field of geography, and have largely run their course; whereas ocean studies are nascent in human geography, and require footings from which diverse studies can launch. This dissertation research proposes the ocean as a viable space of wilderness inquiry and wilderness as a new way of understanding the natural spaces of the ocean. Through these two lines of inquiry this dissertation uncovers a largely overlooked nexus, that of legal wilderness and ocean-space. This dissertation is the first extensive geographic investigation analyzing the American national tradition of wilderness preservation as it can be applied to the ocean, and it seeks to recast both the geography of wilderness and the geography of ocean-space. By forcing mutual recognition and engagement, these two previously separate lines of inquiry converge to create one singular field of query: the preservation of the ocean as a space. Much of what geographers and other social scientists have uncovered centers around the ocean as a source of extraction and a void defined by commercial process rather than a space of inherent, extra-economic value, and of actual geometric dimension. While much of this research is novel in its methods and results, it is nonetheless firmly anchored in considerable tradition. It is based in geographic thought, and borrows from political, economic, physical, and cultural geography; aspects of each appear throughout. Using these foundations, I seek to reinsert the ocean as its own category of social construction, as its own un-terrestrial natural space worthy of geographic analysis.

GEOGRAPHY AND WILDERNESS

In order to define wilderness in scholarly terms, we have to understand some of its disparate definitions. Geographer Lary Dilsaver defines wilderness as a “wild and uncultivated area marked by minimal human influence on the natural environment and its processes.”¹⁷ The Wilderness Act of 1964 defines it as: “in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and community of life are untrammelled by man, where man himself is a

¹⁷ Lary Dilsaver, “Wilderness,” in *Encyclopedia of Human Geography*, ed. Barney Warf (Thousand Oaks, Calif.: Sage Publications, 2006), 540. see also: Max Oelschlaeger, *The Idea of Wilderness* (New Haven: Yale University Press, 1991).

visitor who does not remain.”¹⁸ “Untrammelled by man,” “minimal human influence,” “man himself is a visitor who does not remain,” each of these statements minimizes humanity from ongoing works in wilderness or its processes. In order for wilderness space to exist, it must be just that: wild and visibly unhumanized. And, no space is wilder on such a vast scale as the ocean. Furthermore, no important definition, legal or academic, actively excludes the ocean. Rather, I have found that the ocean is too spatially distinct for it to fit comfortably into historical and most contemporary wilderness frameworks. Understanding what wilderness has been in the United States provides some paths that can lead to a clearer understanding of how to include ocean within and as an aside to this rich tradition.

From recreation to “lions, tigers, and bears,” wilderness means so many different things to so many different people. “To some it connotes a place for a certain kind of physically challenging recreation; to still others it connotes a habitat for big, fierce predators.”¹⁹ Beyond a person-to-person, individual sentiment, the cultural concept of wilderness has shifted over the course of human history. As William Cronon writes of biblical concepts of wilderness in *Uncommon Ground*, it was a wasteland, where wild beasts roamed, and where humans felt at utter odds.²⁰ Our contemporary idea of wilderness has oscillated between positive and negative; to preservation and conservation; and human and nonhuman: “wilderness changed from the stronghold of the devil to the handiwork of God, from something viewed with fear and loathing to something lovely and divine.”²¹ These ideas of wilderness have a long tradition in various cultures throughout history. How humans create ideas of wilderness depends largely on one’s nation of origin: for instance Americans picture our own wilderness, whereas a more humanized (highly urban) nation like France may be more apt to picture the wilderness of their former African colonies or overseas territories. Furthermore, the word “wilderness” does not exist in French, Italian, or Spanish; it is a Germanic word in origin. In French the only way to approximate a

¹⁸ The *Wilderness Act* of 1964 (Pub. Law 88-577).

¹⁹ Michael Nelson & J. B. Callicott, eds., *The Wilderness Debate Rages On*. (Athens: University of Georgia Press, 2008), 5.

²⁰ William Cronon, ed. *Uncommon Ground: Rethinking the Human Place in Nature* (New York: W.W. Norton & Company, Inc.).

²¹ Nelson & Callicott, *The Wilderness Debate Rages On*, 6.

wilderness is: *étendue sauvage* (wild expanse), in Italian *landa selvaggia* (wild/barren land), or in Spanish *tierra salvaje* (wild land). These terms are not to be confused with each of these languages' ability to express a sentiment of "wasteland;" though this sentiment is very different from the wilderness tradition I analyze in this research (French: *terrain vague*; Italian: *terra incolta*; Spanish: *páramo*). These languages reaffirm what William Cronon wrote of biblical lands, each languages deferring to its word for desert where in English we use the word for wilderness (*désert, deserto, desierto*.)²² The concept of wilderness is truly cultural and linguistic.

The Romantic Movement began in the nineteenth century. The Romantics were passionate about the aesthetic value of space. While this movement began in Europe it made its way to the United States. America's most famous Romantic, Henry David Thoreau is also one of its most prized environmental thinkers. Thoreau relished the spiritual bond with wilderness, or possibly with the lack of civilization. In *Walden; or, Life in the Woods* Thoreau seeks simplicity in living in a largely nonhumanized space; nonhuman spaces, according to Thoreau, were ancient, purer, and less disturbed than humanized spaces.²³ The nonhuman was considered a sacrosanct space. Thoreau's contemporary, also a Romantic, Ralph Waldo Emerson published an essay entitled: "Nature," and therein he writes: "in the woods, we return to reason and faith."²⁴ While Emerson's essay focuses more acutely on the ideas of faith and Reason, his use of a wilderness as a space to reconnect with both ideals, dovetails with the shift in the idea of natural spaces in the nineteenth century. In 1864, George Perkins Marsh published *Man and Nature*. Marsh, drawing on his extensive time spent in the Mediterranean basin as an American diplomat, wrote *Man and Nature* as proof that human action could be injurious to natural processes and space. Marsh studied the northern woodlands of Italy, the fields of southern Italy, and the fisheries of central Italy. Marsh discovered that human actions on the land could affect fisheries, deforestation

²² Genesis 14:6 & Matthew 24:26; William Cronon, "The Trouble with Wilderness; or, Getting Back to the Wrong Nature," in *Uncommon Ground: Rethinking the Human Place in Nature*, ed. William Cronon (New York: W.W. Norton & Company, Inc.), 69-90.

²³ Henry David Thoreau, *Walden; or, Life in the Woods* (Boston, Mass.: Shambhala, 2004).

²⁴ Larzar Ziff, ed., *R.W. Emerson: Nature and Selected Essays* (New York: Penguin Books, 2003), 39.

could cause erosion, and that systematic modifications can lead to infertile soils.²⁵ Marsh effectively divided humans and nature: destroyer and destructed. Marsh's scientific (and cultural) observations were revolutionary, and paved a path for other great thinkers of the nineteenth century. By the end of that century and the beginning of the twentieth century, John Muir likened non-humanized spaces to cathedrals, further drawing on Thoreau's sanctification of wilderness: "As well dam for water-tanks the people's cathedrals and churches, for no holier temple has ever been consecrated by the heart of man."²⁶ In this comparison, Muir compares a valley to Notre Dame of Paris, Aachen, or the St. Peters in the Vatican, each a masterpiece from its respective architectural epoch: nature as perfection, as art, as cultural icon was revolutionary. Muir also drew on Marsh's concepts of humans as destructors, as he was trying to save Hetch Hetchy valley from damming.²⁷ John Muir's writings were instrumental in establishing the practice of preservation, through which non-human spaces were preserved for their intrinsic value rather than economic value. Muir's ideas contributed to the *Organic Act* of 1916 that created the National Park Service.

Central to an American debate on wilderness is the debate between preservation and conservation. Preservation is couched in Muir's writings on the intrinsic importance of natural space, free of economic value.²⁸ A space is worth exactly what it presents: a tree is worth a tree, a deer a deer, a shark a shark, and so forth. We preserve to keep intact the essence of a natural space. Federally designated wilderness areas are the benchmark measure of preservation in the American governmental system. Conservation represents a marked contrast to preservation. Both movements and philosophies developed in the early twentieth century. Both draw heavily on Marsh's premise that humans injuriously modify natural spaces; however the fundamental difference between the two philosophies is economic. Conservation is based in resource management. Theodore Roosevelt and Gifford Pinchot, both

²⁵ George Perkins Marsh, *Man & Nature* (Cambridge, Mass.: Harvard University Press, 1965 (1864)).

²⁶ John Muir, *The Yosemite* (San Francisco: Sierra Club Books, 1988 (1912)), 4.

²⁷ Chris Highland, *Meditations of John Muir: Nature's Temple* (Berkeley, Calif.: Wilderness Press, 2001).

²⁸ *Ibid.*

politicians, wrote extensively on conserving resources (raw material and game) for later use. This concept mirrors their economic premise. Like we save money to ensure we can buy a car next year or in five, conservationists hoped to save trees for paper tomorrow, deer for sport tomorrow, or rivers for drinking next week. Especially Pinchot tied economic value to forests, and his work led to the establishment of the proto-National Forest Service in 1897.²⁹ While the National Forest Service principally protects spaces from certain types of development, its central goal is not to protect its wilderness (though it does do this too), and it profits from licensing for logging and removal of timbers. Conservation's central tenant is using resources and managing them for future use. Preservation's central tenant is natural space preservation for the sake of preservation. Hybrids of the two concepts have evolved, and certain areas are protected in the spirit of both: national parks, wildlife management areas, reserves, and state forests. These categories developed in different veins of the ideal of wilderness.

Ideas of wilderness shifted with the momentum of the twentieth century. One of the United States' strongest wilderness advocates, Aldo Leopold, published *A Sand County Almanac: and Sketches Here & There* in 1949. Leopold's work is especially important for creating a land ethic. One of his core principles was (semi)equal rights for natural spaces: "A land ethic of course cannot prevent the alteration, management, and use of these 'resources,' but it does affirm their right to continued existence, and, at least in spots, their continued existence in a natural state."³⁰ *A Sand County Almanac* created a national standard for a land ethic, following a hybrid model of preservation and conservation. The National Wildlife Refuge System uses as one of its guiding principles: "We are land stewards, guided by Aldo Leopold's teachings that land is a community of life and that love and respect for the land is an

²⁹ Char Miller, *Gifford Pinchot and the Making of Modern Environmentalism* (Washington, D.C.: Island Press, 2001).

³⁰ Aldo Leopold, *A Sand County Almanac* (New York: Oxford University Press, 1949), 204.

extension of ethics.”³¹ The very essence of the National Wildlife Refuge System is, like Leopold’s ethic, a hybrid system of protection. Leopold’s “teachings” are among the most influential in modern American environmental history, and certainly have forged American land ethics and politics in their image. No other work has defined so succinctly how Americans protect their natural spaces. While Marsh, Thoreau, Emerson, Muir, and Pinchot have each carved indelible marks onto the cultural and legal understanding of wilderness, no one has so effectively shaped our understanding as Leopold.

Following Aldo Leopold’s 1949 publication of *A Sand County Almanac*, Henry Nash Smith explained the American West as a space and phenomenon of collective, cultural myths and symbols. Smith explores the yeoman’s interaction with the “garden” of the West.³² While I would not consider *Virgin Land* a wilderness work per se, it offers a look into how humans envisioned the nonhuman; nature as a tamable feature in the nineteenth century. What this 1950 work does, is effectively reinforce a Marshian idea that humans act upon nature with greater force than nature upon humans. In a similar vein, Clarence Glacken published *Traces on the Rhodian Shore* in 1967. Glacken excavated the history of human-environment relations in Western Thought from Classical Antiquity to the end of the eighteenth Century. Glacken treats three major ideas or themes in his 750-page tome: (1) earth as designed for man, (2) environment influences on human culture,³³ and (3) “that mankind fulfills its purpose on earth by bringing order to nature and mastering it.”³⁴ Glacken’s ideas transfer to the ideas of wilderness and the role of non-human processes in culture and as separate realities unfettered by human agency. *Traces on the Rhodian Shore* is a monument of scholarship tracing the development of Western concepts of human-environmental relationships, including human agency in modifying the earth’s surface.

³¹ Fish and Wildlife Service, “National Wildlife Refuge System Mission Statement,” July 2010, <http://www.fws.gov/refuges/about/mission.html> (accessed 4 Aug. 2012).

³² Henry N. Smith, *Virgin Land: The American West as Symbol and Myth* (Cambridge, Mass.: Harvard University Press, 1950).

³³ Clarence Glacken, *Traces on the Rhodian Shore* (Berkeley: University of California Press, 1967).

³⁴ William G. Palmer, “Environment in Utopia: History, Climate, and Time in Renaissance Environment Thought,” *Environmental Review* 8, no. 2 (1984), 163.

Scholar and environmentalist Paul Brooks wrote *The Pursuit of Wilderness*. Brooks' work is timely and representative of a 1960-1970s mindset in the United States. Brooks struggles with the injustice of American land ethic. *The Pursuit of Wilderness* is homage to wilderness and to non-human space. Brooks' work challenges cultural and legal norms of wilderness management. He especially resents the misuse of the idea of private property, that which is not governed by collective cultural norms of ethical treatment of land.

We shall never understand the natural environment until we see it as a living organism. Land can be healthy or sick, fertile or barren, rich or poor, lovingly nurtured or bled white. Our present attitudes and laws governing the ownership and use of land represent an abuse of the concept of private property.... Today you can murder land for private profit. You can leave the corpse for all to see and nobody calls the cops.³⁵

In a similar vein, Michael Frome published his 1974 *Battle for the Wilderness*. Like Brooks, Frome is a scholar and environmentalist. Frome writes "Wilderness is controlled by no rules or evident objectives. It is more than a place, but equally an idea, a principle, a state of mind, even a dream."³⁶ "The principles of wilderness are based on the completeness of all life, rather than on the dominion of man alone. The principles are not new or restricted to science but extend to the artistic, ethical, spiritual, or religious, as well."³⁷ Frome continues "Wilderness is where man's sounds, chemicals, and other byproducts of civilized life are not dominant. It can be any area where nature prevails or might prevail given the passage of time."³⁸ Frome is thus a believer that wilderness is a space where human history is of minor importance. *Battle for the Wilderness* chronicles the passage of the Wilderness Act, the Endangered Species Act, and the Wild and Scenic Rivers Act. Frome places the battles for the passage of these monumental pieces of legislation, in the larger environmental struggles unfolding in the 1960s and 1970s in the United States. In doing so, Frome also is able to make the case for conservation as an integral part of American history. Frome establishes what he calls "wilderness values." These values are

³⁵ Paul Brooks, *The Pursuit of Wilderness* (Boston: Houghton Mifflin Company, 1971), 124.

³⁶ Michael Frome, *Battle for Wilderness* (New York: Praeger Publishers, 1974), 11.

³⁷ Ibid.

³⁸ Ibid.

born from the inspiration provided by America's "primitive lands." He argues that without such a backdrop many of America's artists would have lacked such inspiration and therefore American culture would not be what it is today. *Battle for the Wilderness* also traces environmental philosophy until the signing of the Wilderness Act. His work reaffirms that the 1960s (and 70s) are the highlife of American wilderness protection legislation. With a decidedly more economically driven political climate in the 1980s, environmental scholarship became more and more policy oriented. It was imperative to focus on the ratification of existing legislation and not the hope of passage of new groundbreaking acts.

In 1982, Craig Allin published *The Politics of Wilderness Preservation*. Allin's work is descriptive, and chronicles the history of American wilderness thought and policy. Its economic premise is telling of the time in which Allin wrote. Allin sets forth three changes in the American experience vis-à-vis the wilderness: (1) destruction led to the belief that wilderness is scarce, (2) wealth has allowed Americans to appreciate the non-monetary value of wilderness, and (3) industrial capitalism has abused the earth, and people grew tired of this.³⁹ Economic pressures on wilderness are a central theme in this work: it portrays politics as the intermingling of actors (people), economics (money), and wilderness. This wilderness state and struggles on its behalf are hardly new ideas, and therefore, Michael Cohen rehashed and delved deeper into the ideas of John Muir. Cohen hoped to clarify Muir's thoughts and writings in order to clarify his philosophies and legend. In *The Pathless Way: John Muir and the American Wilderness*, Cohen looks to separate Muir's thoughts and the works he produced for larger audiences. Cohen points out that John Muir was far more radical than his works would lead readers to believe. But beyond simply engaging Muir's past, Cohen also engages the Thoreauvian and Muirian ideals of sacred nature. As Cohen underlines, Muir did not focus on the anthropogenic changes of the land as parts of natural fabric, rather he sought to understand wilderness as a nonhumanized entity. This idea is something that William Cronon challenges in *Changes in the Land: Indians, Colonists, and the Ecology of*

³⁹ Craig Allin, *The Politics of Wilderness Preservation* (Westport, Conn.: Greenwood Press, 1982), 5.

New England. Cronon explores the shift of New England's plant and animal communities (nature) that happened when European dominance eclipsed Native. It emphasizes how peoples interacted with their surroundings. Cronon writes: "Ecological abundance and economic prodigality went hand in hand: the people of plenty were a people of waste."⁴⁰ What Cronon uncovered about the early European settlers of America, the United States was reliving in the 1980s and 1990s. Thomas R. Vale, an occasional critic of Cronon, wrote *The American Wilderness*, wherein he insists that nature protection is "an act of place-creation."⁴¹ Vale's greatest contribution to geography and wilderness studies is his treatment of cultural ideas of nature and the constitution of American collective nature. This is something that Roderick Nash famously did, historically, in *Wilderness and the American Mind*. Nash focuses directly on what constitutes wilderness in an American tradition. Nash's work is important as a tool for explaining how American ideals of wilderness differ from European or any other region. Nash establishes a distinctly American way of understanding wilderness both contemporarily and historically: i.e. Americans have always lived on the edge of great expanses, therefore rather than wanting to feel inferior somehow, Americans embraced an abundance, a wild-ness of America's landscape.

The vastness of the American continent, especially the symbol of the West as an expanse only limited by the horizon, is fading. The United States now is the third most populous nation in the world, with some three hundred million inhabitants. California, once an incalculable space, a land so great and varied that there was little fear it should once become a patchwork of cities, towns, and fragmented forests. Because subdivisions overlook forests, high-rises provide views of the shore or mountains, and highways run through countryside, it is easier to believe that their proximity and interdependence exist as conflated. It is increasingly harder to imagine a nonhumanized landscape. This imagine-ability is problematic for understanding the nonhuman space.

⁴⁰ William Cronon, *Changes in the Land* (New York: Hill and Wang, 1983), 107.

⁴¹ Thomas R. Vale, *The American Wilderness* (Charlottesville: University of Virginia Press, 2005).

The problem with studying terrestrial space, as wilderness, is that there is a possibility of development; meaning that even though Yosemite National Park may have all the appearances of pristineness, it does not represent a space that is free of possible development. For instance, in a matter of years Yosemite *could* look like Denver or Aspen, or Everglades National Park like Atlanta, or Padre Island National Seashore like Atlantic City. And in fact it did once look like a polluted city according to Craig Colten and Lary Dilsaver.⁴² Yet, today, regulations keep this from happening; humans are in control of the fate of the spaces. Yet the grander possibility exists: humans can inhabit swamps: Louisiana, Florida, or the Camargue; humans can inhabit valleys: Hudson River Valley, Po Valley, or the Loire Valley; or seashores: Nice, Mombasa, or Havana. What this means is that humans view terrestrial space differently because it resembles that which we know. We can find elements of Acadia National Park in New York City: trees, rivers, birds, or squirrels. The connection between land, developed or otherwise, and humans is essential to life. Gravity binds humans to the earth; we connect to land in a way that we connect to no other spatial material. We inherently understand earth or sand, most have walked, wheeled, seen, felt, or heard it crunch against bare feet. Geographer John Wylie writes of walking as: “neither wholly internal, nor a splitting of self and body, but rather a resonance of things as a whole, an architecture of refrains, stones, footfalls, refracting forces anterior to the subject-object distinction.”⁴³ Wylie goes as far as to say that we (the Earth and walker) become part of each other. Reaffirming that humans are distinctly terrestrial organisms. This connection is very real and is reflective of our academic products. Our understanding of another, paramount space, the ocean represents what we know and feel about land. We look for commonality in a space utterly different. Environmental historian Gary Kroll writes: “It comes as little surprise that humans make reference to the familiar to help understand the unknown, and that Americans specifically make reference to the Western frontier wilderness to

⁴² Craig Colten and Lary Dilsaver, “The Devil in the Cathedral,” in *Cities and Nature in the American West* (Reno: University of Nevada Press, 2010), 154-170.

⁴³ John Wylie, “A Single Day’s Walking: Narrating Self and Landscape on the South West Coast Path,” *Transactions of the Academy of British Geographers* 30, no. 2 (2005), 244.

understand other frontiers like ocean or outer space.”⁴⁴ I am reminded of a trip aboard, when a new nation seems so fundamentally foreign; we look for commonality in order to situate ourselves. We perceive the ocean as we perceive land.

The ocean in the twentieth-century American imagination took on many of the characteristics that were typically associated with frontier territories: a trove of inexhaustible resources, an area to be conserved for industrial capitalism, a fragile ecosystem requiring stewardship and protection from “civilizing” forces, a geography for sport, a space for recreation, and a seascape of inspiration.⁴⁵

Ocean-space accounts for roughly 71 percent of the Earth’s surface, and yet it occupies such a small percentage of geographic scholarship. I contend that we cannot understand a robust concept of wilderness unless we look to the most nonhuman space on the planet: the oceans.

GEOGRAPHY AND OCEAN

The ocean is a wilderness whether or not we designate it as such; it represents a space that is utterly different from the quintessential ideal of terrestrial wilderness. Jacques Cousteau referred to the sea as a frontier only rivaled by outer space.⁴⁶ The space of the ocean is something human geographers have not considered systematically; or perhaps at least they have not considered as thoroughly as the land or the atmosphere. While we do see accounts of seabed, cultural, and legal research, the ocean, despite its paramount situation as the bulk of the Earth’s surface, accounts for a parsimonious sliver of the geographical canon. I believe by tapping into the larger, more established wilderness debate I laid out in the previous section, that this research can provide a place for further oceanic inquiry, as well as give voice to this largely overlooked subject of preserved ocean-space.

In a 2004 overview essay, Norb Psuty, Philip Steinberg, and Dawn Wright explain geographers’ engagements with ocean-space. They provide some insights into what kinds of systems repeat themselves in ocean-related geographic studies. By identifying three subfields within the subdiscipline of

⁴⁴ Gary Kroll, *America’s Ocean Wilderness* (Lawrence: University Press of Kansas, 2008), 1.

⁴⁵ Ibid.

⁴⁶ Jacques Cousteau, *The Human, the Orchid, and the Octopus* (New York: Bloomsbury, 2007).

coastal-marine geography, the authors partition geographic studies as follows: “coastal physical geography, marine physical geography, and coastal-marine human geography.”⁴⁷ The latter is of particular importance to this research since nearly all of what I do in this dissertation is directly related to, through politics or economy, human constructs and perceptions of ocean-space. I define this research as clearly belonging to the category of coastal-marine human geography. Though, I position this work outside of the “popular” categories of coastal-marine human geography that they enumerate: “hazards, tourism, and trade remain major research domains.”⁴⁸ They do, however, write that human geographers have placed “increasing emphasis on issues of culture, representation, and resource-competition.”⁴⁹ This dissertation falls into this *new* emphasis as it engages the nexus of ocean, culture, and representation. I am providing an answer to Psuty, Steinberg, and Wright’s challenge to “merge the study of conceptual issues in the human-ocean relationship with practical problem-solving in ocean management.”⁵⁰ I offer new oceanic concepts that differ from terrestrial ones; partition legal constructs of the ocean from the terrestrial; and analyze a larger legal wilderness ethic as it applies to the ocean. Geography has largely constructed ocean-space in terms of systems and entities rather than as space; this research refocuses ocean geography toward the physicality of the space of the ocean and not just the idea of the ocean.

In *The Social Construction of the Ocean*, Philip Steinberg provides a schematic for explaining how social sciences have perceived ocean-space. He categorizes as follows: “the ocean as resource provider, the ocean as transport surface, and the ocean as battleground or ‘force-field’.”⁵¹ I believe that each of these leaves out the nature and depth of the ocean. This research adds an engagement of the spatial layers of ocean-space to Steinberg’s thorough engagement of the idea of ocean-space. Steinberg writes

⁴⁷ Norbert Psuty et al., “Coastal and Marine Geography: More than Just Flotsam and Jetsam,” in *Geography in America at the Dawn of the 21st Century* (Oxford: Oxford University Press, 2004), 321.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid, 322.

⁵¹ Philip Steinberg, *The Social Construction of the Ocean* (Cambridge: Cambridge University Press, 2001), 11.

that the most common perspective in scholarship dealing with marine issues is “ocean as a space of resources.”⁵² In this sense, the ocean is hardly different from the land. However, extraction nearly defines ocean-space, whereas terrestrial space is more multi-faceted; land is more precisely the centerpiece for most of human geography. Where there is a paucity of ocean-related human geography scholarship vis-à-vis the ocean, an affluence of such work exists in the more scientifically-leaning subdisciplines of geography.⁵³

Much of the lineage of ocean studies within the field of geography mimics societal perceptions of ocean-space, and as Steinberg indicates, much early geographic research dealt with the ocean as a space of commerce (resources) and trade. We owe part of this lineage to the British geographer and explorer Halford Mackinder. As an astute observer of geopolitics, Mackinder understood ocean-space as a boundary-maker, empirical tool, and connector in world politics and geography.⁵⁴ In his 1904 seminal article “The Geographical Pivot of History,” Mackinder uses the ocean as boundary in many ways: “The continuous landmass of Euro-Asia this included between the ocean and the desert...”⁵⁵ Or the more subtle separation of land and sea: “The core of Euro-Asia is...wholly unpenetrated by waterways from the ocean.”⁵⁶ Yet a central concern in this article is the necessity of ocean prowess and access that only Britain has. He celebrates the ocean as an integral part of an empire. Mackinder is a very early example of a geographer who ties the oceanic to the terrestrial. In his book *Britain and the British Seas*, Mackinder pays homage to the oceans, and even portrays them as fundamental parts of British geography, both relating and interrupting terrestrial spaces.⁵⁷ In addition to Mackinder, some of his contemporaries’ works present the ocean as a space of exploration, and a final frontier of sorts. The *Bulletin of American Geographical Society* from 1905 recounts seafloor mapping by Sir John Murray. In

⁵² Ibid.

⁵³ Philip Steinberg, “Navigating to Multiple Horizons: Towards a Geography of Ocean-space,” *Professional Geographer* 51, no. 3 (1999), 366-376.

⁵⁴ Brian Blouet, “The Imperial Vision of Halford Mackinder,” *The Geographical Journal* 170, no. 4 (2004), 322-329.

⁵⁵ Halford J. Mackinder, “The Geographical Pivot of History,” *The Geographical Journal* 23, no. 4 (1904), 429.

⁵⁶ Ibid.

⁵⁷ Halford J. Mackinder, *Britain and the British Seas* (London: William Heinemann, 1902).

this early bathometric study, Murray creates a rough sketch of the ocean floor and the water column thereover.⁵⁸ This expedition spirit marked also the 1910 article entitled “The South-West Indian Ocean,” in which J.C.F. Fryer recounts the physical situation of Aldabra Island and how it situates itself within an ocean system.⁵⁹ This theme of exploration can be found in many early twentieth century geographical works, but none perhaps so overtly as the 1909 article “On the Importance of an International Exploration of the Atlantic Ocean.”⁶⁰ E.S. Gregg uses U.S. Commerce Department data to prove the then common adage that “half of the shipping of the world is engaged in the North Atlantic.”⁶¹ His perspective is very much that of the surface-space as a trade route, an ancient form of commodification of ocean-space, and an enduring theme in geographic research of the twentieth century.

Frederick Betz, Jr. and H. H. Hess published an article in the *Geographical Review* entitled “The Floor of the North Pacific Ocean.”⁶² Their project showcased new sonic devices that pierce deeply the Pacific to the seabed. This new technology, according to the authors, drastically changed how science understood that what was below the surface of the ocean, eventually leading to finer extractive and scientific technologies. In the following decades this shift from exploration to resource extraction sets a stage for much of the twentieth century. In “Whale-Marking in the Southern Ocean”⁶³ A.C. Hardy looks at the voyages of several scientific missions to the waters of Antarctica. These voyages were: “planned on broad lines to inquire into the resources of the Antarctic seas and their possible development, and one of their primary objects are the scientific regulation of the great whale fisheries of these waters.”⁶⁴ The idea of this scientific voyage to understand the resources of the ocean was quite new in geography. In fact, the author writes that the first hint of the whale migration was when a Norwegian whaling ship

⁵⁸ American Geographical Society, “The Floor of the North Atlantic Ocean,” *Bulletin of the American Geographical Society* 37, no. 1 (1905), 18-21.

⁵⁹ J.C. Fryer, “The South-West Indian Ocean,” *The Geographical Journal* 37, no. 3 (1910), 249-268.

⁶⁰ Otto Pettersson and Gerhard Schott, “On the Importance of an International Exploration of the Atlantic Ocean,” *The Geographical Journal* 33, no.1 (1909), 68-71.

⁶¹ E.S. Gregg, “Ocean Trade Routes,” *Geographical Review* 16, no. 2 (1926), 291-295.

⁶² Frederick Betz and H. H. Hess, “The Floor of the North Pacific Ocean,” *Geographical Review* 32, no. 1 (1942), 99-116.

⁶³ A.C. Hardy, “Whale-Marking in the Southern Ocean,” *The Geographical Journal* 96, no. 5 (1940), 345-350.

⁶⁴ *Ibid*, 345.

discovered a North American-made harpoon in the body of a blue whale off the coast of Norway. While this article does not directly explore ocean as a wilderness, it does directly engage the commodification of the resources that are part of wilderness processes in the ocean. It also represents the close ties science and commercial ventures can have. Moreover, Hardy reminds us the commonality of the resources of the world-ocean, a subject of great geographic and economic inquiry in the twentieth century. This too denotes an important moment in the quest to understand the ocean in terms of non-surface space.

The commercial nature of ocean space very much falls into categories most closely associated with common pool resources. The ocean in the United States cannot be part of private holdings, and is *de jure* part of definite territorial schemes defined by the Coastal Zone Management Act and those sections of the United Nations Convention on the Law of Sea to which the United States holds. All states save two (Texas and Florida) control three geographic miles seaward from their mean low-water mark as their public territorial sea. The United States then controls the seaward limits of its contiguous zone (24 nautical miles) and an Exclusive Economic Zone (EEZ) of 200 nautical miles seaward from the same baseline. Much like the famous example of the commons reiterated by Garrett Hardin,⁶⁵ the ocean represents a prime space of shared resources; for instance, Bluefin tuna migrate through U.S., Mexican, and Japanese EEZs, and their commercial management requires multi-governmental cooperation.⁶⁶ Few commercial species remain wholly within any one state's territorial jurisdiction, as has been evidenced by Hardy in the twenties, and many others since. Because of the Bluefin's territorial movements, Hardin's metaphor becomes less evident. The crux of Hardin's argument is that no individual resource consumer acts on behalf of the common, in fact, he/she acts for personal benefit. The ocean-as-a-common is mostly referential to its process rather than its space, and when we partition the ocean's

⁶⁵ Garrett Hardin, "The Tragedy of the Commons," *Science* 162, no. 3859 (1968), 1243-1248.

⁶⁶ Jeffrey Polovina, "Decadal Variation in the trans-Pacific Migration of Northern Bluefin Tuna (*Thunnus thynnus*) Coherent with Climate-induced Change in Prey Abundance," *Fisheries Oceanography* 5, no. 2 (2007), 114-119.

space from its process, as “The Tragedy of the Commons” requires, the ocean’s scale, actors, and processes become nearly indecipherable from one another.

To feasibly conceive of the ocean, one requires an adjustment of scale. Nearly all of ocean-space Americans see on a personal level (not commercial per se) is managed by individual states (i.e. Maine, Florida, etc.). Political economists, like Nobel laureate Elinor Ostrom, argue for shrinking the scale to allow for a greater public sense of control and responsibility over (ocean) resources. Ostrom posits that once resource management goes from local to a larger scale, then we lose the ability to employ viable smaller-scale management ideals.⁶⁷ This is reaffirmed by geographer Jennifer Brewer in her study of local management of lobsters in Maine.⁶⁸ Brewer also explains that common property theory demands a need for boundaries. Both Ostrom and Brewer argue for shrunken scale for more efficacious management of resources; however, this underlines a firm disconnect between common pool resources concepts and ocean-space. Local ocean-space is only the minutest slice of a larger ocean, and management of unseen, motive resources within an asocial environment would require additional ocean-specific explorations. This dissertation looks only to a national framework which is inevitably applicable to infinite combination of scales and boundaries. Ocean-space simultaneously has very clear national and international conceptual boundaries, but very few physical aquatic boundaries. The legal conceptual divisions have too been part of geographic query.

In Lewis Alexander’s 1968 article “Geography and the Law of the Sea,” he lays out “characteristics of controls in the sea of particular concern to geography.”⁶⁹ Using the Law of the Sea as a framework, he calls on geographers to look at the distribution of controls, the basis for controls, and

⁶⁷ Elinor Ostrom, et al., “Revisiting the Commons: Local Lessons, Global Challenges,” *Science* (New Series) 284, no. 5412 (1999), 278-282.

⁶⁸ Jennifer F. Brewer, “Don’t Fence Me In: Boundaries, Policy, and Deliberation in Maine’s Lobster Commons,” *Annals of the Association of American Geographers* 102, no. 2 (2012), 383-402.

⁶⁹ Lewis M. Alexander, “Geography and the Law of the Sea,” *Annals of the Association of American Geographers* 58, no. 1 (1968), 178.

impact of the control on the use of the sea.⁷⁰ This dissertation follows Alexander's advice and also offers an additional layer of inquiry, that of equality of the controls vis-à-vis terrestrial spaces. How and with what frequency do terrestrial ideals overshadow the differences that exist in the ocean; and to what extent does overlaying terrestrial ideals on ocean-space render said space less important? Alexander reminds geographers that "one important difference between the land and sea environments is that the sea, as yet, is uninhabitable, and thus cannot be an independent locus of authority."⁷¹ Our legal authority over the ocean is detached from mainstream human experience, and requires considerable imagination to reconceive spatial protections in oceanic terms. Alexander reminds us that the ocean is as much defined by its "vertical zonation" as its surface, water, or seabed.⁷² This third dimension, that of the physical space of the ocean, its watery corpus, is nearly missing in human geography's investigations of the ocean. This dissertation looks to those parts of the ocean extending beyond the littoral, deeper than the surface, and more multidimensional than most of my geographic predecessors. Political geographer J.R.V. Prescott reminds us that most geographic attention has focused (and continues to focus) on "the waters nearest land,"⁷³ and while these areas are incontrovertibly integral parts of ocean-space, they are not the only viable space of geographic inquiry.

W. Nigel Bonner looked beyond the typical boundaries of national ocean-space and explored the tenability of Antarctic resources; a truly international resource pool.⁷⁴ Bonner starts by saying: "Man has to exist on the products of the environment in which he lives."⁷⁵ There are limited resources; therefore we are required to use only those, because there is no other option: "Because of this, we are forced to examine what the Earth can offer us; we cannot afford to ignore the resources that are present, though

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ J.R.V. Prescott, *The Political Geography of the Oceans* (New York: Halsted Press, 1975), 13.

⁷⁴ W. Nigel Bonner, "The Future of Antarctic Resources," *The Geographical Journal* 152, no. 2 (1986), 248-255.

⁷⁵ Ibid., 248.

we must consider carefully the economic and other consequences of harvesting a resource.”⁷⁶ As the period between Lewis Alexander and W. Nigel Bonner represents the most heightened era of American legislative environmental milestones, Bonner’s work very much fits within the social framework of American environmentalism, and sets up geography’s next sizeable ocean research shift. As concerns over shifting global climate became part of a national environmental reality during the 1990s, ocean scholarship turned toward rising seas and climate change; and, current physical geography research on ocean-space is dominated by such work.⁷⁷

The emergence of the ocean as a social and cultural space appears in the latter 1990s and the early 2000s. For instance, Marcia Yonemoto offers insights into how we can understand society and ocean as functions of each other by looking at spatial (ocean) and human (cultural) connectedness. Similar to my own work, Yonemoto looks at writings and maps in order to create a narrative explaining a national construct of seas.⁷⁸ Yonemoto uses the Japanese perceptions and of their ocean-space as a means of exploring how a morphing culture understood its surroundings as part of larger networks. For the Japanese of the Tokugawa period, according to Yonemoto, people created their knowledge of the oceans through art, and therefore defined Japanese-oceanic interactions for years to come. My research draws on Yonemoto’s ability to explore how societies define ocean-space. Beyond marine-theme material culture, there are hints and insights into how we can explain the perception of ocean-space. For

⁷⁶ Ibid.

⁷⁷ U. Erlingsson, “A Jukuhlaupt from a Laurentian Captured Ice Shelf to the Gulf of Mexico Could Have Caused the Bolling Warming,” *Geografiska Annaler: Series A, Physical Geography* 90, no. 1 (2008), 125-140.; I.M. Lagerklint et al., “New High-Resolution Alkenone Record of Last Glacial to Holocene Sea-Surface Temperature Change in the East-Equatorial South Atlantic Ocean,” *Geografiska Annaler: Series A, Physical Geography* 87, no.1 (2005), 111-124.; K.H. Simon et al, “Late Quaternary Climate-Ocean Changes in Western North Africa: Offshore Geochemical Evidence,” *Transactions of the Institute of British Geographers* 31, no.1 (2006), 34-52.; J. Thornes, “Global Environmental Change and Regional Response: The European Mediterranean,” *Transactions of the Institute of British Geographers* 20, no. 3 (1995), 357-367.; R. Warrick & G. Farmer, “The Greenhouse Effect, Climatic Change and Rising Sea Level: Implications for Development,” *Transactions of the Institute of British Geographers* 15, no.1 (1990), 5-20.; J. Kennett & D. Hodell, “Evidence for Relative Climatic Stability of Antarctica during the Early Pliocene: A Marine Perspective,” *Geografiska Annaler: Series A, Physical Geography* 75, no. 4 (1993), 205-220.

⁷⁸ Maria Yonemoto, “Maps and Metaphors of the “Small Eastern Sea” in Tokugawa Japan (1603-1868),” *Geographical Review* 89 no. 2 (1999), 169-187.

instance, Martin Lewis further explores oceanic divisions as part of cultural and scholarly movements, and how they pertain to the ocean as a space.

Lewis explores the concept of oceans as divided spaces. In “Dividing the Ocean Sea,” Lewis brings into question the legitimacy and necessity of the separate names and cultural tensions over the “sea space” toponyms.⁷⁹ Lewis, for me, has drawn into clear contrast the arbitrary nature of the naming and division of the world’s oceans. Unlike the continents that are divided at times by visual geographic features and at other moments by less tangible cultural separations (Europe & Asia; Africa & Asia), the oceans are fully interconnected. We define how we call oceans based more on land features and historical connections than anything real about ocean-space. If there are no clear watery divisions, and there is no watery disconnect from one ocean to the next, then this is a further way in which we terrestrialize the ocean. My work builds on Lewis’ foundation, and further explores how we define linguistically and geographically our American ocean-space. Like Lewis, Philip Steinberg relies heavily on the distant past in order to discuss how we divide and subjugate the ocean.

In “Lines of Division, Lines of Connection: Stewardship in the World Ocean” Steinberg looks back to the Treaty of Tordesillas (1494) and sixteenth century English jurist John Selden in order to explain how and why oceans are divided and connected today.⁸⁰ Steinberg’s work engages many historical documents, and his methods are useful to my study, however, his temporality is far deeper than my own. I do not intend to trace American thought to its beginnings, rather I intend to study American thought as a *fait accompli*, something that I accept exists and does not need to be justified or traced to its historical foundations. This kind of work can be quite useful, though I do not believe it would help me paint a picture of America’s particular engagement of the ocean as wilderness. Steinberg does provide precedence insofar as the linking of culture and governance, similar to Lewis Alexander. Using both

⁷⁹ Martin W. Lewis, “Dividing the Ocean Sea,” *Geographical Review* 89, no. 2 (1999), 188-214.

⁸⁰ Phillip Steinberg, “Lines of Division, Lines of Connection: Stewardship in the World Ocean,” *Geographical Review* 89, no. 2 (1999), 254-264.

Steinberg and Alexander as examples, this dissertation turns to legal documents as measures of social governance of ocean-space. And Janel Curry offers a concrete example of the collision of law, culture, and ocean-space in geographic literature. Curry narrates and explores how cultural rights in New Zealand help define a people's governance of ocean-space.⁸¹ Curry lends me further precedence that culture and policy are inherently linked. What Curry and many others leave out is the actual spatial quality of ocean-space, and Philip Steinberg once again can offer additional insights into this lacuna.

In a 1999 special issue of *The Professional Geographer* a focus section steered by Steinberg tries to uncover geography's engagement with ocean-space. Steinberg writes that the lack of "marine research is incongruous with the sea's significance as a space of physical and social processes."⁸² He believes that it is in part due to social change away from the necessity of ocean-space as a space of transportation (human rather than goods), and that geographers tend to treat the ocean as an "uninteresting abyss that separates the places that 'matter'."⁸³ He adds that the ocean represents an environment that cannot support human life in a permanent fashion. This is his most poignant point; the ocean is under-studied in geography and most social sciences simply because it is an alien space. Furthermore, he posits that geography positions "the sea outside of state territory" since its physicality "deters permanent, sedentary habitation."⁸⁴ This further advances ocean-space to the brink of geographic engagement.

Few human geographers have engaged the actual space of the ocean; the three-dimensionality of this aquatic environment. As part of this same focus section, Carolyn Trist uses the Caribbean Sea as a spatial backdrop for the changes in the kinds and levels of twentieth-century marine tourism.⁸⁵ Initial

⁸¹ Janel M. Curry, "The Nature-Culture Boundary and Ocean Policy: Great Barrier Island, New Zealand," *Geographical Review* 97, no. 2 (2007), 46-66.

⁸² Phillip Steinberg, "Navigating to Multiple Horizons: Towards a Geography of Ocean-space," *Professional Geographer* 51, no. 3 (1999), 366-367.

⁸³ Ibid.

⁸⁴ Ibid, 369.

⁸⁵ Carolyn Trist, "Recreating Ocean Space: Recreational Consumption and Representation of the Caribbean Marine Environment," *Professional Geographer* 51, no 3 (1999), 376-388.

conceptions of the Caribbean Sea were that of a space of surface travel; it then was elevated to a yachters paradise; and eventually into a SCUBA destination. Trist charts a societal course from long-distance surface-travel, to more sporadic, less-surface oriented yacht travel, and finally to the subsurface pleasures of SCUBA. Or into the schema that I have created above: one where we engage the surface as the least alien; the recreational properties of the ocean as slightly more alien; and lastly the under-the-surface space as the most alien. As the latter is the newest cultural phenomenon, it makes sense that such a schematic should exist. Much like we will see with the creation and construction of under-the-surface wildernesses, it requires a much keener willingness to set aside ancient archetypes and constructs of ocean-space in order to construct oceanic wildernesses. Physical and environmental geographers have been able to engage the space of the ocean, and this is evident in many of the remaining focus section contributions.⁸⁶

A 2006 special issue of the *Journal of Historical Geography*, geographers make an effort to engage the ocean in a meaningful, historical manner. Much of this engagement is in the form of surface-space and benthic-space as separate spatial entities exclusive of the water column. David Lambert et al. reaffirm the actions of so many other geographers, and they largely focus on this surface-benthic binary. Furthermore, the ocean as nature is nearly devoid from their analysis.⁸⁷ Felix Driver and Luciana Martins offer similar engagements to Lambert, and offer the ocean as a backdrop for military, commercial, and geopolitical activities.⁸⁸ Christopher Connery's focus is on the historical and contemporary desire to

⁸⁶ Karen Nichols, "Coming to Terms with 'Integrated Coastal Management' Problems of Mean and Method," *Professional Geographer* 51, no. 3 (1999), 388-400.; Kristin Dow, "Caught in the Currents: Pollution, Risk, and Environmental Change in Marine Space," *Professional Geographer* 51, no. 3 (1999), 414-427.; Dawn Wright, "Getting to the Bottom of it: Tools, Techniques, and Discoveries of Deep Ocean Geography," *Professional Geographer* 51, no. 3 (1999), 426-440.; Laura M. Kracker, "The Geography of Fish: The Use of Remote Sensing and Spatial Analysis Tools in Fisheries Research," *Professional Geographer* 51, no. 3 (1999), 440-451.

⁸⁷ Dennis Lambert, Luciana Martins, and M. Ogborn, "Currents, Visions, and Voyages: Historical Geographies of the Sea," *Journal of Historical Geography* 32, no. 3 (2006), 479-493.

⁸⁸ Felix Driver & Luciana Martins, "Shipwreck and Salvage in the Tropics: The Case of HMS Thetis, 1830-1854," *Journal of Historical Geography* 32, no. 3 (2006), 539-562.

“erase” ocean-space; since, ocean-space often accounts for a social void.⁸⁹ Ronald Doel et al. exemplify the surface-benthic binary as they focus on seafloor mapping in the 1950s.⁹⁰ The remainder of the articles in this special volume also do little for my research other than help situate the ocean as a space worthy of foreground analysis and not simply an a-spatial idea.

In the 2011 *Professional Geographer* focus section entitled “Marine Geomorphology as a Determinant for Essential Life Habitat and Marine Protect Area Design” authors showcase how their geographic work does and can play important roles in environmental design of Marine Protected Areas or MPAs.⁹¹ While much of what the contributors to this focus section do is to represent ocean-space in a scientifically-sound manner, they are effectively creating scientific blueprints for social inventions. While society did not create groupers, it did create marine reserves.⁹² This focus section, like much work done in physical geography of the oceans, can offer important clout to human geographers’ work as we try to create a blueprint for how to understand the ocean using non-terrestrial tools. I am confident that we must look outside of human geography to fields like oceanography, anthropology, history, and jurisprudence to fully understand how the ocean world exists and how humans can interact with varied slices of its environment.

The environmental historian Gary Kroll offers us an astute account of American interaction with the oceanic. His *America’s Ocean Wilderness* draws connections between the American Western Frontiers of yore and the interactions with the ocean we have today. Kroll looks closely at the history of science as an important factor in the exploration of the ocean. He tries to redirect academic attention to the ocean as an idea. It is important to note that Kroll treats the idea and not necessarily the space.

⁸⁹ Christopher Connery, “There was No More Sea: the Supersession of the Ocean, from the Bible to Cyberspace,” *Journal of Historical Geography* 32, no. 3 (2006), 494-511.

⁹⁰ Ronald E. Doel, et al., “Extending Modern Cartography to the Ocean Depths,” *Journal of Historical Geography* 32, no. 3 (2006), 605-626.

⁹¹ William D. Heyman & Dawn Wright, eds, “Focus: Marine Geomorphology as a Determinant for Essential Life Habitat and Marine Protected Area Design,” *Professional Geographer* 63, no. 4 (2011), 429-442.

⁹² Felicia C. Coleman et al. “Groupers on the Edge: Shelf Edge Spawning Habitat in and Around Marine Reserves of the Northeastern Gulf of Mexico,” *Professional Geographer* 63, no. 4 (2011), 456-474.

Through the introduction and exploration of various environmental figures in American history, Kroll effectively engages an American cultural concept of the oceanic. As so many have done, Kroll overlooks the spatial dimensions of the ocean. This dissertation builds upon Kroll schematic of a society's interaction with the ocean, but bifurcates from his work insofar as I look at the legal definitions and constructs of ocean-space.

FEDERAL COASTAL/MARINE LEGAL FRAMEWORK

Currently there are no National Parks, National Reserves, National Forests, or National Preserves that wholly deal with marine environments; these are some of the most important spatial categories within the wilderness agencies.⁹³ The category of "wilderness" is the gold standard; it is the most stringent nature-protection framework in the federal preservation arsenal. Congress created this perseverance tool in 1964. The aptly named Wilderness Act is a simple piece of legislation, but it is one that bears far-reaching historical and legal precedence. The eighty-eighth congress defined its goal as:

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, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefit of an enduring resource of wilderness.⁹⁴

The act changed how Americans construct unhumanized spaces, and ensures such spaces could exist for generations to come. Geographer D.T. Kuzmiak underlines the act's importance as it "represented a significant milestone in the preservation of an enduring resource of wilderness."⁹⁵ Other geographers have devoted considerable energy to subjects associated with the Wilderness Act.⁹⁶ This dissertation turns the attention away from case studies where the Wilderness Act applies in order to explore the

⁹³ The wilderness agencies are: U.S. Forest Service, Bureau of Land Management, National Park Service, and U.S. Fish and Wildlife Service

⁹⁴ The Wilderness Act of 1964 (Pub. Law 88-577), §2.

⁹⁵ D.T. Kuzmiak, "The American Environmental Movement," *Geographical Journal* 157, no. 3 (1991), 266.

⁹⁶ James S. Duncan & Nancy G. Duncan, "The Aestheticization of the Politics of Landscape Preservation," *Annals of the Association of American Geographers* 91, no. 2 (2001), 387-409.; T.R. Vale, "Forest Changes in the Warner Mountains, California," *Annals of the Association of American Geographers* 67, no. 1 (1977), 28-45.

legislation itself. As my goal is to uncover the role of legal wilderness in ocean-space, I look to the legislative process to extract inevident clues

Congress tasked the Departments of Interior (DOI) and Agriculture's (USDA) to acquire lands and protect them either for future use or for monuments to a more natural state. From the inception of the National Park Service in 1916 to the 1970s, little emphasis was evident in the protection of water or ocean. One of the oldest and most cherished systems of spatial protection within the U.S. conservation and preservation framework is the protection afforded by the U.S. Fish and Wildlife Service through its National Wildlife Refuge System (NWRS). The *Lacey Act* of 1900 was the first national legislation to protect game in the United States.⁹⁷ The *Lacey Act* laid the framework for the NWRS. However, it was not until 1940 that the U.S. Fish and Wildlife Service (and the NWRS) came to be.⁹⁸ Its mission statement has remained quite unchanged from its inception:

We are land stewards, guided by Aldo Leopold's teachings that land is a community of life and that love and respect for the land is an extension of ethics. We seek to reflect that land ethic in our stewardship and to instill it in others. Wild lands and the perpetuation of diverse and abundant wildlife are essential to the quality of the American life.⁹⁹

The mission statement shows a land-centric bias. It is certain that the wildlife refuges contain water, as do national parks. National parks, which include water resources inherently protect the natural esthetic of such streams, lakes or ponds. This protection does not necessarily mean that equal care is taken in protecting marine/coastal environments and the species therein. As a general theme, beyond those few heavily aquatic national parks, this is nonetheless a common thread in DOI and DOA. However, there are several mechanisms through which the federal government tends to protect areas on the coast and wholly within a marine environment.

⁹⁷ See: A.K. Fitzsimmons, "Environmental Quality as a Theme in Federal Legislation," *Geographical Review* 70, no. 3 (1980), 314-327.

⁹⁸ Fish and Wildlife Service, "History," 8 June 2012, <http://www.fws.gov/history> (accessed 10 July 2012).

⁹⁹ Fish and Wildlife Service, "Mission Statement," 8 June 2012, <http://www.fws.gov/mission.html> (accessed 10 July 2009).

This research specifically analyzes legal wilderness areas that contain ocean-space or consist thereof. There are few ocean/littoral-specific categories for ocean conservation and preservation (mostly-free of legal wilderness): (Marine) National Monument, National Marine Sanctuary; National Seashore; and National Estuary Program. Not all protected marine and coastal spaces are germane to this project, but in order to paint a holistic picture of the United States' engagement of ocean-space, it is important to explain what these categories are.

National Seashores are protected coastal units under the National Park Service's administration. They protect certain seashores from (further) development, and in some cases preserve undeveloped shores altogether. Cape Cod and Padre Island National Seashores underline this binary. In the case of Cape Cod, Robert Eberhardt writes that "the park includes large tracts in the towns of Provincetown, Truro, Wellfleet, and Eastham, as well as smaller areas in Orleans and Chatham,"¹⁰⁰ and in the case of Padre Island NPS claims that it is the longest stretch of undeveloped barrier island in the world.¹⁰¹ As is evident in the Cape Cod example this unit of protection may very well be considered a preventative measure of preservation. The land and immediate shore which the National Seashore program protects act as a barrier from further alteration by society. National Seashores are an intermediary step between marine and land preservation; they protect areas of "liminal ocean-space." There are ten such littoral zones currently being protected by the NPS, and the four highlighted green contain legal wilderness (Table 1.1).

¹⁰⁰ Robert W. Eberhardt et al., "Conservation of Changing Landscapes: Vegetation and Land-Use History of Cape Cod National Seashore," *Ecological Applications* 13, no. 1 (2003), 69.

¹⁰¹ National Park Service, "Padre Island," July 2010, <http://www.nps.gov/pais/> (accessed 9 July 2012).

Table 1.1: National Seashore Locations

National Seashore	Location
Assateague Island	Maryland/Virginia
Canaveral	Florida
Cape Cod	Massachusetts
Cape Hatteras	North Carolina
Cape Lookout	North Carolina
Cumberland Island	Georgia
Fire Island	New York
Gulf Islands	Florida/Mississippi
Padre Island	Texas
Point Reyes	California

Source: NPS, *The National Parks Index: 2009-2011*. (Washington, D.C.: DOI). Those NS highlighted in green represent those NS containing wilderness areas.

The National Marine Sanctuary system is groundbreaking in American conservation efforts, and nearly absent from geographic inquiry.¹⁰² The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) (and subsequent amendments) is as important to the ocean as the Yellowstone Act was to land. Before congress enacted the Marine Sanctuary Act, Vice-president Hubert Humphrey spearheaded the 1966 Marine Sciences Council. The Marine Sciences Council called for the creation of a marine wilderness system. Three years later, in 1969, the Stratton Commission published a report entitled *Our Nation and the Sea: A Plan for National Action* emphasizing three issues: (1) the ocean as a frontier for resource development, (2) emerging threats to the coastal environment, and (3) the need to

¹⁰² See: Kevin St. Martin, "Making Space for Community Resource Management in Fisheries," *Annals of the Association of American Geographers* 91, no. 1 (2001), 122-142.

reorganize federal ocean and coastal programs.”¹⁰³ These findings led to the inceptions of the National Oceanic and Atmospheric Administration (NOAA) in 1970. NOAA is a division of the Department of Commerce (DOC). As its name suggests the DOC deals with a broad array of issues as they pertain to each facet of commerce as a national idea. Many bureaus comprise the DOC: Bureau of Industry and Security, Economics and Statistics Administration (Bureau of the Census & Bureau of Economic Analysis), Economic Development Administration, International Trade Administration, Minority Business Administration, National Institute of Standards and Technology, National Technical Information Service, National Telecommunications and Information Administration, Patent and Trademark Office, and NOAA. Each of the bureaus within the DOC seems to logically contribute to its mission statement:

The Department of Commerce promotes job creation, economic growth, sustainable development, and improved living standards for all Americans, by working in partnership with business, universities, communities, and workers to: 1. Build for the future and promote U.S. competitiveness in the global marketplace, by strengthening and safeguarding the nation’s economic infrastructure; 2. Keep America competitive with cutting-edge science and technology and an unrivaled information base; and, 3. Provide effective management and stewardship of our nation’s resources and assets to ensure sustainable economic opportunities.¹⁰⁴

What we immediately glean from the mission statement is that the DOC is not a preservationist body. Its goal is first to promote commerce and second to conserve. NOAA is an outlier in a fairly cohesive department. NOAA is itself broken down into even smaller units: National Environmental Satellite, Data, and Information Service, National Marine Fisheries Service, National Ocean Service, National Weather Service, Office of Oceanic and Atmospheric Research, and the Office of Program Planning and Integration. The National Ocean Service houses the National Marine Sanctuary Program. The program began in 1972 with the passage of the Marine Protection, Research and Sanctuaries Act. “Approximately 130 years after the designation of Yellowstone National Park, the number of lines drawn on maps to

¹⁰³ Commission on Marine Science, Engineering, and Resources, *Our Nation and the Sea: A Plan for National Action* (Washington, D.C.: Government Printing Office, 1969).

¹⁰⁴ U.S. Department of Commerce, “The Commerce Mission Statement,” 4 June 2010, <http://www.osec.doc.gov/bmi/Budget/strtg/Aintro.pdf> (accessed 30 July 2012).

protect terrestrial environments in the United States far exceeds those drawn in the marine environment.”¹⁰⁵

This act signified a shift in how the government perceived marine resources and space; marine environments became a valid part of conservation efforts on the part of the United States. In 1972, a veritable watershed of legislation pertaining to the ocean appeared: *Marine Mammal Protection Act*, *Coastal Zone Management Act*, and the *Marine Protection, Research and Sanctuaries Act*. What was so game-changing about these laws was that the United States government came to the realization that it had been negligent vis-à-vis marine space conservation. The opening paragraph of the National Marine Sanctuaries Act states: “The Congress finds that this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark.”¹⁰⁶ That same congress found that “certain areas of the marine environment possess, conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic, qualities which give them special national, and in some cases international significance.”¹⁰⁷ None of these ideals are specifically preservationist in character save “esthetic quality.” Esthetic quality is a reminiscent ideal of the *Wilderness Act*: “leaving no lands designated for preservation and protection in their natural condition.”¹⁰⁸ When the goal is to conserve in order to maintain esthetic quality, conservation becomes preservation, as preservation is for the sake of nature and not for the sake of partitioning nature from its fundamental space. The NMSA defines space within the parameters of the *Magnuson-Stevens Fishery Conservation and Management Act* amended in 1996. The MSFCMA (MSA) dealt exclusively with fisheries, a decidedly commercial parameter. It defined United States fisheries to the point of Exclusive Economic Zones (EEZ): “For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the

¹⁰⁵ James Lindholm & Brad Barr, “Comparison of Marine and Terrestrial Protected Areas under Federal Jurisdiction in the United States,” *Conservation Biology* 15, no. 5 (2001), 1441.

¹⁰⁶ Marine Protection, Research, and Sanctuaries Act of 1972 (as amend. 1984), §301.

¹⁰⁷ *Ibid.*

¹⁰⁸ The Wilderness Act of 1964 (Pub. Law 88-577), §2.

coastal States.”¹⁰⁹ The EEZ limit is also what the National Marine Sanctuaries Program uses to evaluate potential areas and to honor current areas of conservation. Each of the sanctuaries has an important function to fulfill one of more of the criterion laid out by the NMSA: conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic. The sanctuaries stretch from South Florida to the western reaches of Hawaii (Figure 1.2).

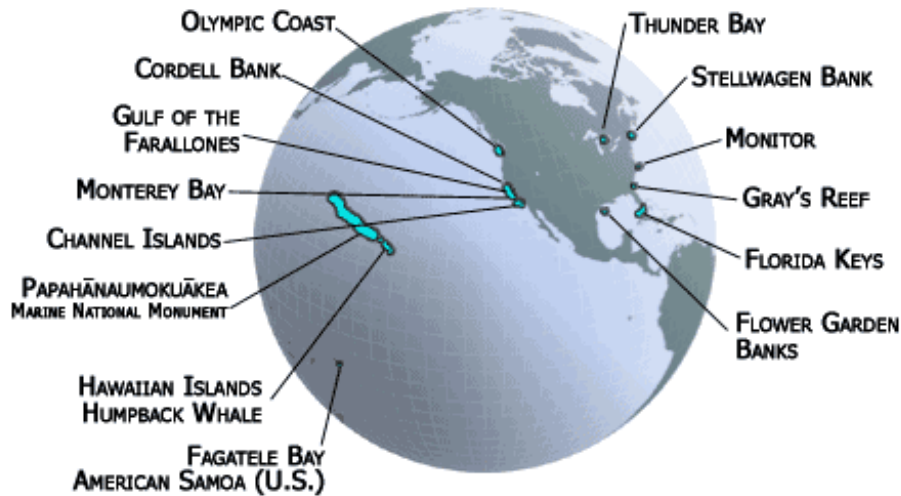


Figure 1.1: Location of the National Marine Sanctuaries, source: NOAA Sanctuaries¹¹⁰

NOAA is wholly responsible for the management of the sanctuaries, but a few outliers exist. For example, NOAA, FWS, and the State of Hawaii manage Papahānaumokuākea. FWS specifically manages several islands within the archipelago and does not specifically manage expansive marine space. The islands and ocean-space that FWS does manage is very much iconic of the majority of potential marine wilderness that exists in the United States. It is potential for two reasons, (1) it must be congressionally designated wilderness, and (2) because it fits the national schematic for marine wildernesses: littoral sea adjoining shore-lands. Uniquely, the Northwest Hawaiian Islands are of special cultural importance to native Hawaiians; representing one of the most important cultural and ecological marine reserves in the

¹⁰⁹ Magnuson-Stevens Fisheries Act (Public Law 94-265), as amend., 1996.

¹¹⁰ NOAA, “Visiting the Sanctuaries,” 4 May 2012, <http://sanctuaries.noaa.gov/visit/welcome.html> (accessed 10 July 2012).

world. While NOAA is effectively acting as a conservation mechanism, it is providing preservation means within the National Marine Sanctuaries Program.

CHAPTER 2—THE WILDERNESS ACT AND THE OCEAN

Geographers largely have not engaged the subject of the Wilderness Act,¹¹¹ rather they have focused on the study of the space that is wilderness. As Chapter 1 shows, geographers are not absent from those explorations. What the gap between wilderness spatial, theoretical research and legal research underlines is a relative disengagement in public policy and legislation on behalf of geographers (principal exceptions are Fred Shelley, Lary Dilsaver, Craig Colten, and Alexander Murphy). Alexander Murphy and others¹¹² have criticized the lack of geographic engagement of public policy: “Many geographers work on matters of great relevance for the issues facing society, but geography is rarely invoked in public debates over matters of contemporary concern.”¹¹³ They lament this further: “The underrepresentation of geography in the public arena becomes clear in comparison with such disciplines as Economics, Political science, Sociology, or Biology.”¹¹⁴ While their goal was not to lament the lack of geographers treating legislative matters, it does underscore a lack of connection between geography and legal process. There are, however, geographers who engage the legal: court cases,¹¹⁵ hearings,¹¹⁶ legislation.¹¹⁷ In 1976, Rutherford Platt, through the Association of American Geographers, sought to infuse geography into how to best understand laws dealing with land use control. In his position paper “Land Use Control: Interface of Law and Geography,” Platt suggests that land use problems “can often be solved by applying geographic skills in analyzing the physical, economic, and cultural attributes of

¹¹¹ Exceptions include: Thomas R. Vale, *The American Wilderness: Reflections on Nature Protection in the United States* (Charlottesville: University of Virginia Press, 2005). ; L.M. Dilsaver, *Cumberland Island National Seashore* (Charlottesville: University of Virginia Press, 2004).

¹¹² Alexander B. Murphy, “Enhancing Geography’s Role in Public Debate,” *Annals of AAG* 96, no. 1 (2006), 1-13.; A.B. Murphy, et al., “The Role of Geography in Public Debate,” *Progress in Human Geography* 29, no. 2 (2005), 165-193.

¹¹³ Alexander B. Murphy, et al., “The Role of Geography in Public Debate,” *Progress in Human Geography* 29, no. 2 (2005), 165.

¹¹⁴ Ibid.

¹¹⁵ Craig Colten, “Groundwater and the Law: Records v. Recollections,” *The Public Historian* 20, no. 2 (1998), 25-44.

¹¹⁶ Craig Colten, “Contesting Pollution in Dixie,” *The Journal of Southern History* 62, no. 3 (2006), 605-634.

¹¹⁷ Daniel P. Beard, “United States Environmental Legislation and Energy Resources: A Review,” *Geographical Review* 65, no. 2 (1975), 229-244; Lary M. Dilsaver, *America’s National Park System: The Critical Documents*. (Lanham, Md.: Rowman & Littlefield Publishers, Inc., 1994); Charles A. Thornton and Robert L. Koepke, “Federal Legislation, Clean Air, and Local Industry,” *Geographical Review* 71, no. 3 (1981), 324-339; Rutherford B. Platt, *Land Use and Society: Geography, Law, and Public Policy* (Washington, D.C.: Island Press, 2004).

land.”¹¹⁸ Moreover, I suggest that understandings of legal space can be enriched through applying geographic skills to the analysis of legal concepts of spatiality. This chapter is an analysis of legislation, the legislative process, and the actors (including their geographies) who were implicated in the passage of the Wilderness Act, thus their understanding of the space and process that constitutes legal wilderness in the United States.

It is hard to decide where a legislative history begins; from what legal lineage is a bill born? A true shake up bill, a bill that fundamentally changes how we understand, legally (and often culturally), a space, idea, or thing, is rare. While the Wilderness Act of 1964 changes how we viewed and celebrated unhumanized spaces, it was not conceived in a vacuum. We can trace its legislative lineage to the Organic Act of 1916 or the Yosemite Act of 1864, but society provided a timelier “window” through which the Wilderness Act of 1964 could be conceived. The 1960s represent an important prelude to the major environmental decade to follow, and a larger environmental context provides reasoning for the undertaking that became the Wilderness Act. William Solecki and Fred Shelley believe this window existed in direct correlation to pollution awareness in a postwar America.¹¹⁹ It is born from a certain social tradition, and according to William Solecki and Fred Shelley, stems from a wide-spread social comprehension of the environment through the growing prevalence of pollution in cities.¹²⁰ According to Solecki and Shelley, by the 1950s, the era immediately preceding the passage of the Wilderness Act, major national newspapers and magazines “published articles describing the dangers associated with air and water pollution.”¹²¹ Solecki and Shelley explain that this awareness coupled with a shifting political scene in the United States led to an increase sense of urgency and stewardship in environmental

¹¹⁸ Rutherford B. Platt, *Land Use Control: Interface of Law and Geography* (Washington, D.C.: Association of American Geographers, 1976), 1.

¹¹⁹ William D. Solecki and Fred M. Shelley, “Pollution, Political Agendas, and Policy Windows: Environmental Policy on the Eve of Silent Spring,” *Environment and Planning C* 14, no. 4 (1996), 451-468.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*, 455.

politics.¹²² Through the decreased air and water quality of urban centers, a shifting Democratic party, and the influence of unionized workers, the late 1950s and early 1960s act as catalysts for the upcoming barrage of 1960s and 1970s environmental legislation. For instance, during the 1960 presidential campaign, John F. Kennedy criticized the Eisenhower administration for not tending to domestic pollution and environmental issues.¹²³ A monumental legislative milestone like the Wilderness Act required a national-level, campaign-worthy context to exist, and President Kennedy offered just the national platform for the rebirth of a national environmental conscience. His broader actions, coupled with those by Democrats and Republicans in both chambers of congress, ensured that the United States would enjoy wilderness *in perpetuum*. What this policy window does not explain, and that which I will analyze is the way lawmakers cast wilderness as a legal entity. How does the definition of legal wilderness space help in understanding how Americans spatially construct wilderness and whether or not ocean-space can be conceived as such?

While the ocean represents 71 percent of Earth's surface (and that number grows), it represents, as a subjective entity, a miniscule percentage of the tomes of American legislation. As even a smaller portion of total executive orders, the ocean has been present as bit-parts of presidential agendas for most of the twentieth century. Furthermore, one cannot ignore the importance of the Judiciary when seeking to understand a holistic view of American legal interpretation. Each of the three branches of American government acts while the other two react and try and reshape wording, outlooks, and politics. The greatest portion of this research centers on the products created by the legislative branch of the federal government, throughout this dissertation, I will explore all of the aforementioned actors on this our American political stage. In order to compare wilderness to the oceanic in its multifarious treatments, let us begin with the Wildness Act.

¹²² Ibid.

¹²³ Ibid, 463.

THE JOURNEY TO BILL-HOOD: WILDERNESS ACT OF 1964

There is extensive work done on the legislative history of the Wilderness Act.¹²⁴ All of these works look at different aspects of its passage and authorship. While this research does not pretend to add any new depth (in a similar vein at least) to these histories, it will revisit them in a new light.

Howard Zahniser authored and fought for the Wilderness Act; Zahniser was a longtime activist and warrior for wilderness. He along with his Wilderness Society worked tirelessly to create a political coalition of politicians and environmental groups.¹²⁵ Zahniser did so, in part, because he chose a piece of legislation that reaffirmed established polices rather than one that was too reformist.¹²⁶ While the act is groundbreaking in its ability to define wilderness spaces legally, it falls short as a standalone management tool. This, however, was likely why it passed successfully.¹²⁷ Zahniser worked closely with several members of Congress, principally Senators Hubert Humphrey of Minnesota and Richard Neuberger of Oregon, and Congressman John Saylor of (SW) Pennsylvania.¹²⁸ As I will show, those who supported and sponsored the various Senate and House of Representative resolutions changed with great frequency. In fact, the bill failed nearly sixty-five times¹²⁹ before completing a congressional lifecycle that ended on the desk of President Lyndon B. Johnson. While this chapter cannot offer new light on its passage, as Mark Harvey, Jack Hession, and many others have so thoroughly done, it will reanalyze the passage as it pertains to oceanic ideals. My goal is to assess the members of congress who sponsored the failed and successful resolutions as well as look to the constructs of wilderness testimony given in the hearings; in hopes of clearly stating whether or not the ocean existed as part of a wilderness

¹²⁴ Michael McCloskey, "The Wilderness Act of 1964: Its Background and Meaning," *Oregon Law Review* 45 (1966), 288-299. ; J. Hession, "The Legislative History of the Wilderness Act" (Master's thesis, San Diego State College, 1967). ; D.V. Mercure and W. M. Ross, "The Wilderness Act: A Product of Congressional Compromise," in *Congress and the Environment*, eds. R. A. Cooley and G. Wandesforde-Smith (Seattle: University of Washington Press, 1970), 210.

¹²⁵ George A. Gonzalez, "The Wilderness Act of 1964 and the Wilderness Preservation Policy Network," *Capitalism Nature Socialism* 20, no. 4 (2009), 31.52.; R. Nash, *Wilderness and the American Mind* (New Haven: Yale University Press, 2001).

¹²⁶ Mark Harvey, *Wilderness Forever: Howard Zahniser and the Path to the Wilderness Act* (Seattle: University of Washington Press, 2005).

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ Christopher M. Klyza, *Who Controls Public Lands?* (Chapel Hill: University of North Carolina Press, 1996), 81.

narrative or whether or not the ocean was intentionally excluded.

While the concept of wilderness reverence is ancient in American terms, it can easily and without dissent be traced to the Civil War when the federal government transferred Yosemite Valley to the State of California for protection (1864); and most closely to the United States' creation of the world's first nature-purposed National Park, Yellowstone (1872). These recent-yet-ancient ties to wilderness reverence are important, but in an effort to emphasize the temporally-adjacent connections throughout this project, the wilderness-reverence to the Wilderness Act connection is perhaps more acutely associated with the efforts of Aldo Leopold and Arthur Carhart.¹³⁰ Both Leopold and Carhart were employees of the Forest Service (Department of Agriculture) during the 1920s.¹³¹ The U.S. Forest Service, effectively created in its current form in 1905 by The Transfer Act (33 Stat. 628), was still young and rooted in the conservationist (as opposed to preservationist) ideals set forth, in great part, by Gifford Pinchot. While the Forest Service was very much a conservation tool in the 1920s, assuring future generations access to forestry products, it had little power as a preservationist force. This was the case until 1924, after considerable efforts on the part of Leopold and Carhart, the Forest Service designated "a portion of Gila National Forest in New Mexico as wilderness."¹³² This was followed by further developments in wilderness designation, leading to the creation new regulations. Such regulations created guidelines on how to set aside "primitive areas," and were referred to as L-regulations.¹³³ These regulations proved to be less effective than legislation simply because administrative rules can be remade with great frequency; Klyza (and others) refers to L-regulations as tenuous.¹³⁴ In an effort to solidify the existence of legal wildernesses, the Forest Service created U-regulations where wilderness areas measured 100,000 acres in size and "wild areas" measured a range

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid, 77.

¹³³ Ibid. ; Craig Allin, *The Politics of Wilderness Preservation* (Westport, Conn.: Greenwood Press, 1982).

¹³⁴ Samuel T. Dana and Sally Fairfax, *Forest and Range Policy, Its Development in the United States* (New York: McGraw-Hill, 1980). ; Klyza, *Who Controls Public Lands?*

from 5,000 to 100,000 acres.¹³⁵ These primitive areas were more long-lived and static in their existence than the previous L-regulations. Thus, these regulations were less tenuous, but nonetheless they did not carry the clout of legislation. Insofar as regulations are concerned, this is the most direct connection to the Wilderness Act within the Forest Service to date. These regulations were singular, but they are not the only legal efforts to create protected natural areas. In fact, the Wilderness Act exists because many failed resolutions cleared a path to its successful passage.

These principal acts are wide-ranging both temporally and in their goals. There are several acts that deal with the management of minerals or other resources (i.e. the General Mining Act of 1872) that lay within wilderness areas, but the goal here is to look more closely at those bills that set legislative tones for the magnum opus that is the Wilderness Act. Signed into law by President William McKinley at the cusp of the nineteenth century, the Sundry Civil Appropriations Act of 1897 (30 Stat. 34-36) or better known as the Organic Act of 1897 (not to be confused with National Park Service Organic Act of 1916), is the establishing act of a primordial Forest Service and one of the earliest examples of forests in the United States being treated as spaces of extra-economic value. It reads:

No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States...(30 Stat. 35).

This grammatically curious sentence establishes the set of norms that define what makes up a valid forest reserve (reservation): as a space to protect forest, assuring the flow of waters, and as a supply for forestry products. These three categories of valid uses of a forest are groundbreaking at the end of the nineteenth century. Unlike Yosemite or Yellowstone, this Act calls for a general rule to be applied to generic forests; bestowing the power on the Executive Branch to decide what to protect. This Act is however peppered with caveats, the most important being that should a tract of land be more valuable for its minerals than its forests, the Secretary of the Interior is thus not to declare it a forest reserve.

¹³⁵ Klyza, *Who Controls Public Lands?*, 78.

Nonetheless, this was a step toward an extra-economic understanding of preserved wilderness in the United States. The subsequent Organic Act reveals another national push toward wilderness preservation.

Technically without a short title, the Organic Act of 1916 (“An act to establish a National Park Service, and for other purposes”; The National Park Service Organic Act; 39 Stat. 535) established the National Park Service (NPS) as part of the Department of the Interior (§1). The NPS “shall promote and regulate the use of the Federal areas know as national parks, monuments, and reservations...” (§1). These areas are meant to “conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (§1). This creates a resource of natural and historic value; this resource is not necessarily economic, but economics is not the explicit goal of this act. Nineteen years after the Organic Act of 1897, the marked difference between the starkly economic caveats prescribed to forest administrators of the nineteenth century and the nature-inclusive, more modern version fades into a twentieth-century thought process. The Multiple Use, Sustained Yield Act of 1960, created a pathway through which the Wilderness Act could legally produce spaces of wilderness in an active timber industry.

The Act “to authorize and direct that the national forests be managed under principles of multiple use and to produce a sustainable yield of products and services, and for other purposes” (§1) (74 Stat. 215) does a couple of things. First and most important to these ends is that it establishes that a National Forest can have multiple uses, and that in fact it must have multiple uses (§3). It must include more than one of the following: “outdoor recreation, range, timber, watershed, and wildlife and fish purposes” (§1). Effectively, unlike the other acts mentioned thus far, the Multiple Use, Sustained Yield Act of 1960 introduces nonhuman biotic life into the equation. Here, wildlife and fish become part of a larger tableau of an ecosystem, where a forest is not just a space, but a living entity that encompasses

beings. Wilderness represents as much a space as it does a process; this thus represents another step toward the eventual Wilderness Act. This incremental legislative adjustment portrayed here is further evident in its penultimate subsection:

harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output. (§4(a))

As is necessary to wilderness protection, political and commercial actors must be willing to relinquish economic benefit. This is something that must be self-evident in larger themes of economically-unfettered ideals of nature. Yet, this concept, especially in the context of political reality, is cutting edge. As both George Gonzalez and Michael McCloskey explain, the Wilderness Act is legal authority for our Federal Government to remove lands from actively being integral in our modern economies.¹³⁶ This is something that the Multiple Use, Sustained Yield Act of 1960 established, and something that the Wilderness Act cements.

ANALYSIS OF THE WILDERNESS ACT

The Wilderness Act of 1964 is presented in six sections, most with sub-sections:

Table 2.1: Sections of the Wilderness Act of 1964

Section	Section Title
2(a), 2(b)	Wilderness System Established Statement of Purpose
2(c)	Definition of Wilderness
3	National Wilderness Preservation System
4(a)	Use of Wilderness Areas
4(c)	Prohibition of Certain Uses
4(d)	Special Provisions
5	State and Private Lands within Wilderness Areas
6	Gifts, Bequests, and Contributions

Not all of the sections treat wilderness, *per se*, some are more mechanical and therefore will make up a small portion of this analysis. The goal of the section-by-section analysis is to provide a basis for a

¹³⁶ Gonzalez, "The Wilderness Act of 1964 and the Wilderness Preservation Policy Network."; Michael McCloskey, "The Wilderness Act of 1964: Its Background and Meaning," *Oregon Law Review* 45 (1966).

thorough conception of legal wilderness, and to search for opportunities for inclusion of oceanic space in this legal definition.

Section 2: Wilderness System Established Statement of Purpose

§2(a). In order 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, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.

Section 2a is the purpose and/or motivation of this legislative enterprise. The first three clauses show clues into the idea of wilderness: it is spatially in opposition to increasing population, expanding settlement, growing mechanization, the occupying and modification of area. Wilderness is legally “land” preserved in its natural condition. This sense of wilderness seems to preclude non-lands, or the oceanic that does not represent submerged lands. As it establishes wilderness as a resource, something which supplies, aids, and supports, it packages it as an entity which gives to the people of the United States. This is not necessarily economic, and in fact, it could be a spiritual, a logistical, or an undefined resource. The Act’s purpose is clearly terrestrial, as spatially (not procedurally), the ocean can exist, visually unimpaired, in spite of increasing population, expanding settlement, or growing mechanization. This fact, coupled with the clear reference to lands, immediately dims the possible inclusion of ocean spaces.

§2(a).(cont’d)For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness;

It is thus the purpose of the Wilderness Act to create and maintain wilderness areas. The purpose is presented before the definition, and while Section 2(a) offers clues, it does little to define the space.

This Act tasks the government with the preservation of wilderness character, and this character is defined in Section 2(c). For the purposes of this chapter, Section 2(b) will not be analyzed, since it does

not add or detract from the definition of legal wilderness. It is simply a management directive, underlining that all wilderness shall remain in its respective departments, and shall not be administered by anyone else. This effectively decentralizes the administration of wilderness as a separate entity.

§2(c). A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.

This section is the most artful legal definition I know. Zahniser wrote carefully, crafting an interpretable definition of a space he saw as sacred.¹³⁷ Wilderness is explained as an antithesis to those areas where human works dominate a landscape. It is thus where the nonhuman exists in a concurrently unfettered manner, where humans are not steadfast in their presence. While “landscape” seems to exclude the oceanic, ephemeral human presence does quite the opposite. “Untrammelled” is an uncommon word, and in fact Zahniser was encouraged to remove it from the definition.¹³⁸ The word itself is linguistically complex, one where multiple images conjure. English appropriated this word’s essence from the Middle French word *tramail* meaning “fowling net.” The word “trammel” exists in English; it retained the ancient French meaning. “Untrammelled” uses the prefix un- and the suffix –ed creating an adjective which means unrestrained, unhindered, or literally “unnetted.” This imagery is complex and open to legal interpretation. What it does in the Wilderness Act is create part of a definition which loses temporality, which helps to create a vague category rather than a strict confine. Followed by “where man himself is a visitor who does not remain,” these simple lines represent the clearest opportunity for the inclusion of oceanic space in the concept of legal wilderness, as by definition humans only visit ocean space.

§2(c).(cont’d)An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding

¹³⁷ Mark Harvey, *Wilderness Forever* (Seattle: University of Washington Press, 2005), 24.

¹³⁸ *Ibid.*

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 as 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.

The remainder of Section 2(c) holds further ways to understand and to conceive opportunities for oceanic inclusion. Wilderness means “an area of undeveloped Federal land retaining its primeval character and influence.” While “land” seems to preclude the oceanic, “area” provides an additional ambiguity that is neither terrestrial nor otherwise. While land looks to be obviously terrestrial, the Submerged Lands Act of 1953 (2002 amend.) (43 USC §§ 1301-1315) defines those areas “beneath navigable waters”¹³⁹ as those “lands...which are covered by nontidal waters,”¹⁴⁰ or those “lands permanently or periodically covered by tidal waters...”¹⁴¹ As this act became law eleven years before the passage of the Wilderness Act, lawmakers would/could have been keenly aware of the definitions provided therein. While this act treats only those lands within the jurisdiction of the individual states, it nonetheless provides considerable opportunities for the further inclusion of ocean space in a *new* definition of wilderness. What is important to note here, is that the Wilderness Act requires that wilderness areas only exist as part of current federal landholdings; the Submerged Lands Act defines those submerged lands falling under states’ unique jurisdiction (3 nautical miles seaward from the shore save Gulf-Coast Florida and Texas who enjoy jurisdiction over 3 nautical leagues or 9 nautical miles), and in doing so it defined “submerged lands lying seaward and outside of the area of lands beneath navigable waters”¹⁴² as federal (submerged) lands. Moreover, Section 9 reaffirms this:

Nothing in this Act shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 hereof, all of which natural resources appertain to the United States...¹⁴³

¹³⁹ §1301 (a), Submerged Lands Act [43 USC §§ 1301-1315].

¹⁴⁰ §1301(a)(1), Submerged Lands Act [43 USC §§ 1301-1315].

¹⁴¹ §1301(a)(2), Submerged Lands Act [43 USC §§ 1301-1315].

¹⁴² §1331(a), Submerged Lands Act [43 USC §§ 1301-1315].

¹⁴³ §9 The Submerged Lands Act [67 Stat. 32].

These (submerged) lands are in perpetual federal holding as they can only be leased for resource extraction. The space defined as part of the later Waters of the United States (further discussed in Chapter 4), offers a truly staggering scale of possible ocean wildernesses. Wilderness Areas are not primary protections; rather they are secondary protections requiring an already-established protected area that house them. This becomes problematic for ocean spaces, since so few oceanic spaces are administered by the Department of the Interior or the Department of Agriculture. Those few oceanic spaces that are part of the National Park System, like Biscayne National Park, represent wilderness-worthy spaces according to the Submerged Lands and Wilderness Acts. This, perhaps, provides the clearest path to an oceanic wilderness area. It would be, however, problematic to define ocean-space universally in terms of the seabed upon which it lays.

The Wilderness Act further defines its eponymous space as “retaining its primeval character and influence, without permanent improvements or human habitation.”¹⁴⁴ Like the terrestrial, ocean space is not universally free of permanent improvements: examples of this include sunken ships, oil platforms and rigs, underwater research stations, and artificial reefs. The ocean is far vaster than land, and therefore offers many spaces which abide by this definition; moreover these spaces strictly adhere to the definition of a space free of permanent human inhabitation. Wilderness “generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.”¹⁴⁵ Overwhelmingly, the ocean is free of visual interruption, it is a seemingly constant space defined by one solid-in-appearance stratum. That which lies under-the-surface, directly upon the submerged lands is less uniform in its appearance. The ocean “offers outstanding opportunities for solitude or a primitive and unconfined type of recreation.”¹⁴⁶ The ocean, alongside the atmosphere offers the greatest opportunity for solitude. Part of our reticence with the ocean is its ability to offer

¹⁴⁴ §2(c). The Wilderness Act [88 Stat. 577].

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

tremendous solitude. Furthermore, the nearly boundless sea has millions of spaces greater than the required 5,000 acres. It also contains ample examples of “ecological, geological, or other features of scientific, educational, scenic, or historical value.” Section 2(c) of the Wilderness Act, the very section that created the legal definition of wilderness in the United States, offers many examples of how wilderness *can* include and define ocean space. The remainder of the Wilderness Act provides directives on how to create and administer wilderness areas, and only occasionally applies to this chapter.

Section 3: National Wilderness Preservation System - Extent of System

Section 3 begins by reclassifying all of the Forest Service’s holdings referred to as “wilderness,” “wild,” or “canoe” as wilderness areas according to this act. This allowed the Forest Service to bypass the legislative path to wilderness-hood that this section requires. Congress affords the Secretaries of Agriculture and the Interior with only an advisory power; they may recommend reclassification of wilderness areas to the President, who then in turns acts as an adviser to congress. Only congress can (post Wilderness Act) declare legal wilderness.

Section 4: Use of Wilderness Areas

This section reaffirms the definition provided in Section 2; the designation of wilderness is not the primary level of protection as it must exist within a primary level of protection: National Forests, National Parks, or National Wildlife Refuges: “The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered.”¹⁴⁷ Section 4 also decries how and how not the Wilderness Act will or will not interfere with existing legislation. These laws are varied and will be discussed in the same chronological order that they appear in the Wilderness Act. Section 4.(a)(1) states that:

¹⁴⁷ §4.(a), Wilderness Act.

Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215) (16 U.S.C. 528-531).

The Act of June 4, 1897 or the later-called Forest Service Organic Administration Act (16 U.S.C. §§473-482) (amend. 1905, 1911, 1925, 1962, 1964, 1968, and 1976) is an appropriation bill. Its principle function is to appropriate monies to different federal agencies. It in part establishes a centralized way that forest reserves could be created; it builds upon an earlier Act of March 3, 1891 which gave the president the ability to set aside protected forests. The Act of June 4, 1897 creates the following parameter:

No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States ; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the minerals therein, or for agricultural purposes, than for forest purposes.¹⁴⁸

This Act effectively laid the foundation for the creation of the U.S. Forest Service. While it is staunchly economic, and excludes those areas worth more economically than for their inherent value (conservation), it is nonetheless important as a category creator, something that mirrors America's conception of ocean-space.

The Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215) builds upon the Act of June 4, 1897. It created a system of multiple and sustained use for forest reserves in the United States: "national forests (shall) be managed under principles of multiple use and to produce sustained yield of products and services."¹⁴⁹ It is also "the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes."¹⁵⁰ The concept of multiple-use or not-just-economic use, within the National Forest System, marked the mutation from a strictly conservation-based entity to one which had legislative clout to

¹⁴⁸ 30 Stat. 35 (1st full paragraph).

¹⁴⁹ 74 Stat. 215 (First line of the body of the act).

¹⁵⁰ §1 of 74 Stat. 215

pursue extra-economic activities. This, as previously discussed here, was not the Forest Service's first foray into protecting nature for nature's sake; it was, however, an important reassigning of ideals that helped lead the National Forest System toward the Wilderness Act. The concept of wilderness as a system is evident here as well as wildlife and fish are considered as parts of valid reasons for protection, or as integral parts to a wilderness process and space. While the Multiple-Use Sustained-Yield Act does partition fish from wildlife, it nonetheless creates an aquatic category or biologic life.

Wilderness Act Section 4.(a)(2) reads:

Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-Fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

The Shipstead-Nolan Act is integral to concepts of visual pristineness, or postures of wilderness construction. In an effort to preserve the naturalness of shorelines along Minnesota's borders with Lake Superior, this Act forbids any logging adjacent to the waterline:

The Principle of conserving the natural beauty of shore lines for recreational use shall apply to all Federal lands which border upon any boundary lake or stream contiguous to this area, or any other lake or stream within this area which is now or eventually to be in general use for boat or canoe travel, and that for the purpose of carrying out this principle logging of all such shores to a depth of four hundred feet from the natural waterline is hereby forbidden"¹⁵¹

The use of shoreline as a baseline for initial perception of wilderness, one from where a boater or canoeist perceives wilderness looking shoreward rather than seaward or lake-ward is important. It reaffirms that legislators perceived wilderness, in 1930, as a space definitely terrestrial in its underpinnings. But, this Act also effectively elevates the shore to a space of pristine reverence or at least a space of defined as liminally natural-wilderness-commercial. Mimicking the treatment of the oceanic or in this case Great lake, the perception or vantage of lake -> shore -> wood -> commercial as stages of visual perception of a nature-economic binary can be rearranged in a seaward fashion: wood -

¹⁵¹ §2 of Shipstead-Nolan Act [46 Stat. 1021].

> shore -> ocean -> commercial. If the shore is preserved for the visual pleasure of the shoreward gazer, than since the ocean (or Lake Superior) appears visually intact to the seaward gazer, the construct of preservation in the Shipstead-Nolan Act is a shaky schematic for ocean-preservation precedence.

The Thye-Blatnik Act of 1948 (62 Stat. 568) builds and modifies the Shipstead-Nolan Act. Its stated purpose is “to safeguard and consolidate certain areas of exceptional public value within the Superior National Forest, State of Minnesota, and for other purposes.”¹⁵² It requires that the Secretary of Agriculture “acquire any lands or interest in lands...where in his opinion development or exploitation, or the potentialities for development of exploitation, impair or threaten to impair the unique qualities and natural features of the remaining wilderness canoe country.”¹⁵³ Like its predecessor, the goal of this Act is to ensure the visual intactness, from a shoreward vantage, of natural settings. Eight years later the Humphrey-Thye-Blatnik-Andresen Act of 1956 (70 Stat. 326) simply listed additional areas of the State of Minnesota. It did not change any policy mechanism, only the geographic regions affected by the Thye-Blatnik Act of 1948. Both of these Acts assisted in setting a tone geared toward pitting wilderness against development.

Wilderness Act Section 4.(a)(3) reads:

Nothing in this Act shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with sections 1, 2, 3, and 4 of this title, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

The first bill mentioned here is the Act of June 8, 1906 or the American Antiquities Act of 1906 (34 Stat. 225). The Antiquities Act allows for Presidential Proclamations that lead to one of the most far-reaching and enduring forms of American natural preservation. The protections it can afford are nearly

¹⁵² §1 of Thye-Blatnik Act [62 Stat. 568].

¹⁵³ §1 of Thye-Blatnik Act [62 Stat. 568].

boundless, yet as with all acts there are some caveats to be noted. Congress allows the president the ability to create National Monuments on lands already held by the Federal Government (much like Congress and wilderness areas). These Monuments can be “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest” (§2). The Wilderness Act is category-specific, and in fact space-specific. The goal of the Antiquities Act is to protect the “smallest area compatible with proper care and management of the objects to be protected” (§2). Very much unlike the Wilderness Act, this Act’s specific goal is to protect only the minimum space required to preserve the integrity of its protected entity. This kind of minimalist approach is evident in the Endangered Species Act and other later acts discussed in consequent chapters. This, however, draws a sharp contrast with the approach of the Wilderness Act, where a minimum of 5,000 acres determines how small an area can be to be determined wilderness; and not that an area is only to be barely large enough to achieve its goal. Furthermore, a National Monument may very well be made up of wilderness space. As broached during the discussion of the Submerged Lands Act, those lands underneath navigable waters are federal beyond three nautical miles (save Florida’s Gulf Coast and Texas) and within a minimum 12 and a maximum of 36 nautical miles from the baseline (lowtide marker).¹⁵⁴ The Antiquities Act has been used to preserve ocean-space on several occasions.¹⁵⁵ The same concept of submerged lands and by extension territorial seas (two decades after the Wilderness Act) is the legal basis for the use of the Antiquities Act in marine spaces. The Antiquities Act as an ocean-specific protection tool will be further discussed in Chapter 5.

The Federal Power Act (41 Stat. 1353) (amend. 1930, 1935, 1949, 1951, 1962, 1978, 1980, 1982 1986 1992, 1994, 1995) revoked the right to allow for:

¹⁵⁴ The United States claims 24 nautical miles beyond the initial twelve as its contiguous zone. This space is part of the total 200 nautical miles of the Exclusive Economic Zone (EEZ) of the United States, but those areas between the end of the contiguous zone and the beginning of EEZ are less clearly defined as part of the National territory. These concepts will be further discussed in chapters 4 and 5.

¹⁵⁵ George W. Bush. 2006. Proclamation 8031 (establishing Papahānaumokuākea National Monument). ; George W. Bush. 2009. Proclamations 8335-8337 (establishing Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments.

permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as now constituted of any national park or national monument.¹⁵⁶

This kind of protection of legal reproval adds another layer of to the perception of pristine wilderness. While these kinds of structures can interrupt natural process, they are too visually disjointed in a natural setting. The Wilderness Act, however, precisely references Section two of 16 U.S.C. 796, where the Federal Power Act is partially codified. It reads:

“reservations” means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks.¹⁵⁷

This act created a new form of protection, one which *could* include later-defined submerged lands. Once again, the lynchpin for protection in the United States is predicated legislatively on the necessity that lands must be owned by the United States in order to qualify for natural-state protections. This concept works in the favor of protecting oceanic spaces as wilderness areas.

The final act mentioned in Section 4 of the Wilderness Act is Public Law 49-292, Act of August 21, 1935, or “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes.” This Act is similar to the Antiquities Act of 1906 (16 USC 431-433); though it bestows the power to determine and acquire associated sundries for places of historical significance upon the Secretary of the Interior rather than upon the President. This Act is decidedly less spatial than the Antiquities Act, it reads: “that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States” (§1). It provides the power to “secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects.” (§2(a));

¹⁵⁶ §1 of the Federal Power Act (41 Stat. 1353).

¹⁵⁷ §2 of 16 U.S.C. 796.

to “survey historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States” (§2(b)); to “make necessary investigations and researches in the U.S. relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same” (§2(c)); to “acquire in the name of the U.S. by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary” (§2(d)). However, the remainder of section 2(d) provides that property from religious or educational institutions (or any public benefit land) can be bought without the consent of the owner. This Act goes further, in a sense, than the Antiquities Act. In the latter, the President is only able to set aside lands within public holdings, and not declare any non-federal land to be of significance using the Act. While this August 21, 1935 Act allows for the Secretary of the Interior to purchase lands that may be outside of federal holdings, it does not allow for unchecked spending of the treasury’s general funds; in fact, it expressly forbids this without congressional approval (§2(d)). This Act shows an earlier construct of federal powers as granted by congress vis-à-vis significant places (and objects); a construct which would grow and evolve into a multi-agency wilderness protection system that was established thirty years afterward.

Wilderness Act Section 4.(c), entitled “Prohibition of Certain Uses” reads:

Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

This statement of prohibition is far-reaching; it reiterates the noncommercial nature of wilderness as a resource: “there shall be no commercial enterprise and no permanent road within any wilderness area.” It goes as far as to preclude the use of “motor vehicles, motorized equipment or

motorboats, no landing of aircraft, no other form of mechanical transport” (§4.(c)). What is interesting here is the inclusion of motorboats in this category. In order to exclude motorboats, aquatic space must be included in the concept of wilderness according to this act. While this is not necessarily inclusive of marine space, it too offers an opportunity to reconstruct this congressional concept of wilderness. The following section 4.(d) entitled “Special Provisions” inserts an important caveat: “the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue” (§4.(d)(1). Within the Act there is a give-and-take, a battle for precedence. This battle is empirically chronicled by geographer Michael Yochim in his exploration in Yellowstone Lake. Often recreational usage demands outweigh wilderness’ inherent value.¹⁵⁸ While there are non-boat examples of this battle too, i.e. Cumberland Island Wilderness road battle,¹⁵⁹ Yochim’s example provides a clear evaluation of attitudes toward the aquatic-as-other. As a further difficulty for the inclusion of ocean as wilderness space is Section 4.(d)(2): “Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment.” As the ocean is legally conceived as mostly a space of extraction, the longevity of wilderness in ocean-space would seem tenuous. Sections 4.(d)(1-3) of the Act pertain to national forest wilderness areas, and these areas, much like ocean-space, exist within economic and nature realities. So much so that mineral leases and extractions were not initially put on hold:

Notwithstanding (sic) any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the extent as applicable prior to September 3, 1964, extend to those national forest lands designated by this Act as "wilderness areas"... no patent within wilderness areas designated by this Act shall issue after December 31, 1983.¹⁶⁰

¹⁵⁸ Michael Yochim, “A Water Wilderness: Battles over Values and Motorboats on Yellowstone Lake,” *Historical Geography* 35 (2007), 185-213.

¹⁵⁹ Lary M. Dilsaver, *Cumberland Island National Seashore: A History of Conservation Conflict* (Charlottesville: University of Virginia Press, 2004).

¹⁶⁰ §4.(d)(3) of the Wilderness Act (Pub. L. 88-577).

The remainder of section 4 treats water resources and grazing. This is the first and only direct mention of water in the entire Act. It is another example of aquatic-as-commodity. The President is given the right to:

authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial.¹⁶¹

While this has little to do with ocean-space, it does underline the necessity for a redirecting of legal constructs of water and ocean resources in order to legitimately conceive of these spaces as wildernesses. While the Wilderness Act provides strict protection guidelines, it is peppered with exclusions and caveats. One principle exclusion, one that provides opportunity for ocean-space in its then contemporary legal construct, is Section 4.(d)(4)(6): “Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.” This allows recreation to remain commercialized in some fashion, and offers incentive to including ocean-space as wilderness .

Section 5: State and Private Lands within Wilderness Areas

Section 5 deals with privately-held and individual state-held lands within or adjacent to wilderness areas in national forests. Section 5.(a) provides for a trade of land: these lands “shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture.” This means that State-owned submerged lands potentially could be exchanged for Federal (submerged) lands in order to be protected as wilderness areas. Naturally, this would require the primary category of National Forest protection as per the Act; however, it nonetheless presents another opportunity for oceanic inclusion. Section 5.(b) adds an additional layer of difficulty to a State/Federal swap: “United States shall not transfer to a State or private owner any mineral interests.”

¹⁶¹ §4.(d)(4).

This would require that a State be willing to remove its submerged lands from their holdings, and agree to add a Federal land thereto, foregoing any possible mineral rights on this new land and forsaking any possible mineral rights within its three nautical miles.

Sections 6 & 7: Gifts, Bequests, and Contributions/Annual Reports

As ocean-space is rarely owned by any non-governmental entity, Section 6 is not necessarily applicable to this chapter. In certain cases, coastal areas, including bays, inlets, and tidal zones can be owned by individuals and corporations. Theoretically, if such submerged lands existed within a wilderness area, it could be bequeathed to the Forest Service. Section 7 requires that the Secretaries of Agriculture and Interior submit joint reports to the President and then onward to Congress on the health and status of legal wilderness areas.

HEARINGS ON THE WILDERNESS ACT 1957-1964

Not all hearings are public. Not all bills are of a stature to merit such events, because only if a “bill is of sufficient importance” does a committee call a public hearing.¹⁶² The Wilderness Act was such a bill; in fact, it was of a stature to merit several series of public hearings in both chambers of congress. Both the power of a committee and its hearings comes in several forms. For starters it is the committee, informed by its hearings, that decides whether or not a full “floor” or entire legislative body vote can occur in either chamber. Therefore, committees are the first legislative formality that a resolution must overcome in order to become a bill, a law, or at least a successful resolution. As the committee and hearing represent two intertwined political entities, and they both require each other to exist, it is with this knowledge that I offer the following analysis of those committees and hearings leading to the passage of the Wilderness Act.

¹⁶² John V. Sullivan, *How Our Laws are Made* (Washington, D.C.: Government Printing Office, 2007), 12.

The House and Senate Committees on Interior and Insular Affairs vetted the Wilderness Act. The House of Representative created its Committee on Interior and Insular Affairs through the 1946 Reorganization Act (60 Stat. 806). It combined the committees on Public Lands, Indian Affairs, Territories, Mines and Mining, Irrigation and Reclamation, and Insular Affairs to create a Committee on Public Lands.¹⁶³ The 82nd Congress changed the Committee's name to Interior and Insular Affairs, and the 103rd Congress briefly changed the name to Committee on Natural Resources, and finally the 104th Congress gave it its current name of Committee on Resources.¹⁶⁴ The Senate followed a similar path: Committee on Public lands (14th-66th Congresses) to Committee on Public Lands and Surveys (67th-79th Congresses) to Committee on Public Lands (80th Congress) to Committee on Interior and Insular Affairs (80th-95th Congresses) to Committee on Energy and Natural Resources (81st-present Congresses).¹⁶⁵ These committees were solely responsible for the hearings analyzed in this chapter.

I base this analysis on nine hearings before the House Committee on Interior and Insular Affairs as well as four hearings before the Senate Committee on Interior and Insular Affairs. The senate hearings total 2,687 total pages of transcription and the House hearings total 1,756 pages. The senate hearings took place during the years 1957-1958 and thus offer an earlier insight into congressional constructs of wilderness; whereas the house hearings all took place during 1964, the year of the Wilderness Act became law. As part of this analysis the following factors will be prevalent: (1) the electoral geographies of those members sitting on either the committee or subcommittee in question; (2) the wording of the hearings as it pertains to ocean and coastal space, and (3) the inclusion or exclusion of ocean and coastal space in the discussion of wilderness. The goal of this analysis is to find further opportunities for the inclusion of oceanic spaces, as well as to try and create a narrative of a congressional construct of wilderness vis-à-vis the ocean. Were oceanic-spaces mentioned? Were they

¹⁶³ C.E. Schamel, et al., *Guide to the Records of the United States House of Representatives at the National Archives, 1789-1989*, (Washington, D.C.: National Archives and Records Administration, 1989).

¹⁶⁴ *Ibid.*

¹⁶⁵ R.W. Coren, et al., *Guide to the Records of the United States Senate at the National Archives, 1789-1989* (Washington, D.C.: National Archives and Records Administration, 1989).

actively excluded? What role did they play, if any, in the hearings that led, in part, to the legal definition of wilderness?

Using a combination of qualitative analysis software (NVivo9) and long-form analysis, I searched each of the hearings for the following concepts and terms: water, ocean, sea, shore, coastal, marine, fish, bay, inlet, and salt. This list is not exhaustive, but it covers the most important bases when speaking about ocean as a space and to a lesser degree process. Beginning with the senate hearings, the total number of terms appropriately-associated with the ocean and its space and process numbered fewer than 100 in nearly 3,000 pages. Of those, most were loosely-associated with the ocean. Examples are references to the Atlantic Seaboard or the Pacific Ocean. In every case, these oceans were acts as reference boundaries; i.e. where land surrendered to the ocean. It is important to note that not all the text in bound hearing documents is conversation, in fact, a great deal is from statements from various members of industrial groups, concerned citizens, and myriad others. Often these documents are read aloud in part or in whole, and therefore are placed in the hearings documents. It is nevertheless impossible to determine if these documents had any bearing on whether or not these lawmakers listened or took heed. I can say with confidence, that all lawmakers present during these hearings had access to these documents. Some of the conversations and documents provide examples of understanding ocean-space in terms of nature and even shades of wilderness.

In the bound series of senate hearings from June 19 & 20, 1957, there are a few engaging and interesting examples of oceanic wilderness constructs. “The Aleutian Islands afford outstanding refuges for seabird rookeries, and at the same time furnish a possible wild country experience in a unique northern ocean setting.”¹⁶⁶ Here the ocean is a backdrop for the islands. In a decidedly more pointed manner, the California Academy of Sciences presented on the topic: “Waning Wilderness of the

¹⁶⁶ Senate Committee on Interior and Insular Affairs, *National Wilderness Preservation Act: Hearings on S. 4028*, 85th Cong., 1st sess., 1957, 121.

Seashore.”¹⁶⁷ This brief section of the hearings is the clearest statement of ocean-as-wilderness (or at least nature) in the whole of the hearings. It was followed by Allyn S. Smith who:

Presented some similar problems and described the overcropping of underwater fauna on the ocean bottom near the seashore. Earl S. Herald told how the increase of underwater spearing in certain areas had done away with certain species and is threatening others. Robert C. Miller told of seashore reserves on the Pacific coast, the program of the California Department of Beaches and Parks, and the need for legislation to curb the depredations of skin divers. Certain underwater areas must be set aside where the water, sea bottom, and shore are left undisturbed. He also spoke of national seashore reserves, including the wilderness beach with no roads in Olympic National Park.¹⁶⁸

In another set of senate hearings a witness refers to the ocean as the “last frontier.”¹⁶⁹ This concept, a frontier unknown, effectively skirts and works against the necessity to protect oceanic wilderness. A frontier requires taming in the American tradition, and as a signifier, frontier does not conjure images of reverence, but rather of danger. These hearings revealed very little actively. There is a paucity of ocean references, and those that exist are not in the form of conversation or testimony. What is clear though, is the utter lack of an ocean wilderness conception. Neither the lawmakers nor the testifiers had any desire or understanding of how the ocean fit into a wilderness space or process. The lack of important ocean references is telling and the silence on the subject speaks volumes. The ocean was by and large unimportant in the hearings surrounding the future Wilderness Act. This is not unique to the senate, the same holds true in the hundreds upon hundreds of pages chronicling the House of Representatives hearings. There are, however, a handful of interesting outliers.

In a statement delivered by Vernon F. Morgus of the Washington chapter of the Nature Conservancy he creates an interesting portrait of his conception of nature.

In my youth I found much pleasure in the deep woods behind my home, in the clean, sparkling mountain streams nearby and there were occasions when the family would take what was then the long drive down the Columbia River to the Pacific Ocean beaches. There we enjoyed the clam digging, and long stretches of lonely sand beaches where we could pitch our tent in the

¹⁶⁷ *Ibid.*, 357.

¹⁶⁸ *Ibid.*, 375.

¹⁶⁹ Senate Committee on Interior and Insular Affairs *National Wilderness Preservation Act: Hearings on S. 4028, 85th Cong., 2nd sess., 1958, 597.*

driftwood or dunes that looked inviting. We enjoyed wilderness experiences near home and if the most beautiful ocean, canyon, and mountain country we had heard and read about was too distant for our budget or time to permit a visit, we had the satisfaction and pride of simply knowing that it was there and that in time we would visit it, too. We gave no thought to the unthinkable idea that these unique gifts of nature would soon begin to deteriorate through misuse and overuse and one by one cease to exist.¹⁷⁰

Here Morgus is painting a wilderness picture that includes the shore and possibly the ocean. His final sentence, lamenting the deterioration of nature would seem to include the shore and ocean space as part of this deteriorated space, or part of his nature scheme. We find further evidence from Franck Fickeisen when he testifies that:

In 1910 our president, Prof. Edmond S. Meany, said that the Mountaineers not only loved the mountains, but "they also love the forests and valleys, the rivers, lakes, and the boundless sea, they love the trees and flowers, the birds and animals, they love the beauties and wonders of nature, among which the mountains seem but one sublime manifestation."¹⁷¹

Here, once again, the "boundless sea" is revered as part of a natural schematic; even sublime, a term with religious or sacred underpinnings that we can associate with wilderness areas.¹⁷² This is the extent of meaningful oceanic engagement in these House of Representatives hearings. This lack of engagement, whether intentional or otherwise, may be a function of the committees that vetted these bills. The next phase of this analysis will look closely at the geographies of the committees; in doing so, to underline or strike out any possible land bias.

THE GEOGRAPHIC DISTRIBUTION OF THE WILDERNESS ACT COMMITTEES

The geography of elected officials can help tell a story of possibilities. In the case of the committees who ushered the eventual Wilderness Act to its passage, most of their members represent states lacking marine coasts. This does not reveal any personal or political affinity or distain for ocean-space, but it does underline the simple fact that public political agenda concerning the ocean would make little

¹⁷⁰ House Committee on Interior and Insular Affairs, *Wilderness Preservation System: Hearings on H.R.10630*, 88th Cong., 1st sess., 1964, 44.

¹⁷¹ *Ibid*, 48.

¹⁷² Roderick Nash, *Wilderness and the American Mind* (New Haven: Yale University Press, 2001).

sense; thus public motivation lacks the pressure of a coastal constituency. Senators from states where marine coast exists would likely consider their coastal voters as they represent an entire state; representatives from states where marine coasts exist could preside over coastal districts, but could come from a landlocked part of a state. Though, while a representative may come from a district that lies far from ocean-space, collaborative projects within state delegations would require that members be more aware of the coast than those states fully landlocked. Proximity to the ocean does not necessarily mean that the ocean is an important or pertinent political entity for elected officials. It does, however, mean that the ocean likely played a more substantive role for an official from Florida or Louisiana than it did for someone elected from North Dakota. This analysis explores the possibility of congressional perception of wilderness and whether or not ocean can be so; and, does not aim to prescribe ocean-ideals based on the location of congressional districts. The story that the following distribution tells is compelling for the House of Representatives, but more succinctly compelling for the Senate. In all cases, the potential bias toward the non-coastal states is marked.

The Committee on Interior and Insular Affairs, in tandem with the Subcommittee on Public Lands of the House of Representatives tells a more balanced story than its counterpart in the Senate. First looking to the House's Subcommittee, the earliest hashers of the Wilderness Act, we find two slightly different Subcommittees: one from January 1964 (Figures 2.1, 2.3) and the other from April 1964 (Figures 2.2, 2.4).

House of Representatives, Jan. 1964 Subcommittee on Public Lands

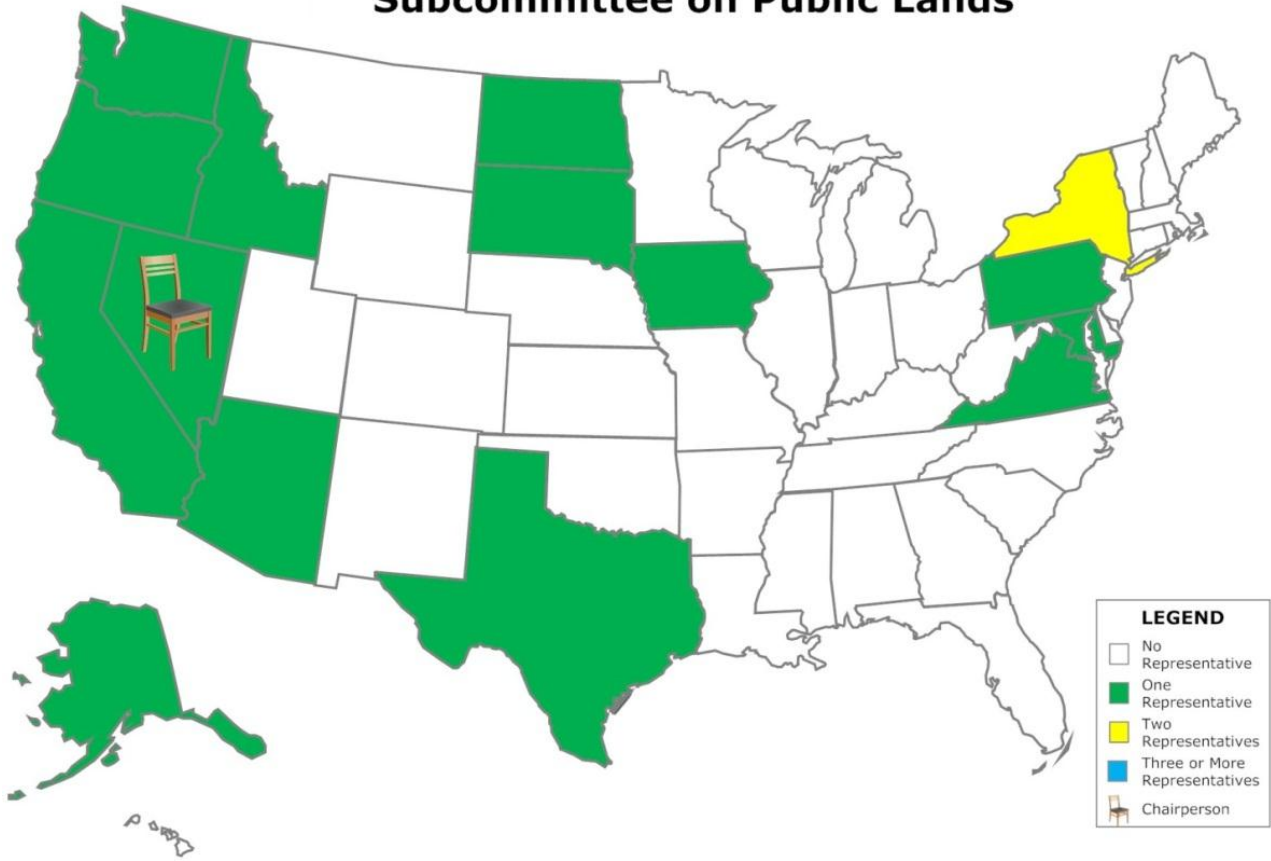


Figure 2.1: U.S. House of Reps., January 1964, Subcommittee on Public Lands

House of Representatives, April 1964 Subcommittee on Public Lands

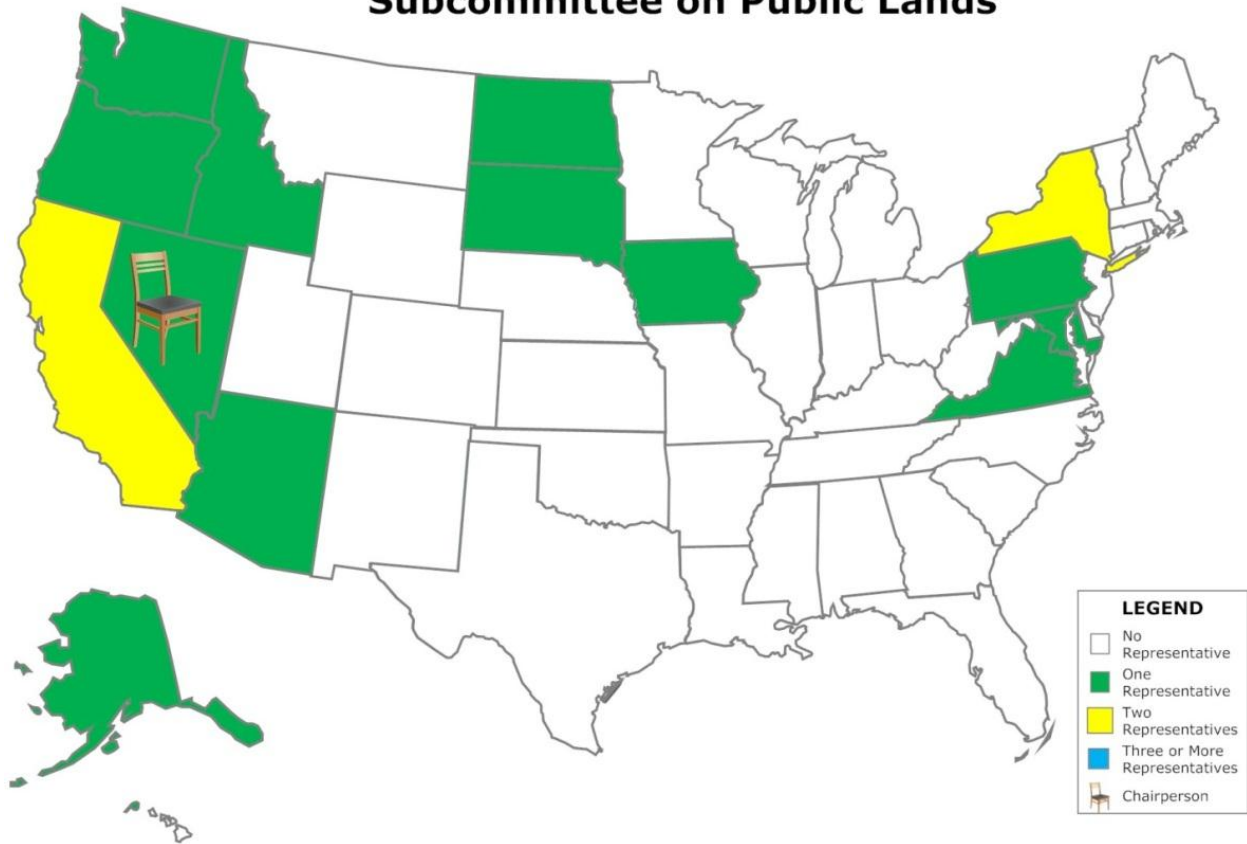


Figure 2.2: U.S. House of Reps., April 1964, Subcommittee on Public Lands

The geographic distribution of its membership is West-heavy in both January and April. In both, seven landlocked states are represented and in January there are eight coastal states compared to April's seven. Geographically, the southern United States, the Midwest, and New England are underrepresented. The chairperson for both subcommittees is from Nevada, a landlocked state. When compared to the larger Committee on Interior and Insular Affairs, this distribution evens slightly.

House of Representatives, Jan. 1964 Committee on Interior and Insular Affairs

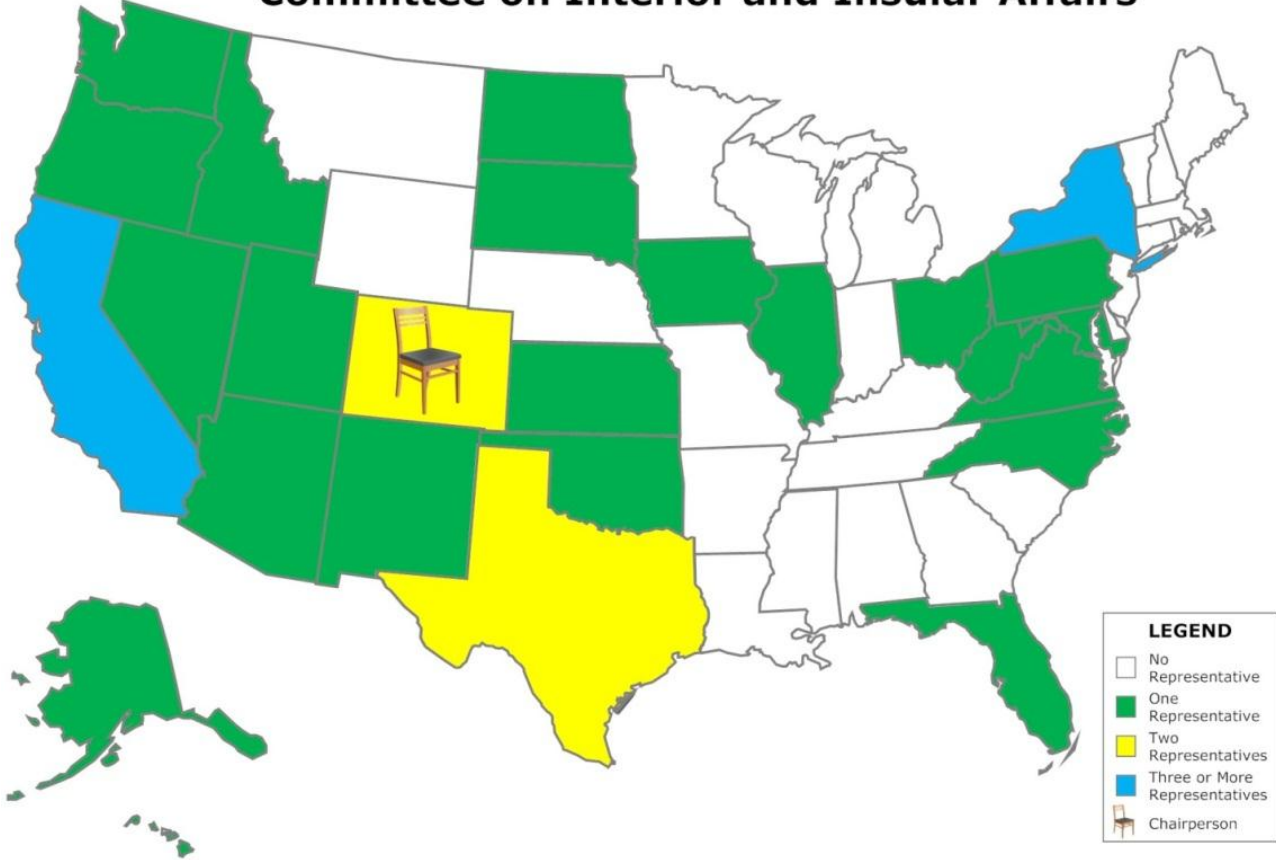


Figure 2.3 U.S. House of Reps., January 1964, Committee on Interior and Insular Affairs

House of Representatives, April 1964 Committee on Interior and Insular Affairs



Figure 2.4: U.S. House of Reps., April 1964, Committee on Interior and Insular Affairs

The January committee has fifteen landlocked states (excluding those bordering the Great Lakes) and eleven coastal states, and identical number for April. The chairperson of this committee was from Colorado, another landlocked state. The Deep South and New England are both underrepresented on this committee. These differences are minor when compared to the senate's committees.

The senate has much less turnover than the house, and therefore the committees are less motive. Furthermore, the committee, not the subcommittee is in question here. The senate has the clearest potential land and regional biases.

United States Senate, June 1957 Committee on Interior and Insular Affairs

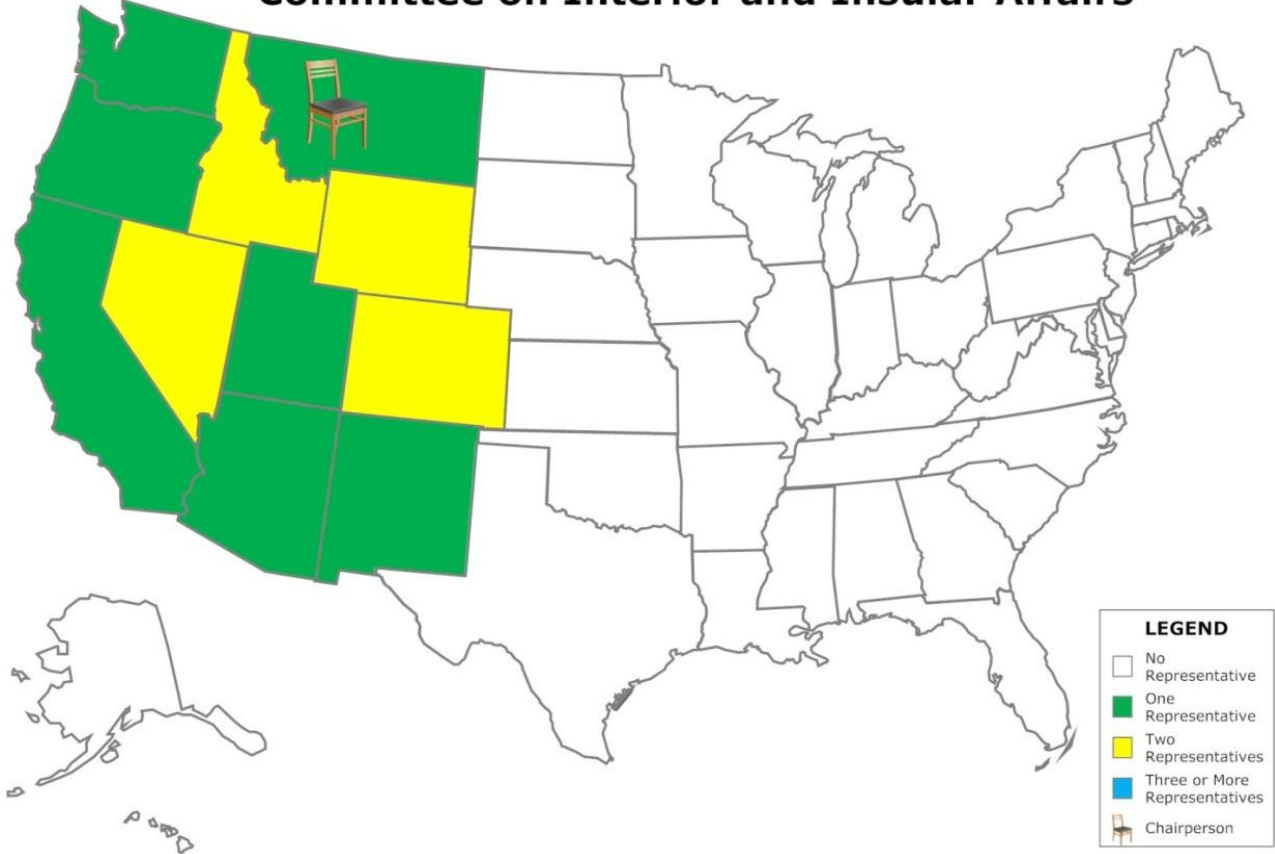


Figure 2.5: U.S. Senate, June 1957, Committee on Interior and Insular Affairs

United States Senate, Nov. 1958 Committee on Interior and Insular Affairs

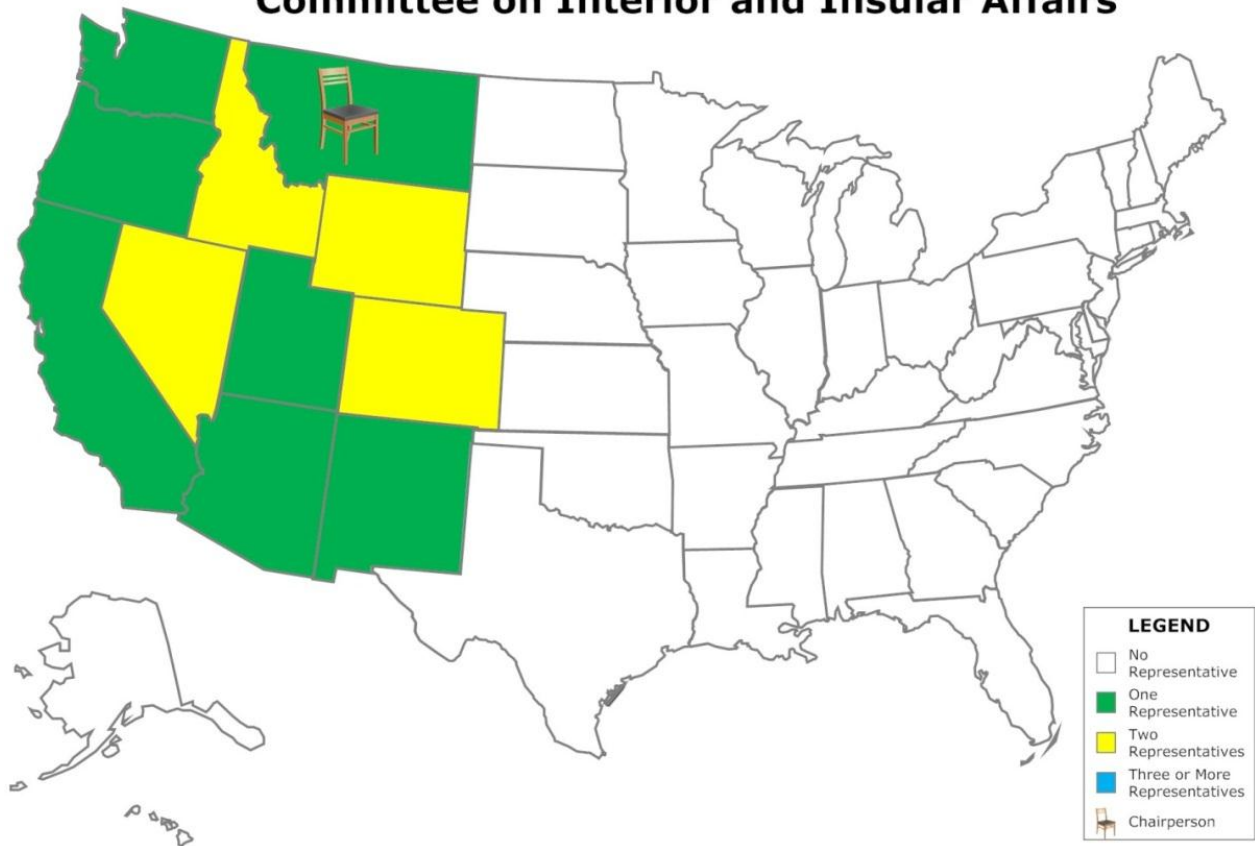


Figure 2.7: U.S. Senate, Nov. 1958, Committee on Interior and Insular Affairs

These committees are made up of senators exclusively from the West and Mountain West. Some of the United States' least populous states (in 1957-1958 and now): Idaho, Nevada, Wyoming, and Colorado had two senators on the committee which defined legal wilderness space. These committees are made up of three coastal and eight landlocked states; twelve senators from landlocked states and three from coastal ones. Moreover, the chairperson was from Montana. There is one more measure of geographic distribution in this analysis: the sponsors of the house and senate failed resolutions that marked the path toward law. Not including house and senate reports, there are sixty-one failed resolutions that led to the Wilderness Act's passage. This arduous path to bill-hood is not singular but extensive, and the resolutions and their sponsors would have required tremendous congressional effort (Table 2.2).

Table 2.2: Passage of the Wilderness Acts: Dates, Resolutions, and Sponsors¹⁷³

Date	Resolution	Sponsor
7-Jun-56	84 S 4013	Humphrey-MN
3-Jan-57	85 HR 906	Reuss-WI
3-Jan-57	85 HR 540	Baldwin-CA
3-Jan-57	85 HR 500	Saylor-PA
3-Jan-57	85 HR 361	O'Hara-IL
5-Jan-57	85 HR 1960	Metcalfe-MT
7-Jan-57	85 HR 2162	Miller-CA
11-Feb-57	85 S 1176	Humphrey-MN
3-Jun-57	85 HR 7880	Porter-OR
21-Apr-58	85 S 3619	Neuberger-OR
18-Jun-58	85 S 4028	Humphrey-MN
23-Jun-58	85 HR 13074	Metcalfe-MT
24-Jun-58	85 HR 13100	O'Hara-IL
25-Jun-58	85 HR 13144	Reuss-WI
27-Jun-58	85 HR 13187	McGovern-SD
7-Jan-59	86 HR 713	Baldwin-CA
9-Jan-59	86 HR 2187	McGovern-SD
9-Jan-59	86 HR 1960	Saylor-PA
9-Jan-59	86 HR 1929	Metcalfe-MT
9-Jan-59	86 HR 1885	Reuss-WI
9-Jan-59	86 HR 1873	O'Hara-IL
9-Jan-59	86 HR 1867	Miller-CA
19-Feb-59	86 S 1123	Humphrey -MN
10-Mar-59	86 HR 5523	Anderson-MT
19-Mar-59	86 HR 5857	Dingell-MN
23-Feb-60	86 HR 10621	Miller-CA
11-May-60	86 HR 12167	Fulton-PA
18-May-60	86 HR 12288	Cohelan-CA
2-Jul-60	86 HR 12951	Saylor-PA
2-Jul-60	86 S 3809	Murray-TN
3-Jan-61	87 HR 776	Saylor-PA
3-Jan-61	87 HR 496	Miller-CA
3-Jan-61	87 HR 299	Bennett-FL
3-Jan-61	87 HR 293	Baldwin-CA
4-Jan-61	87 HR 1762	Dingell-MN
6-Jan-61	87 HR 2008	Fulton-PA
6-Jan-61	87 HR 1925	Cohelan-CA
19-Jul-61	87 HR 8237	Inouye-HI
7-Sep-61	87 S 174	Anderson-MN
9-Jan-63	88 HR 1114	Reuss-WI
9-Jan-63	88 HR 1023	Baldwin-CA
9-Jan-63	88 HR 991	Cohelan-CA
9-Jan-63	88 HR 930	Saylor-PA

¹⁷³ Source: modified from information provided on <http://wilderness.net/index.cfm?fuse=NWPS&sec=legislativeHistoryResults> and various tracking bills.

Table 2.2 cont.

9-Jan-63	88 HR 295	Bennett-FL
24-Jan-63	88 HR 2530	O'Hara-IL
28-Jan-63	88 HR 2894	Miller-CA
28-Jan-63	88 HR 2880	Hosmer-CA
28-Jan-63	88 HR 3878	Quie-MN
28-Mar-63	88 HR 5246	Shelley-CA
23-Apr-63	88 HR 5808	Wydler-NY
1-Aug-63	88 HR 7877	Lindsay-NY
7-Nov-63	88 HR 9070	Saylor-PA
12-Nov-63	88 HR 9101	Quie-MN
19-Nov-63	88 HR 9165	Bennett-FL
19-Nov-63	88 HR 9164	O'Hara-IL
19-Nov-63	88 HR 9163	Reuss-WI
19-Nov-63	88 HR 9162	Dingell-MN
19-Dec-63	88 HR 9520	Cohelan-CA
20-Dec-63	88 HR 9558	Udall-AZ
25-Mar-64	88 HR 10630	Conte-MA
8-Apr-64	88 HR 10752	St. George-NY

Geographic Distribution of Sponsors of Resolutions leading to the Wilderness Act 1956-1964

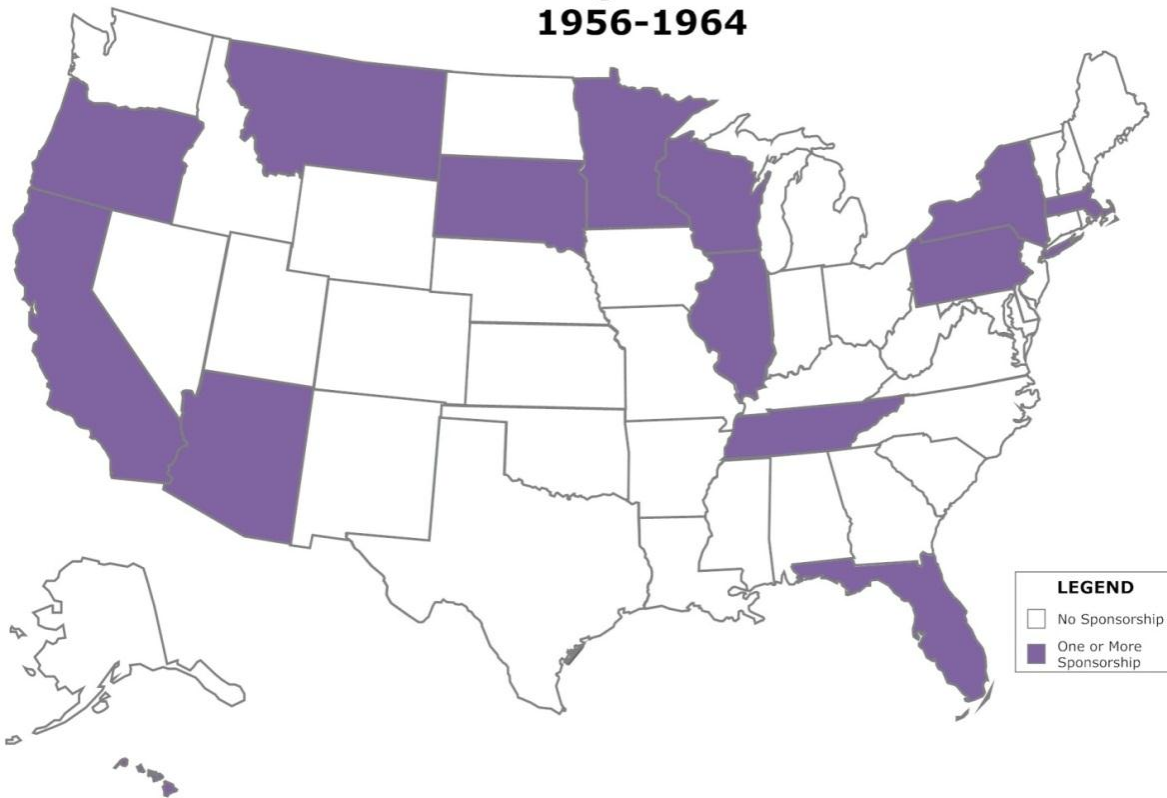


Figure 2.8: Geographic Distribution of Sponsorship

The sponsors present a different story. The legislators are from seven landlocked states (including those states on the Great Lakes) and six coastal. This includes the states of Tennessee, Massachusetts, Wisconsin, and Minnesota which were previously not part of the aforementioned committees. This near-even split, and arguably coastal-heavy (for those who include the Great Lakes as part of coastal-scapes) split does little to argue in either favor or against Congressional understanding of the ocean as wilderness. It does, however, underline the complexity of this kind of geographic distribution, and further churns the waters adding to the turbid manner manner in which we approach ocean-space legally in the United States.

THE WILDERNESS ACT & OCEAN-SPACE: CONCLUDING THOUGHTS

The Wilderness Act is a codified preservation tool, one whose authority and importance is hard to overstate. Spatially, the act creates legal boundaries for what constitutes wilderness in the United States. This analysis has uncovered examples of inclusion and exclusion of ocean-space in a national wilderness schematic. The congress has lain micro-foundations for ocean-as-wilderness; brief contexts evident in both the hearings and wording of the act itself. What is evident is the lack of meaningful engagement, engagements where the ocean is overtly wilderness. This systematic relegation of ocean-space to a rung of quasi-nature or not-really-wilderness is the subject of further investigation in consequent chapters. If we can conceive of the Wilderness Act as evidence of United States Code, where legislation creates codified statutes, and endows the executive branch to create regulations, then we can conceive of this chapter as engaging the U.S.C., whereas the following chapter deals with agency-specific regulation. Thus, Chapter 3 explores the Code of Federal Regulations, management and less formal, less legal documents of wilderness agencies. Legislation defines wilderness space on a national scale, but legislation also offers legislatively-bound, micro-definitions of wilderness as per the U.S.

Forest Service, the National Park System, U.S. Fish and Wildlife Service, and the Bureau of Land Management.

CHAPTER 3—WILDERNESS AGENCIES & OCEAN-SPACE: THE U.S. FOREST SERVICE

The Wilderness Act is the American legal expression of wilderness space. It defines and elevates spaces deemed of a sufficient unmechanized, unhumanized quality as wildernesses. As chapter 2 uncovers, the concept of ocean-as-wilderness did not outwardly exist as an important actor during the act's passage. Instead, elected officials and witnesses made allusion to the ocean, brief moments when ocean and wilderness intermingled. This chapter explores regulatory policies created by the wilderness agencies (the executive branch of the federal government). The analysis of regulations and publications offers further insights into the complicated management of the ocean-wilderness-interface. Through analysis of the U.S. Forest Service (FS), we continue to see the complexity of littoral and in turn ocean management in the United States. The three remaining wilderness agencies, the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (FWS), and the National Park Service (NPS), appear in chapter 4 as the Department of the Interior's agents of coastal management.

The analysis of the Department of Agriculture includes the missions of its various agencies and their understanding of ocean-space in multifarious forms. As the management of all protected natural spaces seemingly requires a complex system of actors: laws, agencies, other interests, perceptions; the analysis thereof must be complex and look to unlikely sources for answers. Within the overarching goal, that of understanding whether or not the ocean is wilderness and whether or not wilderness can be/has been oceanic, this chapter creates narratives of the actors who deal with wilderness and with wilderness-ocean-interface. Creating the story of a well-rounded hybrid legal/social construct requires a certain amount of methodological creativity: this chapter analyzes mission statements, agency-produced maps, pamphlets, and management documents. Each plays a role in elucidating how agencies that tend to wilderness also tend to ocean-space.

STATUTORY WILDERNESS MANAGERS

The Wilderness Act of 1964 established a wilderness preservation system in the United States, but it did not expressly establish a single authority. As we see in section 2.(b), it establishes wilderness spaces as parts of already existing federal landholdings and thus various jurisdictions.

The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. (§2.(b))

Rather than an overarching authority the National Wilderness Preservation System (NWPS) is simply a collection of wildernesses held throughout the wilderness-managing departments of the Federal government: Department of the Interior and the Department of Agriculture. As can be further seen in section 4.(b), from its inception the idea of legal wilderness spaces was meant to be managed by multifarious entities.

Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. (§4.(b))

The only other mention of the words “agency,” “agencies,” or “department” is in section 3.(d)(1):

at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing. (§3.(d)(1))

Thus, the Wilderness Act does little to establish anything more than the system, in terms of management. It was groundbreaking in its ability to create spaces that represent primordial, non-humanized settings more than any other kind of protection granted by the federal government. Though, what it effectively does is endorse a less centralized management tool. The management of wilderness is not through the Wilderness Preservation System, but rather through two departments: the Department of the Interior and the Department of Agriculture; and four of their bureaus: the National

Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the U.S. Forest Service. Moreover, we first standardize wilderness in the United States as it exists rather than in its administration. The NWPS is a collection of wildernesses administered by a decentralized group of managers; their commonality is in their wilderness-protection, and not their quotidian function.

The Wilderness Preservation System exists in such a non-centralized manner that there is no government-run clearinghouse with information on all wilderness areas. In fact, “wilderness.net” is the most thorough and far-reaching of any such central information services. In 1996 a partnership between the Arthur Carhart National Wilderness Training Center and the Aldo Leopold Wilderness Research Institute, and the Wilderness Institute of the University of Montana created this service.¹⁷⁴ It is now sponsored by the aforementioned departments and bureaus, but is not government-run. Each of the four wilderness bureaus runs its own wilderness area central research sites. Since all entities are so separate in their mission and goals, this chapter will look at each. For instance, the Department of Agriculture, the home-department of the U.S. Forest Service, is largely a department which deals with economic rather than natural spaces. Yet, like the National Park Service, congress requires the USDA to administer wilderness in a way that do not interrupt its “wilderness character.”¹⁷⁵ Despite any economic or non-nature bent an agency may have, it assumedly does not impair its ability to carry out the mandates put forth by the Wilderness Act. Whether or not the USDA inspects beef or sets organic threshold standards *should* have no bearing on its treatment of wilderness. Through the analysis of the various mission statements of each of the units of the two wilderness-managing departments, we can begin to uncover their relationship to wilderness management. If the mission statement analysis shows an “odd-man out” scenario, one where only a single or few agencies within a department actually engage wilderness, then we can begin to understand how wilderness is viewed therein. For example, within the USDA only two of its thirty-one offices and agencies deal with an idea of nature; this kind of

¹⁷⁴ Wilderness.net, “Home Page,” 10 July 2011, <http://www.wilderness.net/index.cfm>, (accessed 10 Aug. 2011).

¹⁷⁵ Wilderness Act §2(a).

disparity makes it possible to glean valuable insights into department-specific wilderness. As I will later show, this kind of multi-branched administration which characterizes wilderness space is largely analogous in its variation to ocean-space's administration. There exists a systematic lack of consistency in what is spatially important, what constitutes wilderness boundary, and where sacred fades to economic. In fact, variation to the point of differing levels of acknowledgement even, where sometimes maps include tidal zones and sometimes where maps depict wilderness ending before a beach.

Again, the Wilderness Act itself does not have any important engagement of ocean-space. But as this research shows, each agency involved in tending to wilderness has an engagement with ocean-space; and each of these engagements is slightly different. The mission and achievement of objectives differ from the FWS to the FS to the NPS and BLM, and how they construct the ocean-space too differs. Through the analysis of their missions, selected management documents, and wilderness creation-legislation both chapters 3 and 4 will add layers to the foundation for this project's ocean-ward gaze by analyzing those areas that these agencies protect as they pertain to coastal or oceanic spaces. The location of such "coastal wildernesses" was not previously available as a category, and in order to standardize how this project applies what constitutes coastal wilderness I have developed several criteria and methods to create this category.

A coastal wilderness is where legal wilderness areas become part of a coastal zone, surrender their limits to a coastal buffer zone, exist as the entire surface of an island, or where the interface of legal wilderness and ocean-space is evident. As the federal government defines most wilderness areas by their terrestrial boundaries, I analyzed department-specific maps for each coastal marine state in order to verify a wilderness' proximity to ocean-space. For a wilderness to be coastal, its cartographic portrayal must reflect an intersection of ocean and terrestrial wilderness: a wilderness-ocean interface. The U.S. Fish and Wildlife Service and the National Park Service self-define their "marine and coastal

resources.”¹⁷⁶ However, they do not define their wilderness holdings, within their larger holdings, as either marine or coastal. Thus, using the same abovementioned schema these chapters enumerate the wilderness units in each of their larger holdings in order to define such a space as either coastal or otherwise. It is not expressly the mission of any of the wilderness-managing entities in the United States to differentiate between wildernesses that are marine/coastal and those which are terrestrial, but what is most pertinent here is how these wilderness-managers treat and represent the ocean-space within their repertoires. Therefore, through a careful, oceanic lens this project dissects diverse documents to understand informal, legal, and thus federal treatment of ocean-space.

DEPARTMENT OF AGRICULTURE (USDA)

The Department of Agriculture (USDA) is a multifaceted behemoth of a department. It contains seventeen agencies and fourteen major offices. It is operates under the mission: “We provide leadership on food, agriculture, natural resources, and related issues based on sound public policy, the best available science, and efficient management.”¹⁷⁷ As is immediately evident, we see that the USDA is in fact both an economic and natural-resource-based entity. The USDA exists thanks to Abraham Lincoln’s signature, and it is currently the nation’s largest protector of wilderness space. This role as both an economic agency, one’s whose goal is to promote the very activities that endanger the goals of its other activities (agriculture space vs. wilderness space; economic value vs. inherent value) is not so different from the other wilderness-protecting agency: the Department of the Interior. However, the USDA has a marked economic-natural binary whose scale is virtually singular. From the Agricultural Marketing Service to the Natural Resources Conservation Service, the USDA is truly a dually-functioning agency. In

¹⁷⁶ National Park Service, “Ocean and Coastal Resources,” 15 July 2012, <http://nature.nps.gov/water/oceancoastal/index.cfm>, (accessed 1 Aug. 2012).

Fish and Wildlife Service, “Coastal Program,” 10 July 2012, <http://www.fws.gov/coastal/>, (accessed 1 Aug. 2012).

¹⁷⁷ USDA, “Mission Statement,” 1 July 2011, http://www.usda.gov/wps/portal/usda/usdahome?navid=MISSION_STATEMENT, (accessed 1 Aug. 2012).

order to partition and thus clarify the role of the many sub-units of the USDA, Table 3.1 lists each of the agencies as well as their mission statements.

As each of the units has a different shade of function it is improbable to try and compare the function of the National Agricultural Library to the Forest Service. In order to perhaps clarify and standardize how best to analyze these diverse units, I will use the following categorizing standards: Nature, Human, and Economic. In the analysis of the mission statements, these three headings are useful in understanding the overall policy bent of the USDA and its sub-units. For instance “nature” refers to a policy consistent with preservation; the act of preserving nature for its inherent value. This is not to say that conservation-leaning policy cannot be reflective of a “tending to nature” policy, but rather is far more human-oriented than preservation. Therefore when combined in ascending order of importance “nature” followed by “human” places the greatest emphasis on the former and a lesser, of varying degree, on the latter. The last heading of “economic” is one that of course engenders humans, but it is also separate in its intent. It represents a purely non-nature oriented policy or mission. This category is the least nature-concerned of the three. Not any single heading precludes or excludes another categorically, but rather they serve as straightforward tags through which we can understand the various agencies of the USDA. As Table 3.1 shows, each of the units has been assigned a combination of one or three of these headings. This particular analysis is based solely on missions and not on any other function.

Table 3.1—USDA Units & Mission Statements¹⁷⁸

USDA Unit	Mission Statement
Agricultural Marketing Service (AMS) Economic	to facilitate the competitive and efficient marketing of agricultural products.
Agricultural Research Service (ARS) Human, Economic	ARS conducts research to develop and transfer solutions to agricultural problems of high national priority and provide information access and dissemination to:

¹⁷⁸ All mission statements accessed through: USDA Agencies & Offices, Aug. 2011, http://www.usda.gov/wps/portal/usda/usdahome?navtype=MA&navid=AGENCIES_OFFICES_C, (accessed 11-20 Sept. 2011).

Table 3.1 cont.

USDA Unit	Mission Statement
	<ul style="list-style-type: none"> ▪ensure high-quality, safe food, and other agricultural products ▪assess the nutritional needs of Americans ▪sustain a competitive agricultural economy ▪enhance the natural resource base and the environment, and ▪provide economic opportunities for rural citizens, communities, and society as a whole
Animal and Plant Health Inspection Service (APHIS) Human, Economic	To protect the health and value of American agriculture and natural resources.
Center for Nutrition Policy and Promotion (CNPP) Human	to improve the health of Americans by developing and promoting dietary guidance that links scientific research to the nutrition needs of consumers.
Economic Research Service (ERS) Economic	to anticipate economic and policy issues related to agriculture, food, the environment, and rural development, and conduct economic research that broadly and specifically informs public program and policy decisions.
Farm Service Agency (FSA) Human, Economic	is equitably serving all farmers, ranchers, and agricultural partners through the delivery of effective, efficient agricultural programs for all Americans.
Food and Nutrition Service (FNS) Human	to provide children and needy families better access to food and a more healthful diet through its food assistance programs and comprehensive nutrition education efforts.
Food Safety and Inspection Service (FSIS) Human, Economic	is the public health agency in the U.S. Department of Agriculture responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged.
Foreign Agricultural Service (FAS) Economic	to improve foreign market access for U.S. products. This USDA agency operates programs designed to build new markets and improve the competitive position of U.S. agriculture in the global marketplace.
Forest Service (FS) Human, Economic, Nature	to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.
Grain Inspection, Packers, and Stockyards Administration (GIPSA) Economic, Human	facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products. It also promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture. GIPSA ensures open and competitive markets for livestock, poultry, and meat by investigating and monitoring industry trade practices.
National Agricultural Library (NAL) Human	ensures and enhances access to agricultural information for a better quality of life.
National Agricultural Statistics Service (NASS) Human, Economic	serves the basic agricultural and rural data needs of the country by providing objective, important and accurate statistical information and services to farmers, ranchers, agribusinesses and public officials. This data is vital to monitoring the ever-changing agricultural sector and carrying out farm policy.

Table 3.1 cont.

USDA Unit	Mission Statement
National Institute of Food and Agriculture (NIFA) Human, Economic	In partnership with land-grant universities, and other public and private organizations, NIFA provides the focus to advance a global system of extramural research, extension, and higher education in the food and agricultural sciences.
Natural Resources Conservation Service (NRCS) Human, Nature	provides leadership in a partnership effort to help people conserve, maintain and improve our natural resources and environment.
Risk Management Agency (RMA) Human, Economic	helps to ensure that farmers have the financial tools necessary to manage their agricultural risks. RMA provides coverage through the Federal Crop Insurance Corporation, which promotes national welfare by improving the economic stability of agriculture.
Rural Development (RD) Economic, Human	helps rural areas to develop and grow by offering Federal assistance that improves quality of life. RD targets communities in need and then empowers them with financial and technical resources.

I have assigned five of the seventeen agencies “economic” as their most important function, twelve with the primary function of “human,” and finally, none has received a “nature” assignment as its primary function. In fact, only two have any “nature” function at all: Forest Service and the Natural Resources Conservation Service. The USDA is clearly not an agency that is primarily concerned with nature. The Forest Service concerns itself with the economic value of its namesake as well as the inherent value of the spaces forests create and occupy: “to sustain the health, diversity, and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations,” is truly in the spirit of conservation: “productivity” and “future generations.” This is not to besmirch the way in which the Forest Service manages its wilderness, but rather it is to underline the paradoxical relationships of wilderness and economics, and their further paradoxically housing within a single agency. A similar interrelationship exists, to a lesser extent, in the Department of the Interior. While the mission of the Forest Service seems contradictory, it nonetheless is a major player in the management and protection of wilderness spaces in the United States.

U.S. FOREST SERVICE

The Forest Service manages wilderness areas in nearly every state totaling an area of 36,170,534 acres (or roughly an area the size of Nepal).¹⁷⁹ However, nearly no wilderness area in the Forest Service repository is coastal, save a cluster of twenty wilderness areas in the Tongass National Forest in Southeast Alaska (Figure 3.1).

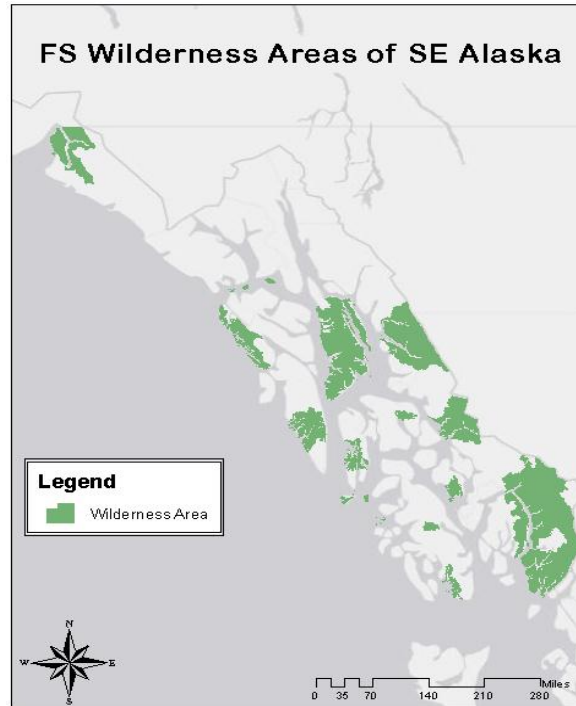


Figure 3.1: Location of Southeast Alaska Forest Service Wilderness Areas, cartography by Ryan Orgera

Tongass National Forest is the largest in the United States covering 16,576,303 acres.¹⁸⁰ The wilderness areas only cover a small percentage of its entire surface. Stretch from Russell Fjord Wilderness in the north to the South Prince of Wales Wilderness one of the southernmost tips of the state of Alaska, these coastal wildernesses represent one of the most important areas of American wilderness (Table 3.2).

Table 3.2: Forest Service Coastal Wilderness Areas in Tongass National Forest

Coastal Wilderness	
Chuck River	Coronation Island
Karta River	Kootznoowoo

¹⁷⁹ Forest Service, *Land Areas of the National Forest System* (Washington, D.C.: Forest Service, 2010), Table 7.

¹⁸⁰ *Ibid.*

Table 3.2 cont.

Coastal Wilderness	
Kuiu	Maurille Islands
Misty Fjords National Monument	Petersburg Creek-Duncan Salt Chuck
Pleasant/Lemusurier/Inian Islands	Russell Fjord
South Baranof	South Etolin
South Prince Of Wales	Stikine-Leconte
Tebenkof Bay	Tracy Arm-Fords Terror
Warren Island	West Chichagof-Yakobi

Each coastal state (territories and the Great Lake States) voluntarily participates in the Coastal Zone Management Program. Once approved by NOAA’s Office of Ocean and Coastal Resource Management, the usage, management, and goals of the federally-approved state plans then become paramount in the coastal zones. While each state or territory must abide by both the Submerged Lands Act of 1953 (as amended) and the Coastal Zone Management Act (CZMA) of 1972 (as amended), each has the freedom to produce a public plan that then will dictate the management of the coastal zones. The Coastal Zone Management Act defines such a “coastal zone” as: “the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.”¹⁸¹ Like most of the coastal states (with the great exception of Florida and Texas), Alaska controls three geographic miles in a seaward direction from its shore.¹⁸² This also demarcates the end of its coastal zone. However, as of June 30, 2011 Alaska Statute 44.66.030 discontinued Alaska’s participation in this voluntary program, effectively, doing away with any cohesive plan for Alaskan, local management. This is important because of section 307 of CZMA which requires that federal agencies that act “within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable

¹⁸¹ Coastal Zone Management Act (Public Law 92-583).

¹⁸² Submerged Lands Act, 43 U.S.C. §§ 1301-1315.

policies of approved State management programs.”¹⁸³ Federal lands are not, however, included in the coastal zone management plans set forth by the states. In fact, they CZMA explicitly excludes federal lands from such plans: “The boundary of a State’s coastal zone must exclude lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal government, its officers or agents.”¹⁸⁴ This is something that is reflected in the *Tongass National Forest Land and Resource Management Plan*.

The *Tongass National Forest Land & Resource Management Plan* is telling on when and where it engages the oceanic and where and how it omits it. Most of its linguistic structure is neither inclusive nor exclusive of anything, rather its primary function as a resource for forest managers is to explain and prescribe wilderness to managers. The prescription and explanation reveal shades of engagement between the coast and the forest. The goal here is to establish how the Forest Service perceives and constructs its wilderness areas vis-à-vis oceanic spaces. Through the analysis of this document, official and informal maps, and wilderness flyers, this section proves a truly convoluted relationship between ocean-space and the Alaskan wildernesses protected by the Forest Service. Let’s look first at the management plan.

The 2008 *Tongass National Forest Land and Resource Management Plan* includes current wilderness management plans for wilderness in the forest but not for individual wilderness areas.¹⁸⁵ Each of these wilderness units exists in the plan in some capacity. For the purposes of this chapter, the Forest Service’s global treatment of wilderness is not the most important; rather their wilderness-ocean interface. Chapter 3 entitled “Management Prescriptions” is the only part of the document that explicitly has a “Wilderness” heading. It sets forth guidelines, objects, selected definitions, and other management process prescriptions. In many cases, especially in the Land Use Designations (LUD), what

¹⁸³ Coastal Zone Management Act, 16 U.S.C., §307(1)(A).

¹⁸⁴ Code of Federal Regulations: title 15, chapter 9, §923.33.

¹⁸⁵ Forest Service, *Tongass National Forest Land & Resource Management Plan* (Washington, D.C.: USDA, 2008).

is prescribed for the entire Tongass National Forest is thus prescribed for the individual wilderness areas; selected examples of LUDs are “Air,” “Beach and Estuary Fringe,” and “Soil and Water.” These standards are explained in some detail in Chapter 4. As these definitions are most pertinent to this project, the majority of the Plan’s utility lies in both chapters 3 and 4.

Beginning with “Beach and Estuary Fringe” we are reminded that these are “Forest-wide Standards and Guidelines.”¹⁸⁶ Thus, each of these guidelines pertains to both wilderness and non-wilderness areas of the Forest. As I will later discuss, littoral space (as part of wilderness) is evident on both the official and informal maps produced by and for the Forest Service. These standards and guidelines regard this space as a separate kind of space. It is, however, unclear how these spaces blend into the clear wilderness, the forest, and the ambiguous wilderness, the oceanic. The plan does clearly demarcates beach space as: “approximately 1,000 feet slope distance inland from mean high tide around all marine coastlines.”¹⁸⁷ This definition differs substantially from the version provided by the Alaska Administrative Code (AAC), by which encourages the (according to the Coastal Zone Management Act) federal land managers to administer in a “manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.”¹⁸⁸ The definition set forth by the AAC is much shorter and broader than the Forest Service’s: “‘beach’ means an area affected by wave action directly from the sea.”¹⁸⁹ This, in many cases, would not include the thousand feet defined by the Forest Service. This neither temporally nor situationally defines when a space is a beach. In fact, based on this definition a beach is simply any area where the sea meets the land, including cliff faces or bluffs. It does not provide for storms, which may bring water higher into an atypical zone of wave-land interaction. The Forest Service’s definition is broader, and blurs the

¹⁸⁶ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 4-4.

¹⁸⁷ *Ibid.*

¹⁸⁸ Coastal Zone Management Act, 16 U.S.C., §307(1)(A).

¹⁸⁹ Ak. Code. Definitions. §114.990.

demarcation of “where land starts” and “where oceans end.” This dichotomy exists between the definitions of estuary was well.

The Tongass Forest Plan defines “estuary fringe” as:
Approximately 1,000 feet slope distance around all identified estuaries; Estuaries are ecological systems at the mouths of streams where fresh and salt water mix, and where salt marshes and intertidal mudflats are present. The landward extent of an estuary is the limit of salt-tolerant vegetation (...), and the seaward extent is a stream's delta at mean low water.¹⁹⁰

This definition shows a non-linear and linear norm for estuary fringe. On one hand the fringe is simply 1,000 feet in a landward direction from the ocean, and on the other the estuary exists only as far as the “limit of salt-tolerant vegetation.” The fringe, like a zone, is the immediate land area adjacent to the estuary. Whereas the stream (ocean-ward in flow), ends at the mean low water mark. In the FS definition of the beach, the “inland” (wilderness) begins “from mean high tide,” and in the FS definition of estuary fringe, the fresh water stream (wilderness) ends at the low water mark. Therefore the beach begins where the ocean reaches no further, and the estuary turns to ocean where the most land is at its greatest exposure. Where the wilderness bleeds into the ocean, the ocean yields seaward; where the ocean encroaches on the land, the ocean yields landward. Both the CZMA and the AAC define estuary differently: The term “estuary” means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.¹⁹¹ In contrast to the *Tongass Management Plan* the CZMA definition defines the interaction of these spaces and flows rather than try to delimit them: “water having unimpaired connection with the open sea.” What it effectively does, however, is exclude the “sea” from the category of “water.” The AAC definition is much closer to the CZMA than either to the FS: “Estuary” means a semiclosed coastal body of water that has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage.”¹⁹² Like the CZMA

¹⁹⁰ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 4-4.

¹⁹¹ Coastal Zone Management Act, 16 U.S.C., §304(7).

¹⁹² Ak. Code. Definitions. §114.990.

definition, it focuses more on the interaction of the spaces and processes: “connection with the sea.” It too partitions water from sea. In a similar spirit of partitioning, the objectives for the “Beach and Estuary Fringe” separate many aspects of the oceanic from the terrestrial. As provided in Table 3.3, these selected objectives either engage or further our understanding of the Forest Service’s engagement with coastal wilderness, and thus the oceanic.

Table 3.3: Objectives for Beach & Estuary Fringe in Tongass National Forest Land & Resource Management Plan¹⁹³

Objectives for Beach & Estuary Fringe
1. “To maintain the ecological integrity of beach and estuary fringe forested habitat to provide sustained natural habitat conditions and requirements for wildlife, plants, fish, recreation, heritage, scenery, wilderness, and other resources.”
2. “To provide a relatively continuous forested corridor linking terrestrial landscapes.”
3. “To maintain an approximate 1,000-foot-wide beach fringe of mostly unmodified forest to provide important habitats, corridors, and connectivity of habitat for eagles, goshawks, deer, marten, otter, bear, and other wildlife species associated with the maritime-influenced habitat.”
4. “To maintain an approximate 1,000-foot-wide estuary fringe of mostly undisturbed forest that contributes to maintenance of the ecological integrity of the biologically rich tidal and intertidal estuary zone. Habitats for shorebirds, waterfowl, bald eagles, goshawks, and other marine-associated species are emphasized.”

These objectives provide additional support and further glimpses into painting a picture of the relationship between the FS and the ocean. Objective 1 asserts forest is an integral part of the beach and estuary fringe, and establishes fish as standalone features. It, like most Federal documents, separates “fish” from “wildlife,” or relegates fish to an inherent commercial value rather than a place of inherent, extra-economic value. Objective 2 very clearly defines the utility of the beach and estuary as a linking zone between “terrestrial landscapes.” This means that beach and estuary fringes are somehow liminally terrestrial due to their integration with oceanic space. Objective 1 coupled with Objective 2 are asserting wilderness to be only those spaces where forest exists. This idea of beach as linker is reiterated

¹⁹³ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 4-4.

in Objective 3: “connectivity of habitat.” Along with Objective 4 both refer to the marine: “the maritime-influenced habitat” and “marine-associated species.” This firmly separates the oceanic from the terrestrial; it effectively separates the “influenced” (the terrestrial) and the “influencer” (the oceanic) into two distinct roles, and thus spaces. While these objectives are implicit in wilderness management, the beach and estuary fringe treatment applies evenly to spaces throughout the entire Tongass National Forest. For wilderness-exclusive management practices and concepts we must look back to Chapter 3.

In the section entitled “Wilderness and National Monument Wilderness: Goals” we can see that Forest Service’s goal, as prescribed by the Wilderness Act is to: “Protect the undeveloped character of Wilderness by following legislative guidelines regarding permanent improvements or human occupation, including mechanized transport and motorized equipment.”¹⁹⁴ To “Protect and perpetuate natural biophysical and ecological conditions and processes. Ensure Wilderness ecosystems are substantially free from the effects of civilization.”¹⁹⁵ Neither of these two goals excludes any coastal space. This is in slight contrast to the section entitled: “Goals Specific to National Monument Wilderness.”¹⁹⁶

Admiralty Island, exclusive of the Mansfield Peninsula, was designated as a National Monument for the scientific purpose of preserving intact a unique **coastal island ecosystem**. The goal of preservation was to ensure continued opportunities for study of Admiralty Island’s ecology and its notable cultural, historical, and wildlife resources, within its relatively unspoiled natural ecosystem. Protection and study of Tlingit cultural resources, other historical resources, and brown bear and bald eagle populations are specifically directed.¹⁹⁷

“Preserving intact a unique coastal island ecosystem,” “brown bear and bald eagle.” These two lines taken from the larger Admiralty Island National Monument (including Kootznoowoo Wilderness) goal statement underline an existing binary between the land and the ocean: “coastal island” and “brown bear and bald eagle.” The only mention of “wildlife resources” is that of terrestrial animals. What this goal further underlines is the construct of wilderness as non-coastal, or rather non-shore. The coast

¹⁹⁴ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 3-7.

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

represents the limit of the land in a seaward direction, meaning where the land abuts the ocean; whereas the shore represents the landward abutment of the sea to the land, or the landward limit of the sea. In looking at the Misty Fjords Wilderness goal statement we can see a reinforcement of this binary:

Misty Fiords was designated as a National Monument to serve the scientific purposes of preserving a unique ecosystem and the remarkable geologic and biological objects and features it contains. The goal of preservation was to ensure continued opportunities for study of Misty Fjord's geology and ecology, including the complete range of **coastal** to interior climates and ecosystems. Protection and study of the geology, plant and animal succession, historical resources, and **fish** and wildlife resources are specifically directed.¹⁹⁸

This goal statement, even more subtle in its landward gaze, reminds readers that the climatic range is “coastal to interior.” This reiterates the coast-inward construct of this plan. It also relegates fish to an economic resource as they are separated from wildlife. In the section entitled “Desired Condition” we see a rather neutral, non-ocean-excluding language; it effectively paints an image of inclusive space usages.

All designated Wilderness on the Tongass National Forest is characterized by extensive, unmodified natural environments. Ecological processes and natural conditions are not measurably affected by past or current human uses or activities. Users have the opportunity to experience independence, closeness to nature, solitude and remoteness, and may pursue activities requiring self-reliance, challenge, and risk. Motorized and mechanized use is limited to the minimum needed for the administration of the Wilderness.¹⁹⁹

“Ecological processes and natural conditions are not measurably affected by past or current human uses or activities” is a statement that inherently *could* include ocean space. In fact, even to a greater extent than the forest itself, the actual oceanic space is visibly less marked by “human uses or activities.” “Self-reliance” and “risk” are two terms that embody both wilderness and oceanic realities, both unforgiving in nature. The final part of this statement leads us to a decided demarcation between the Forest Service’s treatment of oceanic and terrestrial spaces. While the use of “motorized and mechanized”

¹⁹⁸ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 3-7.

¹⁹⁹ *Ibid*, 3-8.

apparatus is limited, this does not mean that their use is universally forbidden within the National Forest.

The use of motorized boats is allowed through the entire forest (where applicable). The Alaska National Interest Lands Conservation Act establishes, and the Tongass Management Plan follows, what kind of motorized craft is allowed in Tongass. "...snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and non-motorized surface transportation ..."²⁰⁰ These guidelines deal with motorized vehicles in disparate spaces. Effectively each of these motorized vehicles represents a different space, and a powerful construct of spatial assignment and importance within this document. Spatially both the Act and the Plan partition what is wilderness and what is not into several categories: (1) saltwater, (2) air, (3a) the terrestrial and (3b) freshwater. As we will soon see, the use of motorized boats in the ocean is discussed in some detail in the plan, and therefore "motorboats" here most accurately represent terrestrially-adjointing salt waters. "Airplanes" naturally represent air-space, but in the context of Alaska and especially the National Forest, represent both air-space and water-space as they commonly use aquatic spaces for takeoff and landing. People frequently use the terrestrial-in-nature "snowmachines" over frozen water as is indicated in the Act. What occurs to make their usage lawful is the introduction of an aquatic buffer between their mechanization and the terrestrial-wilderness. While the Plan and Act consider freshwater systems to be included as part of wilderness, they nonetheless maintain a seemingly liminal stage of wilderness-ness, as is evidenced by the legal permission this Act grants to those using any frozen water as a way to avoid the touching of motorization and wilderness lands. Insofar as oceanic-space and motor-craft, the Forest Service defines such an interaction in terms of visual perspectives or viewsheds.

²⁰⁰ Alaska National Interest Lands Conservation Act of 1980. (Pub. Law 96-487), §1110(a).

A viewshed is any “expansive landscape or panoramic vista seen from a road, marine waterway or specific viewpoint.”²⁰¹ Therefore it is a vista of the terrestrial wilderness (or forest in general) from the vantage of the ocean: looking landward from the sea. As the viewshed is defined as “landscape” or “panoramic vista” it is clear that the former does not include ocean scenes, though it is less clear whether or not the latter does. The Forest Service defines such viewsheds, oceanic or otherwise through a system called the Scenic Integrity Objective (SIO). Each Land Use Designation receives a certain level of SIO rating, of which wilderness always receives the highest desirable SIO.²⁰² In Table 3.4, the SIO scale is listed by category and definition.

Table 3.4: Scenic Integrity Objective Scale & Definitions²⁰³

Scenic Integrity Objective (SIO) Scale	SIO Definitions
Very High	Landscapes where the landscape character is intact with only minute, if any, deviations. The existing landscape character and sense of place is expressed at the highest possible level.
High	Landscapes where the landscape character “appears” intact. Deviations may be present but must repeat the form, line, color, texture, and pattern common to the landscape character so completely and at such scale that they are not evident.
Moderate	Landscapes where the landscape character “appears slightly altered.” Noticeable deviations must remain visually subordinate to the landscape being viewed.
Low	Landscapes where the landscape character “appears moderately altered.” Deviations begin to dominate the landscape character being viewed but borrow valued attributes such as size, shape, edge effect, and pattern of natural openings, vegetative type changes, or architectural styles outside the landscape being viewed. They should not only appear as valued character outside the landscape being viewed but compatible or complimentary to the character within.

²⁰¹ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 7-47.

²⁰² *Ibid*, F-1.

²⁰³ *Ibid.*, 7-11.

Table 3.4 cont.

<p>Very Low</p>	<p>Landscapes where the landscape character “appears heavily altered.” Deviations may strongly dominate the landscape character. They may not borrow from attributes such as size, shape, edge effect, and pattern of natural openings, vegetative type changes, or architectural styles within or outside the landscape being viewed. However, deviations must be shaped and blended with the natural terrain so that elements such as unnatural edges, roads, landings, and structures do not dominate the composition.</p>
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From “Very High” to “Very Low” the SIO scale clearly excludes oceanic spaces simply by defining each SIO objective as solely landscaped-oriented. The ocean *could* be minimally marked by human activity, especially in visual nature. It constitutes, along with airspace, the most perpetually visually uninterrupted space in the Tongass National Forest. From the goals of the SIO, the Forest Service does not consider oceanic space as part of wilderness spaces that exist in the Forest. This becomes clearer in the Plan’s discussion of different official vantages. As a part of the SIO and the viewsheds, the FS establishes Visual Priority Routes (VPR), something that each of the Alaska Ranger Districts defines for themselves. The districts create VPRs that are “separated into several categories, including the Alaska Marine Highway, tour ship routes, roads, small boat and mid-size tour boat routes, and hiking trails.”²⁰⁴ VPRs are very much landward from oceanic vantage: ships, boats, marine. In fact, the plan goes as far to say as the VPRs “are the major points from which people view the forest.”²⁰⁵ While the forest is unsurprisingly the showcase of the Forest Service, the oceanic spaces within its proximity are largely spaces of ambiguity, as an actor upon the wilderness, but not-necessarily wilderness itself. As a showing of functionality, the Plan categorizes “Use Areas” within the VPRs, wildernesses, and forest in general.

Each ranger district within Southeast Alaska has a list of Use Areas. These areas are predominately aquatic in nature, especially tending toward oceanic. The categories exist in ranger-district-specific charts and include the following categories where applicable: state marine parks, recommended Wild, Scenic, and Recreational Rivers, saltwater use areas, dispersed recreation areas,

²⁰⁴ Forest Service, *Tongass National Forest Land & Resource Management Plan*, F-1.

²⁰⁵ *Ibid.*

boat anchorages, and tour boat routes.²⁰⁶ These categories represent some form of usage or consumption of a wilderness or forest area by humans. “Saltwater Use Areas” is the only of the categories to specifically repeat the overarching category in its title, thus reinforcing the consumption of rather than reverence for the primordial state of the oceanic as wilderness. Figure 3.2 shows all of the ways in which the Use Areas are oceanic.

Petersburg Ranger District		
Saltwater Use Areas		
Thomas Bay	Seclusion Harbor	Saginaw Bay
Scenery Cove	Little Duncan Bay	Bay of Pillars
Kadake Bay	Farragut Bay (North and South Arms)	Ideal Cove
Kah Sheets Bay	Duncan Canal to Indian Point	Portage Bay
Hamilton Creek Estuary	Totem Bay east to Mitchell Point	Agate Beach
Blind Slough, Mitkof Island	Mouth of Narrows	Beacon Pt.
Frederick Pt.	Mouth of Blind Slough	Big Creek
Banana Pt.	Fanshaw Bay	Woodpecker Cove
Jap Creek	Rowan Bay	
State Marine Parks		
Security Bay		Beecher Pass
Travel Routes		
Alaska Marine Highway		
Wrangell Narrows		Frederick Sound from Petersburg to Chatham Strait and Kake
Tour Ship Routes		
Frederick Sound from LeConte Bay to Chatham Strait		Chatham Strait from Cape Decision to Frederick Sound
Summer Strait between Wrangell and Cape Decision		Decision Passage
Wrangell Narrows		
Boat Anchorages		
Portage Bay (2)	Bay of Pillars	Cape Fanshaw: Whitney Island area
Thomas Bay (2)	Bear Harbor	Washington Bay
Threemile Arm	Kell Bay	Security Bay
Seclusion Harbor	Marble Islet	Saginaw Bay
No Name Bay	Table Bay	Francis Anchorage
Alvin Bay	Port Malmesbury	Farragut Bay
Reid Bay	Orel Anchorage (Tebenkof)	Totem Bay
Port Beauclerc (3)	Shelter Cove (Tebenkof)	Castle Islands
Louise Cove	Ideal Cove	
Small Boat and Mid-Size Tour Boat Routes		
Beecher Pass	Keku Strait	Towers Arm
Whiskey Pass	Duncan Canal to Salt Chuck	W. Coast of Kuiu Island
Dry Strait	Petersburg Creek Estuary	Rowan Bay
Rocky Pass from Beacon Island south to Meadow Island		

Figure 3.2: Modified, Ocean-specific Use Areas for the Petersburg Ranger District.²⁰⁷ This image is produced at the identical resolution of the original.

²⁰⁶ Forest Service, *Tongass National Forest Land & Resource Management Plan*, F-1.

²⁰⁷ *Ibid*, F-2/F-3.

Oceanic spaces are thus spaces of use, consumption; spaces of surface travel; spaces of boat anchorage (where the surface meets only the seabed; a space of transportation and repose); a space of commerce; and finally a space of “not our concern.” One of the distinct classes of use areas is “State Marine Parks.” The State Marine Park is an official category and is established through Alaska statute.²⁰⁸ What is most telling is that the Forest Service (Federal Government), in this case, is yielding the protection of parts of oceanic spaces to the subordinate level of governance, the State of Alaska. While this Plan does not expressly even engage the State Marine Parks as anything other than use areas, it does effectively endorse a passive level of protection of the oceanic, rather than actively engage the FS to do so alone. This is further evidence that the Forest Service does not conceive of their adjacent and ever-present oceanic spaces as part of a FS wilderness areas. In the final section of Analysis, the Tongass Management Plan further complicates the creation of a clear Forest Service inclusion/exclusion of oceanic spaces as part of wilderness areas.

While the Forest Service separates fish from wildlife, fish nonetheless are a part of the Forest’s diverse ecosystems, and are nearly universally wild. The Plan uses the term “resident fish” to explain those fishes that are not migratory and “complete their entire lifecycle in freshwater.”²⁰⁹ In doing so, the FS defines its borders as those places only containing freshwater. Yet, once again in a seemingly contradictory measure the section entitled “Wildlife” of Chapter 4, specifically engages marine mammals and their habitats. The section begins “provide for the protection and maintenance of harbor seal, Steller sealion, and sea otter habitats.”²¹⁰ While these animals are nonetheless marine mammals, they do represent two families of semiaquatic sea creatures, spending part of their lives onshore. The Plan calls for “activities consistent with the Marine Mammal Protection Act” and that “facilities and concentrated human activities (should be) far from known marine mammal haul outs, rookeries, and

²⁰⁸ Alaska Stat. 2011. Declaration of purpose. §41.21.300.

²⁰⁹ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 7-33.

²¹⁰ *Ibid*, 4-93.

known concentration areas...”²¹¹ “Haul outs” and “rookeries” show that the FS sees these habitats to be the onshore or the beach and estuary fringe areas adjacent to wildernesses that account for the habitat of such marine mammals, not necessarily the oceanic spaces adjacent to the littoral. However, within that same section is the humpback whale. More so than with the semiaquatic marine mammals, the section dealing with the humpback, a fully-aquatic marine mammal, the plan states that its duty is to: “provide for the protection and maintenance of whale habitats.”²¹² And to “ensure that FS permitted or approved activities are conducted in a manner consistent with the MMPA, ESA, and NMFS regulations for approaching whales, dolphins, and porpoise.”²¹³ Such approved activities include, but are not limited to, the transport of timber over the marine surface and various recreational and commercial fish and tourist activities. What remains unclear is how and to what extent the Forest Service is an active partner in the protection of humpback whales, and furthermore what constitutes the FS’ version of whale habitat. No further information is provided on this subject in the entire Plan. In the Forest Service Manual, the FS mandates (authorized by the Endangered Species Act) that the forest managers consult with the Department of Commerce when concerned with marine species and the Department of Interior when dealing with protected non-marine species.²¹⁴ This means that the Forest Service is an impotent actor in its ability to manage endangered marine species, yet it burdens itself with the management of the humpback whale habitat within or outside the spaces it controls. The inclusion of the humpback whale habitat, which of course does not include the land, but as the land is affected by the ocean so is the ocean affected by the land, and thus the marine habitat is not necessarily directly the task of the Forest Service. While evoking marine habitat adds another layer of wilderness-ocean complexity in the FS, this back-and-forth, this repetitive ambiguity is equally present in the wilderness flyers, a series of individualized ranger-district publications.

²¹¹ Forest Service, *Tongass National Forest Land & Resource Management Plan*, 4-93.

²¹² *Ibid*, 4-99.

²¹³ *Ibid*.

²¹⁴ Forest Service, *Forest Service Manual* (Washington, D.C.: USDA, 2005) [§2670.11(4)].

Each of the wilderness areas has its own “Wilderness Brochure” produced for forest visitors (see Appendix (pg. 211)). These brochures provide not-necessarily-official maps of each of the wilderness area, some form of background, and access information. They consist of a single two-sided printed sheet containing a photo, map, and FS recreational symbols. They can all be accessed through the Forest Service’s Tongass National Forest portal. These flyers are pictorial and linguistic representations of their namesake wildernesses, and through analysis of the oceanic vocabulary and a close look at each of the maps, these brochures tell a slightly different story about the FS conception of the oceanic when compared to the *Tongass Forest Management Plan*. As their production is for wilderness “consumers,” their contents effectively lead visitors through an interpretive comprehension of the areas they represent. Therefore, these are condensed snapshots into the active and inactive constructs of the Forest Service’s inclusion and exclusion of the oceanic in their wilderness understanding. This section will discuss the eighteen wilderness flyers by analyzing their wording and images.

In reading each of the flyers, I discovered that nearly every coastal wilderness flyer includes language that evokes or engages oceanic-space. While some of the wildernesses are named for oceanic elements: Misty Fjord and Tebenkof Bay, their mentions of the oceanic vary from passing expressions of “Pacific Ocean” to meaty discussions of the ocean’s effect on the climate of these areas. While there are arguably myriad words that evoke the oceanic, I have limited those this section explores to: coastal, ocean, sea, marine, bay, fjord (fiord), and saltwater. In order to look at those elements and spaces that intentionally are not included in discussions of the terrestrial (save coastal), I have opted not to include words such as island or shore. The inclusion of the word coastal, which may or may not include terrestrial space, is an ambiguous expression of the oceanic, though it is the most categorically liminal expression of the oceanic. It is neither land nor sea, but the space where they meet and where they most greatly inter-affect each other. Bays are part of coastal systems, and the term “bay” is regionally employed means several things: oceanic space between barrier island and shore or in the case of Alaska,

a saltwater body that creates a landward opening where the ocean is thinly restrained by jutting lands. Bays support diverse marine ecosystems and constitute a distinct oceanic space. Similar to a bay is a fjord (fiord). Unique to areas defined by glacial and coastal processes, the fjord is first a narrow passage of water through steep cliffs. The word “fjord” arrived in English most recently from Norwegian, a nation sharing much of its coastal features with Southeast Alaska. Yet, the word is of an aquatic-origin. Most distantly it is derived from the proto Indo-European word *prtús* and “por-” meaning “going or passage.” Other oceanic words derived from *prtús* include “harbor,” “ford,” and “ferry.”²¹⁵ While this word seems synonymous with the cliffs that surround the ocean fingers, it is in fact more a signifier of the narrow aquatic space than the landform which confines such fingers. The remainder of the words: *ocean*, *sea*, *marine*, and *saltwater* all require no such justifications. This list is not linguistically exhaustive, but as this analysis will show, the inclusion of oceanic-vocabulary often occurs in clusters. In many cases one sentence includes two or more inclusions of oceanic vocabulary. As is evidenced in Table 3.5, *sea* and *fjord* are the most commonly employed oceanic terms in the wilderness flyers.

Table 3.5: Oceanic Vocabulary in Wilderness Flyers²¹⁶

FS Coastal Wilderness Area	Coastal	Ocean	Sea	Marine	Bay	Fjord	Saltwater
Chuck River	0	0	0	0	3	0	0
Coronation Island	0	0	5	0	0	0	0
Karta River	0	0	0	0	4	0	0
Kootznoowoo	1	0	3	0	0	0	0
Kuiu	0	1	0	0	5	0	0
Maurille Islands	0	1	0	0	0	0	0
Misty Fjords Nat'l Monument	1	0	2	0	0	7	0
Petersburg Creek-Duncan Salt Chuck	0	0	0	0	0	0	0
Pleasant/Lemusurier/Inian Islands	0	1	1	0	0	0	0
Russell Fjord	1	1	0	0	0	10	0
South Baranof	1	2	3	0	1	2	2
South Etolin	0	0	1	0	0	0	0
South Prince Of Wales	0	0	3	0	1	0	0
Stikine-Leconte	0	0	2	0	0	0	0
Tebenkof Bay	0	0	0	0	5	0	0
Tracy Arm-Fords Terror	0	0	2	1	0	5	1
Warren Island	1	0	5	0	0	0	0
West Chichagof-Yakobi	0	1	0	0	1	0	0
Total	5	9	25	1	20	24	3

²¹⁵ John Ayto, *Dictionary of Word Origins* (London: Bloomsbury Publishing Limited, 1990), 236.

²¹⁶ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

In the case of *ffjord*, this number is slightly misleading as the greatest inclusion of the term occurs in wilderness flyers where the name of the wildness contains *ffjord* as part of its name. The remainder of this section will include flyer-specific analysis in ascending order from most- to least-mentioned oceanic vocabulary occurrences. In this analysis, only those occurrences where the word is used outside of a wilderness' name will be considered.

Table 3.6: Use of Sea in Wilderness Flyers²¹⁷

FS Coastal Wilderness Area Flyer	Sea Usage
Coronation Island	<ol style="list-style-type: none"> 1. "...feet above the sea..." 2. "...Coronation Island is a lonely king of the sea." 3. "...various seabird species..." 4. "Sea otters, Stellar's sea lions, harbor seals, and seasonal humpback whales are common sights offshore."
Kootznoowoo	"...Stellar sea lions, and humpback whales feed near rafts of sea ducks..."
Misty Fiords Nat'l Monument	"Numerous steep-walled inlets of the sea called fiords offer excellent sea -kayaking opportunities, although 25-foot changes in the tides and frequent storms can make boat access challenging."
South Baranof	"Seals, sea lions, whales, and a large population of sea otters are often seen offshore, and crab, shrimp, herring, salmon and halibut are harvested from the sea ."
South Etolin	"From a spruce and hemlock forest at sea level..."
South Prince Of Wales	<ol style="list-style-type: none"> 1. Many small mammals, waterfowl, seabirds, and bald eagles also call this area home. 2. Humpback whales, Stellar sea lions, seals, and sea otters are often sighted.
Stikine-Leconte	"... sea lions, harbor seals, and bald eagles close on their tails."
Tracy Arm-Fords Terror	<ol style="list-style-type: none"> 1. "At the head of both fiords tidewater glaciers calve regularly into the sea, making a boat approach to their faces dangerous." 2. "Harbor seals rear their young on ice floating in the fiords, and whales and sea lions are often seen in the water."
Warren Island	<ol style="list-style-type: none"> 1. "Warren Peak rises dramatically from the sea..." 2. "Lack of boat anchorages and floatplane landing sites, combined with exposure to the open sea, makes access difficult..." 3. Sea lions, seals, whales, and sea otters may be seen along the shoreline, and Sitka black tailed deer, black bears, and wolves have been spotted inland."

²¹⁷ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

Table 3.6 cont.

FS Coastal Wilderness Area Flyer	Sea Usage
	4. "Bald eagles live here, but Warren Island is best known for its seabirds ."

In the case of the Coronation Island Wilderness Flyer, as seen in Table 3.6, the word *sea* is used in several different ways. First, the wilderness is in opposition to the oceanic: "above the sea." Yet, at the same time it is the "lonely king of the sea." It is both above and of the sea, reiterating the ambiguity of the role of island-ness, oceanic space, and wilderness spaces. The list of marine mammals and birds reminds us that they can be "offshore," showing the reader that "offshore" means the ocean, not the wilderness. In the Tracy Arm-Fords Terror Wilderness and Warren Island Wilderness, we are reminded of the danger of the junction of land and ocean, a theme we will see repeated in Table 3.7.

Table 3.7: Use of Fjord in Wilderness Flyers²¹⁸

FS Coastal Wilderness Area Flyer	Fjord (Fiord)
Misty Fiords Nat'l Monument	1. "Numerous steep-walled inlets of the sea called fiords offer excellent sea-kayaking opportunities, although 25-foot changes in the tides and frequent storms can make boat access challenging." 2. "As the ice retreated, it carved away spectacular, long, deep fiords with cliffs that now rise thousands of feet from the water's surface."
Russell Fjord	"If traveling by boat near the fiords , have someone onboard who is knowledgeable about the area."
South Baranof	1. "Bounded on the west by the Gulf of Alaska, the scenery is stunningly picturesque with glacier-scored granite mountains, long saltwater fiords and hanging valleys containing lakes." 2. "The western bays and fiords can experience 100 mile-per hour winds from the open Pacific Ocean."

²¹⁸ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

Table 3.7 cont.

Tracy Arm-Fords Terror	<ol style="list-style-type: none"> 1. "At the head of each fiord is an active tidewater glacier which calves frequently, producing floating icebergs." 2. "At the head of both fiords tidewater glaciers calve regularly into the sea, making a boat approach to their faces dangerous." 3. "Floating chunks of ice, some the size of a three-story building, can block access to the end of the fiords, especially in summer." 4. "Harbor seals rear their young on ice floating in the fiords, and whales and sea lions are often seen in the water."
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The Russell Fjord Wilderness Flyer reminds its reader that when “traveling by boat near the fiords, have someone onboard who is knowledgeable about the area.” This warning against the oceanic is repeated in each of the flyers mentioning *fjord*. They equally enforce “ocean as transportive space,” something we learned from the *Tongass National Forest Management Plan*. Conversely, the tone of the flyers that mention *bay* diverges from a sense of danger, and refocuses on the transportive possibilities of ocean surface space as well as its difference from the wilderness.

Table 3.8: Use of Bay in Wilderness Flyers²¹⁹

FS Coastal Wilderness Area Flyer	Bay
Chuck River	<ol style="list-style-type: none"> 1. "Situated 70 miles south of Juneau at the head of Windham Bay, this area can be accessed by motor boat from Stephens Passage..." 2. "...Tlingit enjoyed the bounty of nature by trapping and fishing in Windham Bay." 3. "This Wilderness can offer opportunities for solitude and remoteness once away from the shore lines of Windham Bay."
Karta River	<ol style="list-style-type: none"> 1. "During historic times Alaska Native people, particularly the Haida, lived around the bay and utilized the rich food sources of this area." 2. "Situated on the east-central side of Prince of Wales Island about 3 miles north of Hollis and 40 miles west of Ketchikan, this Wilderness contains the Karta River drainage which empties into Karta Bay." 3. "Karta Bay, one of the western extensions off the head of Kasaan Bay, forms the eastern border of the Karta River Wilderness on east-central Prince of Wales Island."
Kuiu	<ol style="list-style-type: none"> 1. "Three major bays indent a coastline of smaller bays, coves, and canals and offer some anchorages." 2. "There is one primitive portage trail that goes through the wilderness area connecting it with the Tebenkof Bay Wilderness, which shares a boundary to the north."

²¹⁹ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

Table 3.8 cont.

FS Coastal Wilderness Area Flyer	Bay
South Baranof	"The western bays and fiords can experience 100 mile-per hour winds from the open Pacific Ocean."
South Prince Of Wales	"The southwestern corner is a complex network of bays , inlets, and islands."
Tebenkof Bay	"A complex system of bays with many small islands, islets, and coves is the prominent feature of Tebenkof Bay Wilderness."
West Chichagof-Yakobi	"Once accessed one can discover a sanctuary of intricate bays , lagoons and estuaries, muskeg meadows and natural hot springs."

The Chuck River Wilderness Flyer reads: "This Wilderness can offer opportunities for solitude and remoteness once away from the shore lines of Windham Bay." Possibly the most definitive demarcation between wilderness and the oceanic, the author (on behalf of the FS) effectively draws a line between wilderness and the oceanic. One can only obtain a sense of remoteness once "away from the shore lines." Not only does the shore not represent wilderness here, but even proximity to oceanic space precludes any possible sense of "solitude" or "remoteness"; thus, any possible sense of wilderness: "(wilderness) has outstanding opportunities for solitude."²²⁰ Since the shore is not wilderness, here, its bays are certainly utilitarian in nature. In the Kuiu Wilderness Flyer, the bays offer "anchorage" for wilderness consumers. In the cases of South Prince of Wales, Tebenkof Bay, and West Chichagof-Yakobi wildernesses, the bays represent "complex network," "complex system," and "intricate" spaces. Here the oceanic is represented as a hard-to-comprehend space, and once again in the South Baranof Wilderness Flyer, we are reminded that these spaces can be dangerous. More so than with any other word analyzed from these flyers is the sense of inherent danger so prevalent as with the word *ocean*.

Table 3.9: Use of Ocean in Wilderness Flyers²²¹

FS Coastal Wilderness Area Flyer	Ocean
Kuiu	"Chatham Strait is exposed to the open ocean and the water is often not safe for boating."

²²⁰ Wilderness Act §2(c)(2).

²²¹ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

Table 3.9 cont.

Maurille Islands	"...it offers several small coves for protection from the Pacific Ocean winds and waves."
Pleasant/Lemusurier/Inian Islands	"...produces stunted trees due to the exposure to the open ocean weather."
Russell Fjord	"...glaciers and ocean , there is another natural blue element within this wilderness. Besides glaciers and ocean, there is another natural blue element within this wilderness. Rare black bears of "blue" coloring, also known as glacier bears "
South Baranof	1. "...fiords can experience 100 mile-per hour winds from the open Pacific Ocean ." 2. "If traveling by boat, caution should be taken on the open ocean ..."
West Chichagof-Yakobi	"Pacific winds and open ocean swells are the only forces that transgress these wilderness promontories on these islands."

The Kuiu Wilderness Flyer warns of being exposed to open ocean "is often not safe for boating." As the Maurille Islands Wilderness and offers "protection from the Pacific Ocean;" or in the South Baranof Wilderness where "caution should be taken on the open ocean." In the case of the West Chichagof-Yakobi Wilderness, "Pacific winds and open ocean swells...transgress" the wilderness. Oceanic forces are seen a rueful or frightening; possibly primordial. And yet at the same time the Russell Fjord Wilderness Flyer marries wilderness and the oceanic: "...glaciers and ocean, there is another natural blue element within the wilderness." In harsh contrast to the Chuck River Wilderness Flyer where the shore represented the not-wilderness, here the Russell Fjord Wilderness Flyer portrays the ocean as an integral wilderness component of the natural setting. This natural setting, should it include oceanic space, is further defined by the flyers that mention the word *coastal*.

Table 3.10: Use of Coastal in Wilderness Flyers²²²

FS Coastal Wilderness Area Flyer	Coastal
Kootznoowoo	" Coastal forests..."
Misty Fiords Nat'l Monument	"It is part of a vast coastal temperate rainforest..."
Russell Fjord	"Tongass National Forest is the largest, intact coastal rainforest in America."

²²² See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

Table 3.10 cont.

South Baranof	"...coastal forest of spruce and hemlock..."
Warren Island	"Covered in typically dense coastal spruce-hemlock rain forest..."

Each of these flyers does the same thing. It includes their wilderness areas in a coastal system; however, they focus solely on the forested portions of this coastal system. The word *coastal* bears little interesting insight into the FS' construction of oceanic-wilderness. Similarly, the words *saltwater* and *marine* offer only a few hints at this construction.

Table 3.11: Use of Saltwater in Wilderness Flyers²²³

FS Coastal Wilderness Area Flyer	Saltwater
South Baranof	1. "Bounded on the west by the Gulf of Alaska, the scenery is stunningly picturesque with glacier-scored granite mountains, long saltwater fjords and hanging valleys containing lakes." 2. "On the east side of the Wilderness, the saltwater coastline along Chatham Strait is less rugged and there is greater snow accumulation over the whole area."
Tracy Arm-Fords Terror	"Tracy and Endicott are two long and narrow arms of saltwater ."

South Baranof Wilderness is bounded by the Gulf of Alaska and long saltwater fjords. Thus, the oceanic acts as a limiting factor for the wilderness areas. In that same vein, the "saltwater coastline" acts as a boundary. The saltwater cannot here be wilderness. The usage of the word *marine* is reflective of the non-wilderness, transporative nature of the surface of the ocean.

Table 3.12: Use of Marine in Wilderness Flyers²²⁴

Coastal Wilderness Area Flyer	Marine
Tracy Arm-Fords Terror	"Illegal hunting, social impacts on wilderness visitors due to heavy motorized use on marine waters and crowding at limited campsites, illegal storage of commercial fishing equipment and resource damage by cutting of trees, improperly disposed of human waste and litter, and damaging of flora are the major threats to this wilderness."

²²³ See U.S. Fish and Wildlife section of the *Selected Bibliography*; see *Appendix A* for example.

²²⁴ *Idem*.

The Tracy Arm-Fords Terror Wilderness Flyer shows two things: (1) the surface of the ocean is very much perceived as a space of transportation and (2) that what occurs in the ocean affects the wilderness area that is not-necessarily oceanic.

The principal themes of all of the wilderness flyers are that the ocean is dangerous, the ocean surface is a transportive space, that the ocean may or may not be part of wilderness space, and that the oceanic *can* be part of wilderness (and natural) processes. The wording contained in the flyers reinforces the ambiguous role of the oceanic in the Forest Service's wilderness spaces within the Tongass National Forest. Both the Tongass National Forest Management Plan and the language of the wilderness flyers both offer different shades of inconclusive definability; neither offers any clear definition nor interaction between the Forest Service and the oceanic. In sharp contrast to the Plan and the Wilderness Flyers are both official maps created by the Forest Service (with the United States Geological Survey) and informal maps meant for wilderness consumers. These maps exist in low-resolution only, and therefore their quality is only marginal at best.

FOREST SERVICE MAPS

On the very same Wilderness Flyers, there are informal maps, and these maps very unambiguously include oceanic spaces as part of wilderness areas. Each of the wilderness flyer maps includes some quantity of oceanic space. The range of oceanic inclusion is varied. Some of these maps only include a small portion of oceanic space and others include large tracts. For instance, the Karta River Wilderness only includes a small area of western Karta Bay (Figure 3.3). Whereas the South Prince of Wales Wilderness Flyer map (Figure 3.4) shows the inclusion of parts of Klakas Inlet, Cordova Bay, and the Pacific Ocean (Dixon Entrance). These maps definitively include the oceanic as cartographically integral spaces of wilderness. This is something that is reinforced by more official Forest Service maps.

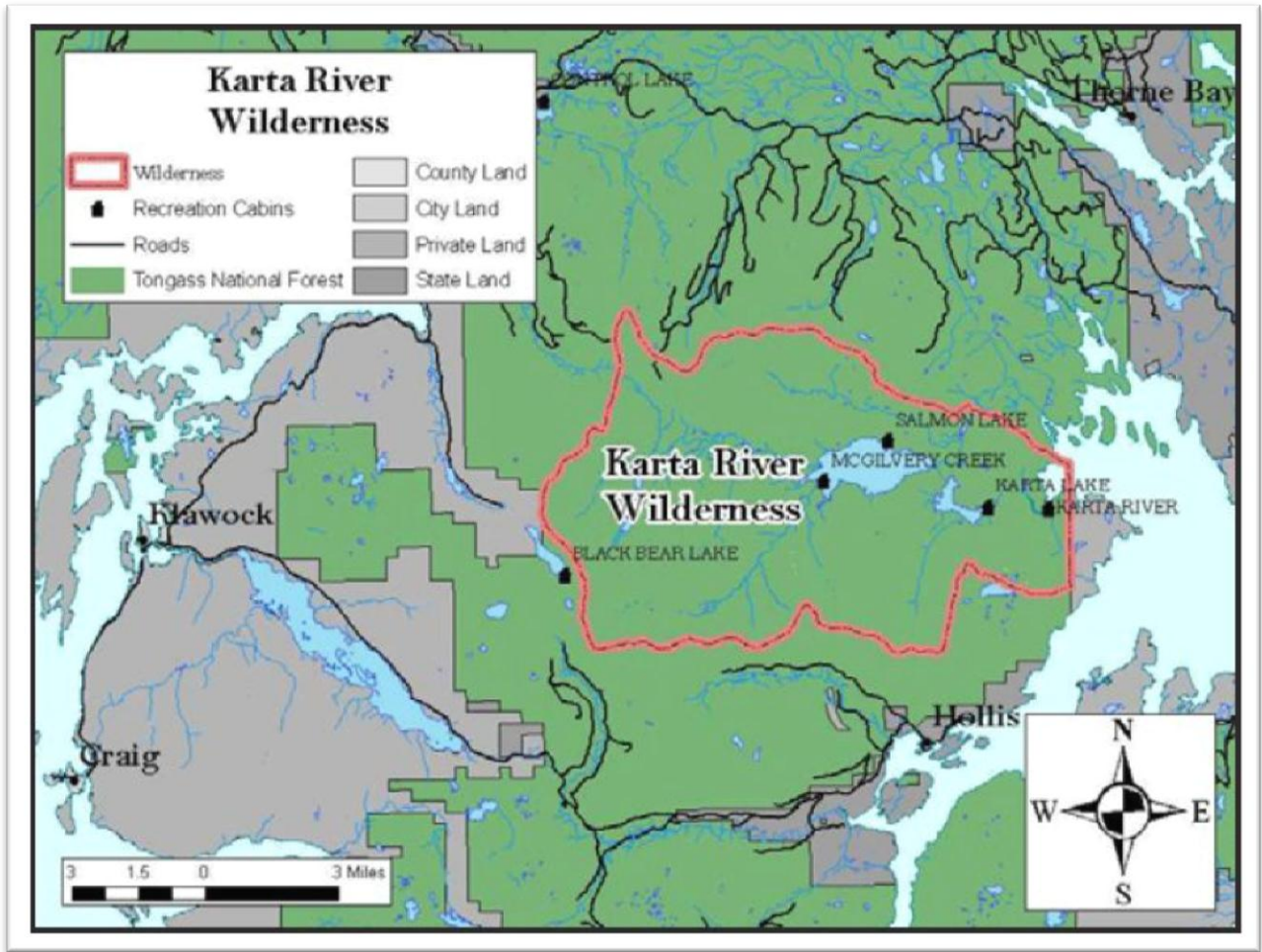


Figure 3.3: Karta River Wilderness as depicted on U.S. Forest Service Wilderness Flyer. This map is produced at the identical resolution of the original.²²⁵

²²⁵ Forest Service, "Karta River Wilderness," Craig, AK: Tongass National Forest (no date).



Figure 3.4: South Prince of Wales Wilderness as depicted on U.S. Forest Service Wilderness Flyer. This map is produced at the identical resolution of the original.²²⁶

²²⁶ Forest Service, "South Prince of Whales Wilderness," Craig, AK: Tongass National Forest (no date).

The most important aspect for this project is the boundary of the wilderness areas. As Figure 3.5 shows, the wilderness portrayed by USGS maps officially ends where the gray, dotted region faces landward.

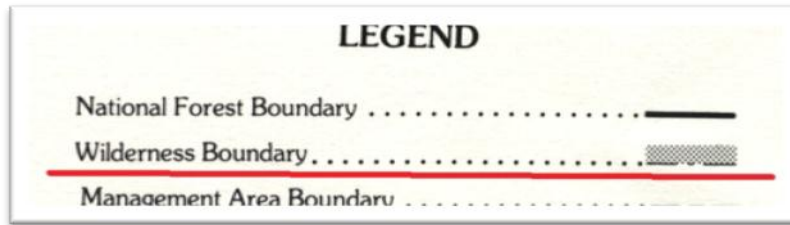


Figure 3.5: Relevant Legend for USGS/Forest Service Maps (Below)²²⁷

For instance, in the case of Admiralty Island National Monument Wilderness, the wilderness area is shown in two separate maps as containing considerable expanses of oceanic space (figures 3.6 & 3.7).

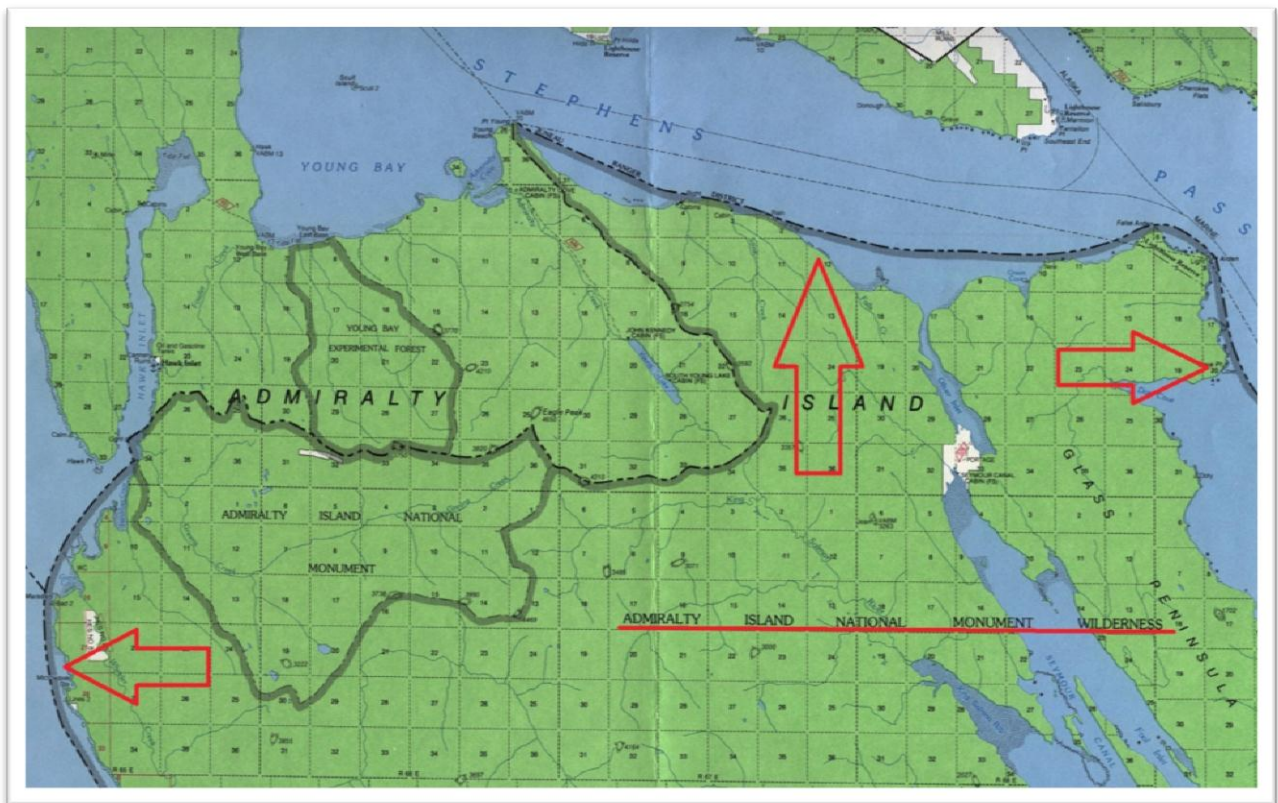


Figure 3.6: Admiralty Island National Monument Wilderness, USGS-FS Map.²²⁸ The red arrows indicate the boundaries of the wilderness area. Arrows added by Ryan Orgera. This map is produced at the identical resolution of the original.

²²⁷ *Tongass National Forest: Chatham Area* (Sheet NO. 1), USGS/U.S. Forest Service, 1982.

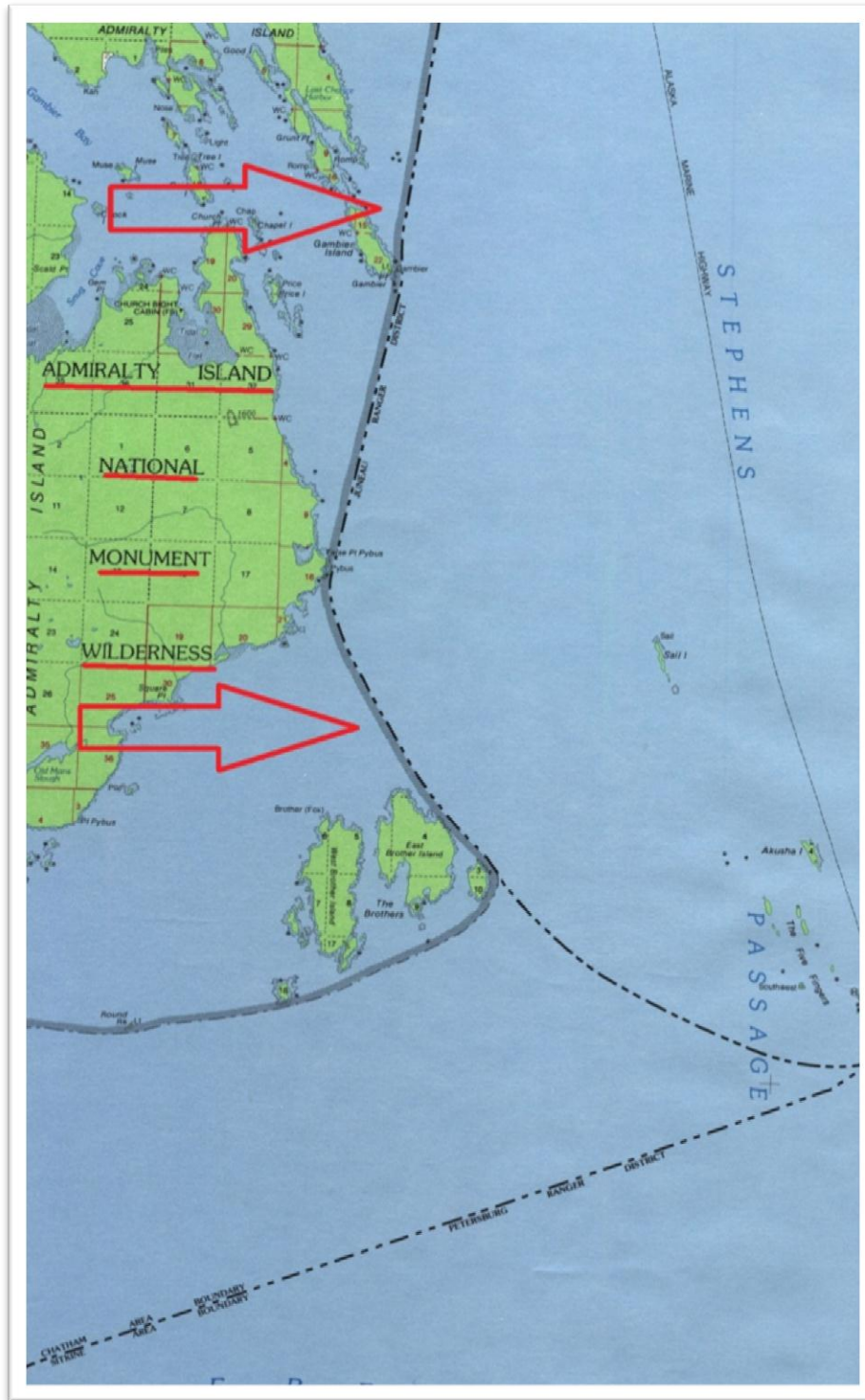


Figure 3.7: Admiralty Island National Monument Wilderness II, USGS-FS Map.²²⁹ The red arrows indicate the boundaries of the wilderness area. Arrows added by Ryan Orgera. This map is produced at the identical resolution of the original.

²²⁸ *Tongass National Forest: Chatham Area (Sheet No. 6)*, USGS/Forest Service, 1982.

²²⁹ *Tongass National Forest: Chatham Area (Sheet No. 13)*, USGS/Forest Service, 1982.

Equally interesting in Figure 3.6 is the fact that the wilderness boundary, over water, is also the boundary demarcating the beginning of the Juneau Ranger District. A similar boundary occurs concurrently with the wilderness boundary and independent thereof between the Petersburg and Juneau Ranger Districts. The inclusive wilderness boundary extends just south of the Brother Islands, distending the frontier of wilderness to include these landmasses. The Tracy Arm Fords Terror Wilderness limit extends just west of both Harbor and Sumdum Islands, creating a similar situation to the Admiralty Island National Monument Wilderness (Figure 3.7). This is a schematic that is repeated in West Chichagof Yakobi (Figure 3.9) and Stikine Le Conte wildernesses (Figure 3.10).

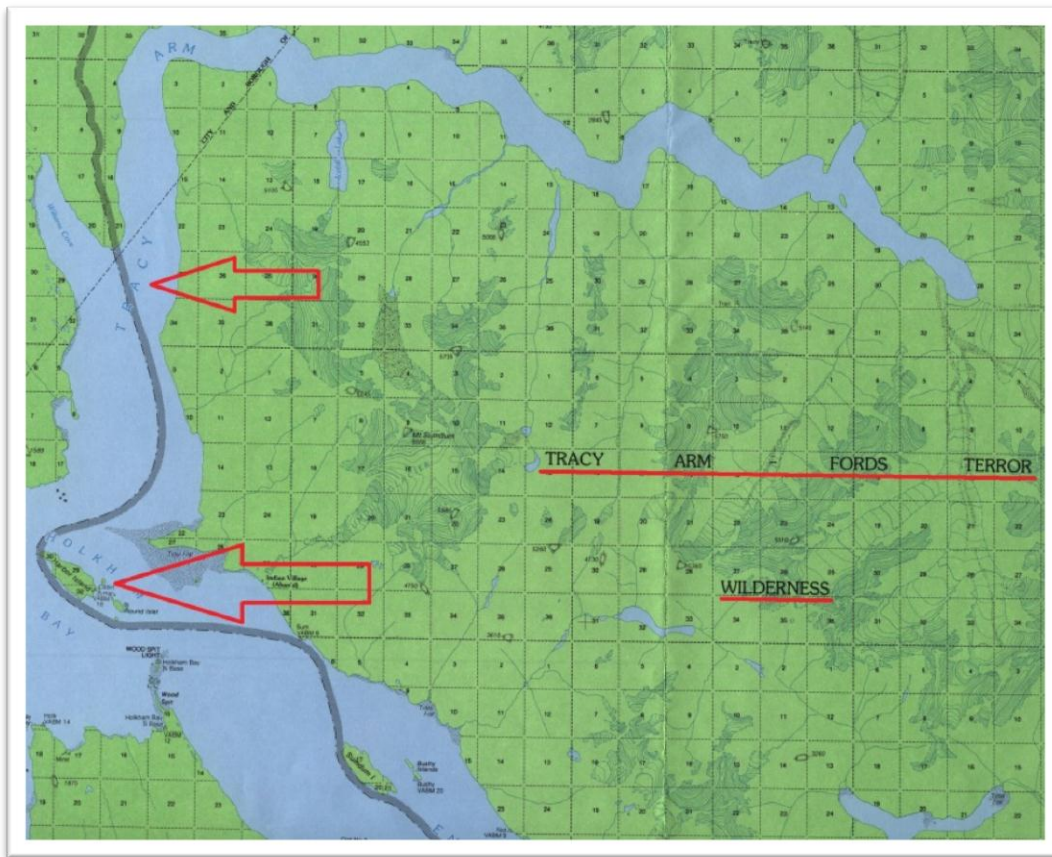


Figure 3.8: Tracy Arm Fords Terror Wilderness, USGS-FS Map.²³⁰ The red arrows indicate the boundaries of the wilderness area. Arrows added by Ryan Orgera. This map is produced at the identical resolution of the original.

²³⁰ *Tongass National Forest: Chatham Area* (Sheet No. 10), USGS/U.S. Forest Service, 1982.

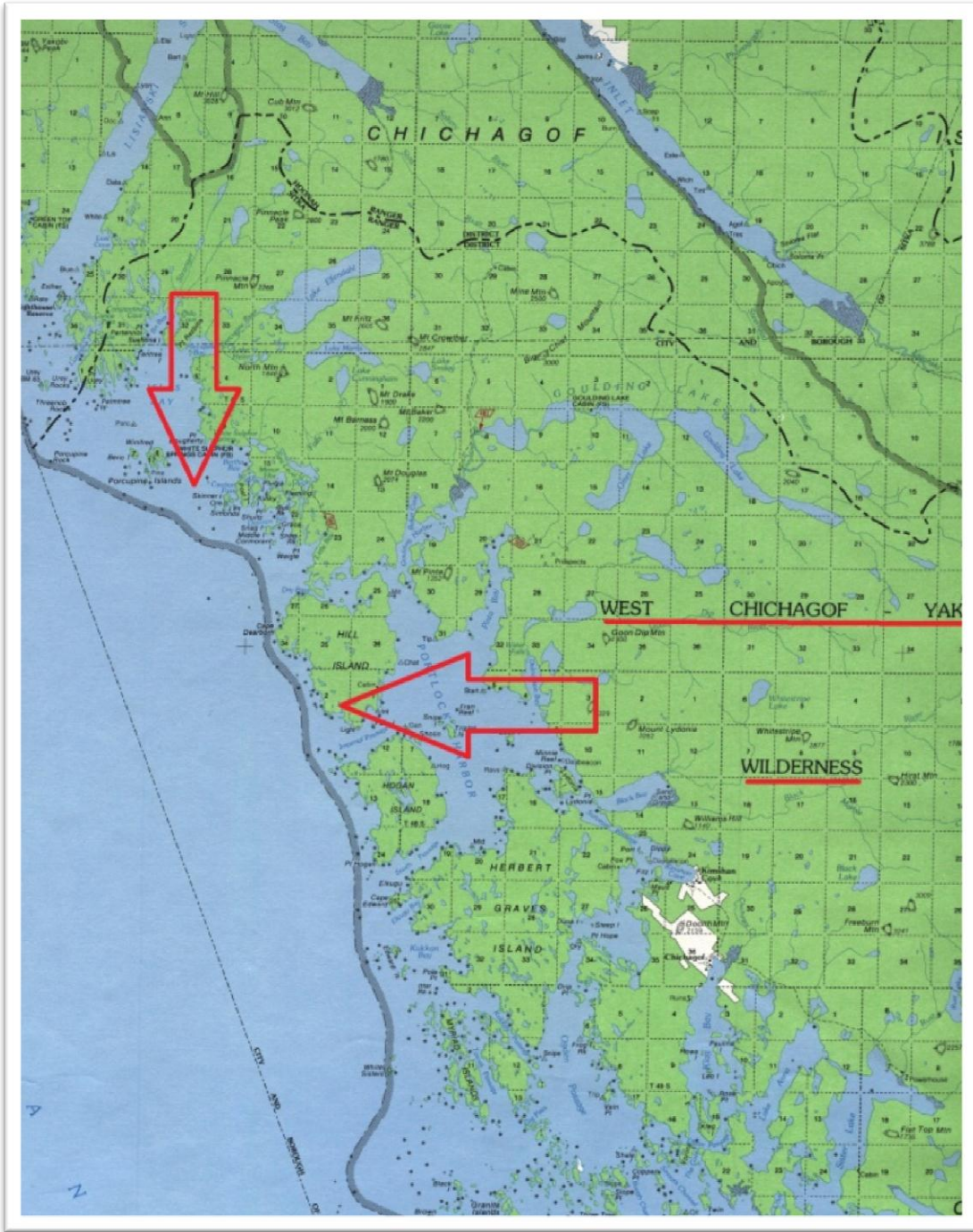


Figure 3.9: West Chichagof Yakobi Wilderness, USGS-FS Map.²³¹ The red arrows indicate the boundaries of the wilderness area. Arrows added by Ryan Orgera. This map is produced at the identical resolution of the original.

²³¹ *Tongass National Forest: Chatham Area* (Sheet No. 8), USGS/Forest Service, 1982.

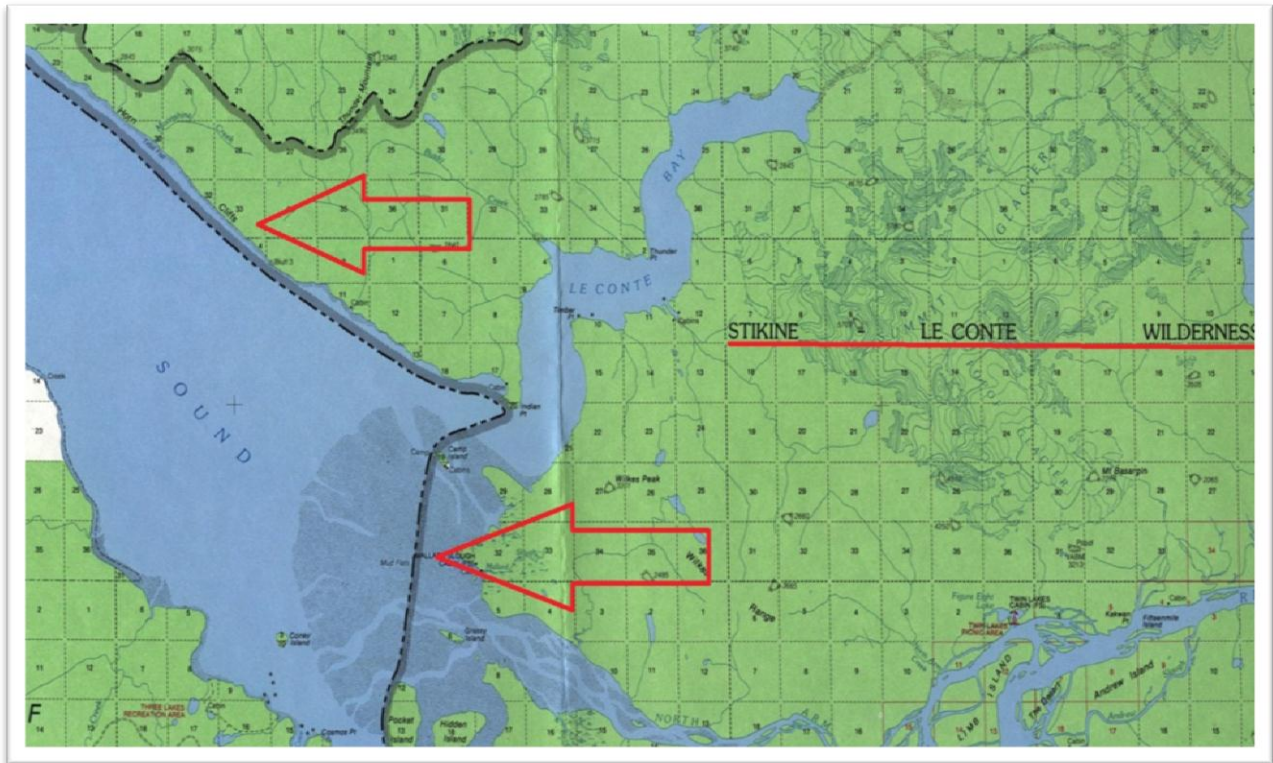


Figure 3.10: Stikine Le Conte Wilderness, USGS-FS Map.²³² The red arrows indicate the boundaries of the wilderness area. Arrows added by Ryan Orgera. This map is produced at the identical resolution of the original.

Finally, in a slightly different situation, that of a past's future wilderness area, Pleasant Island sits across Icy Passage from Glacier Bay National Park and Preserve. It was not until 1990, eight years after the publication of this map, that Pleasant Island Wilderness was created as a part of the Tongass Timber Reform Act.²³³ What is most interesting about Figure 3.11 is the labeling of the demarcation between the Park's boundary and that of the Forest's. The bold black line reads: Park Boundary (Indefinite)—National Forest Boundary (Indefinite). Where the Forest (wilderness) ends, be it over the ocean or where the ocean surrenders its waves to the sand remains unclear. In those few words we are able to summarize the entire construction of the Forest Service ocean-wilderness binary: Boundary (Indefinite).

²³² *Tongass National Forest: Chatham Area* (Sheet NO. 18), USGS/U.S. Forest Service, 1982.

²³³ Tongass Timber Reform Act (Pub. Law 101-626).



Figure 3.11: Pleasant Island Wilderness Area.²³⁴ This map is produced at the identical resolution of the original.

COASTAL WILDERNESS & THE FOREST SERVICE: CONCLUDING THOUGHTS

The Forest Service administers some of the most important coastal zones of southern Alaska. Their holdings are immense and are comprised of dense swaths of terrestrial forested wilderness. Through the exploration of documents ranging from legislation to management plans, to flyers and official maps, this research has uncovered many things. What is sure is that there is a lack of consistency in the way

²³⁴ *Tongass National Forest: Chatham Area* (Sheet No. 5), USGS/U.S. Forest Service, 1982.

the Forest Service conceives of the wilderness-ocean interface. At times the ocean is only a space of motorized flux at other times it is a space of liminal wilderness. It is unclear where the ocean stops and the wilderness ends; where beach and estuary fringe meet the frigid waters of the northeast Pacific; or where habitat turns from marine to terrestrial. It is not necessarily the burden of the Forest Service to manage ocean-space, but the two spaces (ocean and forest wilderness) are intertwined, and one's effect on the other is largely unquantifiable, as the border between coastal-terrestrial and coastal-oceanic is measureable only by a waterline upon the shore in constant flux. The Forest Service understands wilderness first as forest, and intentionally or not acknowledges that their forested wildernesses exist as they do because of the relationship they have with ocean-space. As this relationship is inextricable neither from ocean nor land, management of one requires understanding of the other. The oceanic plays a role in each of the studied documents, and truly represents a role of liminal wilderness in its space and process. I am confident that the systematic ambiguity toward ocean-space in these documents is a testament to the centuries of a Federal understanding of wilderness as a space rather than as a process. Despite the peppering of oceanic inclusion, I am equally confident that the ocean as a space does not play a significant role in the Forest Service's management of coastal wilderness. The Forest Service shares many similarities with the Bureau of Land Management, but bifurcates from the other DOI wilderness agencies: the U.S. Fish and Wildlife Service & and National Park Service.

CHAPTER 4—WILDERNESS-OCEAN INTERFACE

THE DEPARTMENT OF THE INTERIOR

The U.S. Senate created DOI on March 3, 1849. It was a nineteenth-century “catchall” bureaucratic unit, one that had such varied tasks as wilderness exploration in the American West to tending the D.C. jail.²³⁵ From its beginnings it was as a place where the federal government, at least in part, tended to nature. Today it has grown into one of the principal tools of wilderness preservation in the United States. It is composed of nine large units, and they are composed of smaller units and programs. DOI deals with vastly different kinds of entities: from Native Americans to mining, it truly remains a catchall department. It is made up of the following: Bureau of Indian Affairs; Bureau of Land Management; Bureau of Ocean Energy Management (reorganized October 1, 2011); Bureau of Safety and Environmental Enforcement (newly formed October 1, 2011); Bureau of Reclamation; National Park Service; Office of Surface Mining Reclamation and Enforcement; U.S. Fish and Wildlife Service; U.S. Geological Survey. Each of these units is different from each other, and in order to understand the DOI as a place of preservation of wilderness spaces in the United States, this chapter looks closely at the missions of each of the DOI’s units, and further investigates those units specifically dealing with the act wilderness protection. Not all units of the Department of the Interior deal with wilderness or even nature, but it is important to understand the entity that is the DOI as the home of three of the four American managers of wilderness spaces: Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service.

DOI as a whole abides by the following mission statement: “Protecting America’s Great Outdoors and Powering Our Future: The U.S. Department of the Interior protects America’s natural resources and heritage, honors our cultures and tribal communities, and supplies the energy to power

²³⁵ Robert Utley & Barry Mackintosh, *The Department of Everything Else: Highlights of Interior History* (Washington, D.C.: DOI, 1989).

our future.”²³⁶ The DOI’s mission statement reflects its most recognizable functions: nature protection, Indians, and energy. The mission reveals several things, and I believe that by focusing on the word choices we can glean several things about the DOI. For instance, the mission statement refers to nature as two things: “the great outdoors” and “natural resources.” The choice of “the great outdoors” is one that reveals an underlying importance of recreation. Not only does the term evoke images of the so-named 1988 Howard Deutch film starring Dan Aykroyd and John Candy, but it also firmly places nature in a space of utilitarian function rather than necessarily inherently important. The DOI seeks to protect America’s spaces of outdoor recreation and power for the future. What this first and critical part of the mission statement reveals is the coupling of two economic ideals: recreation and energy production (and thus consumption); two ideals of American society. What this segment of the DOI’s mission statement omits is equally as important, it omits the nonhuman uses we so often associate with the DOI (National Parks, National Preserves). This is further reinforced by the second part of the statement: “...protects America’s natural resources.” When referring to nature in terms of resources, we conjure a sense of consumption. While this is not universally the case (educational resources), there is often a sense of usage once again. And the statement finishes with emphasis on the supply of energy. If we are to judge the DOI based on its mission statement, a statement used as a guiding force to anybody, then surprisingly to some it is clear to see that its objectives do not solely reflect the spirit of preservation. By looking closely at each of the units we can glean useful information about the central focuses of the DOI.

Each of the units has a different shade of function. It is truly improbable to try and compare the function of the Bureau of Indian Affairs to the U.S. Geological Survey. In order to, perhaps, clarify and standardize how best to analyze these diverse units, I will use the same categorizing standards as I applied to USDA: Nature, Human, and Economic. As Table 3 shows, each of the units has been assigned a combination of one or three of these headings.

²³⁶ Department of the Interior, “Mission Statement,” 4 June 2012, <http://www.doi.gov/whoware/Mission-Statement.cfm>, (accessed 12 Sept. 2012).

Table 4.1: Department of the Interior Units & Mission Statements with Categorical Subheadings (Nature, Human, Economic)

Department of the Interior Unit	Mission Statement
Bureau of Indian Affairs (BIA) Human, Economic	enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives.
Bureau of Land Management (BLM) Human, Nature, Economic	sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.
Bureau of Ocean Energy Management (BOEM) Economic, Human, Nature	will be responsible for managing development of the nation’s offshore resources in an environmentally and economically responsible way. Functions will include: Leasing, Plan Administration, Environmental Studies, National Environmental Policy Act (NEPA) Analysis, Resource Evaluation, Economic Analysis and the Renewable Energy Program.
Bureau of Safety and Environmental Enforcement (BSEE) Economic, Human, Nature	will enforce safety and environmental regulations. Functions will include: All field operations including Permitting and Research, Inspections, Offshore Regulatory Programs, Oil Spill Response, and newly formed Training and Environmental Compliance functions.
Bureau of Reclamation (USBR) Economic, Human, Nature	manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.
National Park Service (NPS) Nature, Human, Economic	conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.
Office of Surface Mining, Reclamation, and Enforcement (OSM) Human, Economic, Nature	carry out the requirements of the Surface Mining Control and Reclamation Act (SMCRA) in cooperation with States and Tribes. Our primary objectives are to ensure that coal mines are operated in a manner that protects citizens and the environment during mining and assures that the land is restored to beneficial use following mining, and to mitigate the effects of past mining by aggressively pursuing reclamation of abandoned coal mines.
Fish and Wildlife Service (FWS) Nature, Human, Economic	work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.
Geological Survey (USGS) Economic, Human, Nature	serves the Nation by providing reliable scientific information to describe and understand the Earth; minimize loss of life and property from natural disasters; manage water, biological, energy, and mineral resources; and enhance and protect our quality of life.

These various mission statements betray, of course, only a part of the complete function of any such bureau; however, they do show the theoretical and fundamental standards by which each unit governs itself and in turn nature. Of the nine units reflected in Table 4.1, four have a primary function that is economic; two have a secondary function that is economic; and three have a tertiary economic function. Three units have a primary human function, followed by only two units with a nature primary functions. This illustrates how the function of nature is secondary to human and economic concerns. What this analysis of the DOI mission statements firmly reflects is that the DOI is as much an engine for economic benefits unfolding on a nonhuman stage as it is a protector of that very nonhuman stage. And of all the stages held precious in the American psyche is that of wilderness. The three agencies BLM, NPS, and FWS all have their own slices of wilderness, and thus have slightly different ways of approaching both the management of wilderness and their wilderness-ocean interface.

BUREAU OF LAND MANAGEMENT

BLM manages 247,859,076 acres (387,279.81 square miles) of public lands.²³⁷ This monstrous sum is equivalent to roughly 13 percent of the total U.S. land area or nearly identical to the total land area of the nation of Egypt (387,000 miles²). BLM is an important manager of public lands in the United States. It is an important member of the four wilderness-managing bureaus in the federal government. As its mission statement shows, it has a multifaceted task-system; one that involves everything from scenic trails to potential mines. But most germane to this project is its vast wilderness holdings.

The BLM's nature conservation unfolds under the heading of National Landscape Conservation System (NLCS). BLM protects natural spaces through the use of these conservation tools: National Monuments, National Conservation Areas, Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, National Scenic and Historical Trails, and Conservation Lands of the California Desert. Each of

²³⁷ Bureau of Land Management, *Public Land Statistics 2010* (Washington, D.C.: Department of the Interior, 2010).

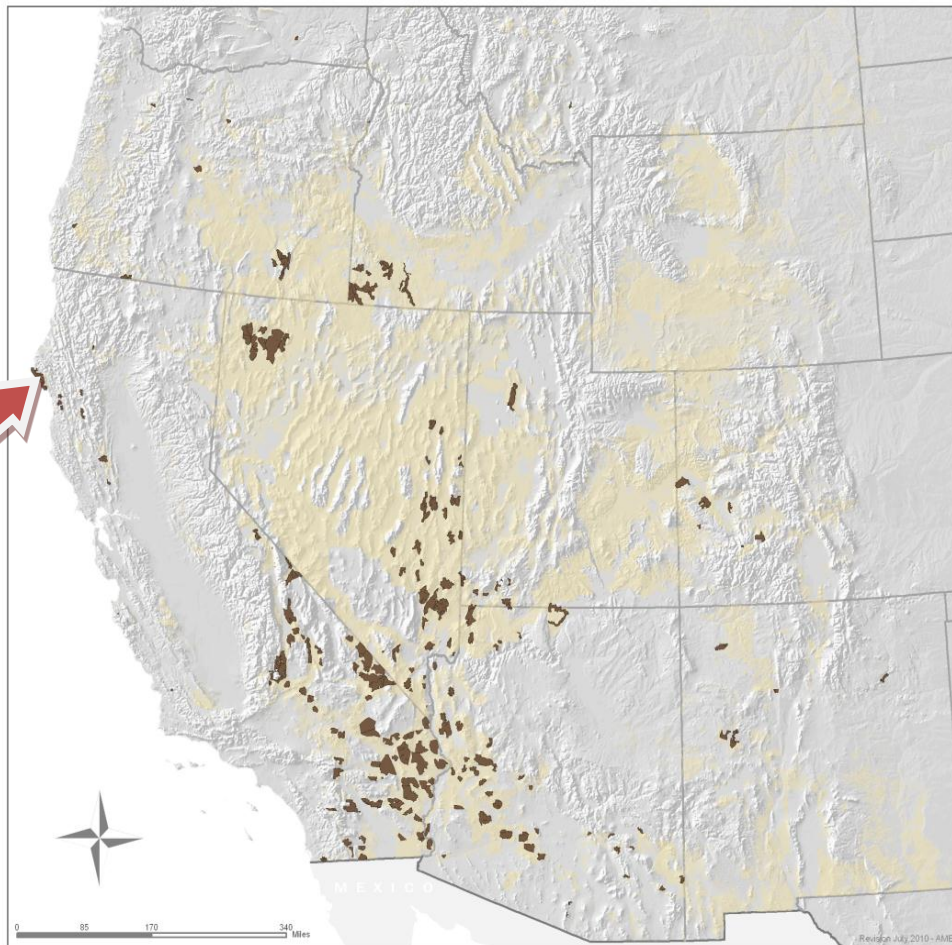
these units and subunits is in some way, arguably, managing an aspect of wilderness process, this project is most interested in those spaces that congress has designated wildernesses.

BLM defines wilderness areas as “special places where the earth and its community of life are essentially undisturbed. They retain a primeval character, without permanent improvements and generally appear to have been affected primarily by the forces of nature.”²³⁸ Sharing in part the wording to the Wilderness Act of 1964, this BLM wilderness enterprise is paramount in its management of wilderness through the Western United States. The BLM is the holder of vast tracts of Western terrestrial wilderness. In fact, it is responsible for the management of 221 Wilderness Areas, comprising a total 8,469,912 million acres (not including the Tabeguache Area in Colorado, which is managed as wilderness but not legally declared so by Congress)²³⁹ (Figure 4.1).

²³⁸ BLM, “Wilderness Areas 2011,” 14 June 2011, http://www.blm.gov/wo/st/en/prog/blm_special_areas/NLCS/Wilderness.html, (accessed 25 June 2011).

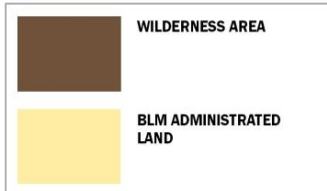
²³⁹ BLM, *Public Land Statistics 2010* (Washington, D.C.: Department of the Interior, 2010), Table 5-1,13.

**NATIONAL LANDSCAPE CONSERVATION SYSTEM
WILDERNESS AREAS**



The Bureau of Land Management's *National Landscape Conservation System* (NLCS) is a uniquely diverse system that contains some of the Nation's most spectacular and significant landscapes. The NLCS includes 222 *Wilderness Areas* with 8.6 million acres in 10 Western States (3 percent of BLM's total acreage in the coterminous United States). Wilderness areas are special places where the earth and its community of life are essentially undisturbed. They retain primeval character, without permanent improvements and generally appear to have been affected primarily by the forces of nature. The uniquely American idea of wilderness has become an increasingly significant tool to ensure long-term protection of natural landscapes.

www.blm.gov/nlcs



CONSERVE · PROTECT · RESTORE

Figure 4.1: BLM's National Landscape Conservation System: Wilderness Areas, source: <http://www.blm.gov/pgdata>. The red arrow indicates the location of BLM's coastal wildernesses. Arrow added by Ryan Orgera. This map is produced at the identical resolution of the original.

These Wilderness Areas do not include an additional 12,985,820 acres that BLM is currently monitoring as part of the "Wilderness Study Areas" program. That program manages 544 such spaces.²⁴⁰ The red arrow indicates the only coastal wildernesses held by BLM: King Range Wilderness and Rocks and Islands Wilderness. Both wilderness areas are located within and along the King Range National Conservation Area. Congress created them through Public Law 109-362, or the Northern California Coastal Wild Heritage Wilderness Act.

²⁴⁰ BLM, *Public Land Statistics 2010* (Washington, D.C.: Department of the Interior, 2010), Table 5-1, 13.

The management documents for the King Range National Conservation do not engage either wilderness area in any meaningful manner.²⁴¹ Moreover, BLM maps do not show any seaward border for the wilderness area (Figure 4.2).

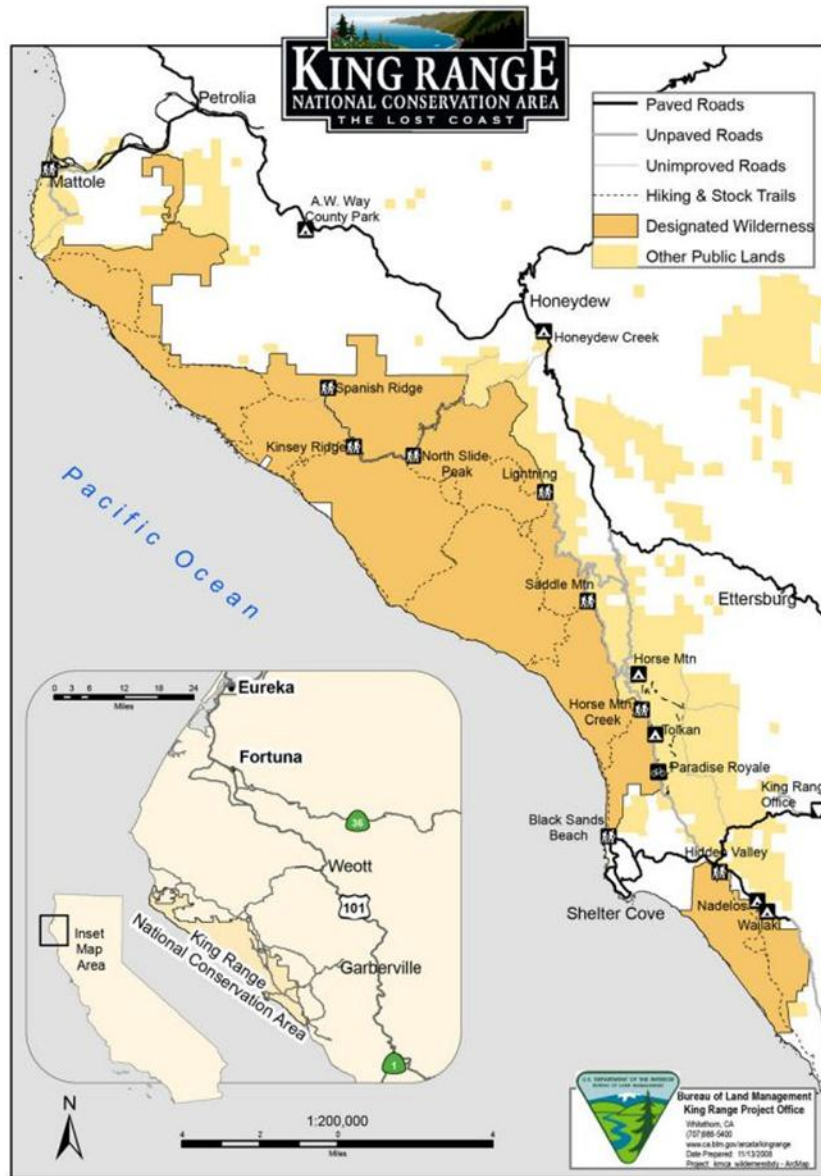


Figure 4.2: King Range Wilderness Area BLM Map, source: <http://www.blm.gov/ca/st/en/fo/arcata/kingrange>. This map is produced at the identical resolution of the original.

²⁴¹ BLM, *Proposed Resource Management Plan and Final Environmental Impact Statement*. (Arcata, Calif: BLM, 2004).

This lack of meaningful engagement extends to the representations of the oceanic as well. Other than occasional mention of the words “coastal” or “beach,” no important engagement of the oceanic exists in either the management documents or their creation legislation.

The Northern California Coastal Wild Heritage Wilderness Act only states the following about King Range Wilderness areas: “IN GENERAL.—Certain land administered by the Bureau of Land Management in Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres” (§11.(A). And similarly for Rocks and Islands Wilderness Area: “All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located (i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and (ii) above mean high tide” (§12.(A).(i).(ii). Both of these descriptions are unambiguously terrestrial. While the entire Rocks and Islands Wilderness Area is separate from the land, surrounded by ocean, the ocean itself is not part of this wilderness. To such a point that, only those rocks and islands sitting above the high-tide line are legal wilderness. Moreover, the simple legal reality that both these wilderness areas are simultaneously contiguous yet two legally separate units underscores that interruptive nature of ocean-space. The ocean acts as a contiguous-interrupter; the wilderness of King Range Wilderness cannot carry over to the Rocks and Islands Wilderness Area simply because the ocean lies between and over the geologic. While there is no important difference between the contiguous rock formations of the shore and those surrounded by ocean, there exists two different wilderness units. I see this as a symptomatic, symbolic narrative of ocean-as-other that we see so often in the federal government. BLM’s DOI counterparts (NPS and FWS) are much more ocean-space conscious.

NPS AND FWS: THE MARINE-ENGAGED WILDERNESS AGENCIES

Marine wilderness exists in theme, though not in legal category. The wilderness framework accounts for a level of existence unlike any other in the American preservation system. This legal framework does not

often include ocean-space as a category of intentional inclusion. For instance, coastal and even marine(ish) legal wilderness spaces do exist; however, they are largely small parts of larger wilderness areas. Those marine spaces contained in wilderness areas are always attached to land above the high-tide mark. This means that a truly marine wildernesses area, an area composed of ocean-space does not exist in the United States. This does not mean, though, that ocean-space, or at least liminal ocean-space, cannot abide in legal wilderness. More so than the Bureau of Land Management or the Forest Service, the National Park Service and the Fish and Wildlife Service are more inclusive of ocean-space in their vast protected wilderness networks. In fact, both agencies even celebrate their inclusion of marine and coastal resources within their protected areas.²⁴²

Through the analysis of selected management documents and legislation, this chapter helps to uncover both subtexts and a metanarrative for a national legal construct of ocean-space as wilderness. The subtext varies from rigid spatial guidelines creating narrow wildernesses to telling linguistic juxtapositions that cast doubt on ocean-space's participation in wilderness process. A theme leading to a metanarrative begins to emerge in the form of convolution; where consistency and clarity are not vital players in the definition of wilderness vis-à-vis ocean-space. Agencies are eager to clutch at the inclusion of marine resources in protected terrestrial spaces. For instance, in a NPS "Park News" publication produced by staff at Point Reyes National Seashore, the authors draw attention to the unique Drakes Estero. The publication refers to Drakes Estero, an estuary that is part of the Phillip Burton Wilderness, as "the only federal marine coastal wilderness from Washington State to the Mexican Border."²⁴³

At once these authors, effectively speaking on behalf of NPS, admit that there is a sense of exclusivity in Drakes Estero's marine wilderness space. This also is a way of celebrating such a distinction of being the "only" such space on the entire western seaboard of the United States. Moreover, the same

²⁴² Both operate "Ocean & Coastal Resources" web pages: NPS - <http://www.nature.nps.gov/water/oceancoastal/> FWS - <http://www.fws.gov/coastal/>

²⁴³ National Park Service, "Drakes Estero," in "Park News: Point Reyes National Seashore," Point Reyes Station, Calif.: Point Reyes National Seashore (2011), 1.

publication posits that “only 11 marine wilderness areas exist in the United States.”²⁴⁴ This further celebrates the rareness of such a self-imposed distinction of being a “federal marine coastal wilderness.” Drakes Estero is indeed a special case of an aquatic wilderness; however, it is only in part ocean-space as it represents a liminal ocean space, an estuary. A “federal marine coastal wilderness” is not a *de jure* designation, rather it is an expository category which does little more than underline the logistical hurdle that is the demarcation of ocean-space as legal wilderness. It also underscores a nascent comprehension of the necessity of producing oceanic wildernesses. By coveting the singularity of marine wilderness, NPS shows an understanding of ocean-space’s importance in a protection framework. However, this chapter shows that no purely marine wilderness exists within the spaces that NPS protects.

NATIONAL PARK SERVICE

An Act to Establish a National Park Service, and for other Purposes became law in late summer 1916; most simply refer to it as the Organic Act of 1916 or the National Park Service Organic Act. It is hard to overstate its effects. The Act provided a schematic for global national park systems, and makes up a fundamental part of a coterie of the paramount American environmental legislation. Over fifty years after the passage of the Yosemite Act, the Organic Act codified and justified the legitimacy of the nascent system of protected areas in the United States. It defined the legal construct of the National Park by purposing such places “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (§1).

Those spaces protected by NPS are effectively deeded as places where a space is set aside from development agendas so that it can be enjoyed in the future for its inherent nature value. The act of

²⁴⁴ National Park Service, “Drakes Estero,” 1.

protecting for the sake of nature and the sake of enjoyment (consumption) reiterates the duality of conservation in the American tradition. A National Park is not necessarily single-goaled, and it in fact has to weigh both the needs of humans and nonhumans. The Act reiterates this duality in Section 3 where Congress allows the Secretary of the Interior to cull wild and plant life and lease land to those building accommodation for visitors. The Organic Act provides the clearest framework or pathways to protecting nature as a collection of independent entities and processes from civilization; it provides a framework wherein wilderness areas can and do exist.

No unit of the National Park Service is wholly composed of ocean-space. Dry Tortugas National Park is the most aquatic of all the NPS protected spaces. Table 4.2 combines data from two NPS publications. From these two datasets, it enumerates the percentage of ocean, estuarine, and intertidal acres of the fifteen NPS units with the highest percentage of marine-water cover.

Table 4.2: NPS Units Percentage Ocean-Space

NPS Ocean-Space Parks % Water			
Unit Name	Total Acres²⁴⁵	"Water Acres"²⁴⁶	% "Water Acres"
Dry Tortugas National Park	64,701.22	65,476	101²⁴⁷
Buck Island Reef National Monument	19,015.47	18,816	99
Biscayne Bay National Park	172,924.07	164,864	95
Virgin Islands National Park	14,688.87	12,725	87
Assateague Island National Seashore	39,726.75	32,409	82
Gulf Islands National Seashore	137,990.97	110,387	80
Fire Island National Seashore	19,579.47	14,292	73

²⁴⁵ National Park Service, *The National Parks: Index 2009-2011* (Washington, DC: NPS, 2009).

²⁴⁶ Thom Curdts, *Shoreline Length and Water Area in the Ocean, Coastal, and Great Lakes Parks: Updated Statistics for Shoreline Miles and Water Acres* (Fort Collins, Colo.: NPS, 2011).

²⁴⁷ There is a disparity between the total acreage reported by the *NPS Index* and the *NPS Shoreline Length and Water Area in the Ocean, Coastal, and Great Lakes Parks*. The *NPS Index* indicates that the total land area of Dry Tortugas National Park is 39.28 acres. While 101% is not possible, the total *NPS Index* acreage is 64,701.22 acres. Thus, 64,701.22 (total acres)-39.28 (land acres) = 64,661.94 (water acres), and that constitutes 99.9% of the total park. National Park Service, *The National Parks: Index 2009-2011* (Washington, D.C.: Department of the Interior, 2009).

Table 4.2 cont.

Cape Canaveral National Seashore	57,661.69	37,825	66
Padre Island National Seashore	130,434.27	72,478	56
Channel Islands National Park	249,561	120,258	48
Virgin Islands Coral Reef National Monument	13,892.78	5,807	42
Everglades National Park	1,508,537.90	547,240	36
National Park of American Samoa	9,000	3,192	35
Cumberland Island National Seashore	36,415.13	10,613	29
Glacier Bay Park/Preserve	3,283,246.31	598,611	18

Where table 4.2 represents the overall National Park System, Table 4.3 situates parks and coastal wildernesses into this project.

Table 4.3 is a listing of those NPS units that contain marine-space/resources: NPS claims a total of 84 ocean and coastal parks.²⁴⁸ This table is not verbatim from NPS, rather it is a retooling under the following guidelines: I only consider those parks that are nature-purposed, thus Table 4.3 excludes the following categories: National Historic Site, National Historical Park, National Memorial, and National Recreation Area. While nonhuman spaces are part of those NPS units falling under each of those categories, the purpose of this project is to look at specific designations, or intentional nature protection. Wilderness designation is very much an intentional act. Moreover, I do not believe that lake systems are marine systems. While at a glance they share the commonality of vastness and wetness, they represent very different social, scientific, and legal spaces. NPS and NOAA both group the Great Lakes and ocean-space together as associated categories, however, the purpose of this research is to uncover a national marine tradition of governance and protection, and there is no room in this confine to include National Lakeshores.

²⁴⁸ Curdts, *Shoreline Length and Water Area in the Ocean*, 25.

Furthermore, Table 4.3 establishes those NPS categories of National Preserve, National Park, National Park & Preserve, and National Seashore as the most nature-purposed in their fundamentally restrictive regulatory approaches. Two parks NPS lists that Table 4.3 does not list are Jean Lafitte National Preserve and Big Thicket National Preserve; they are both in proximity of coastal systems, yet neither contains ocean-space. In the case of Jean Lafitte, its inclusion in NPS’ ocean and coastal parks is in part because the NPS has tasked itself with working with “others for the preservation and interpretation of the natural and cultural resources of the entire Mississippi River delta region.”²⁴⁹ Finally, Table 4.3 does not include any non-NPS National Monuments. National Monuments have different legal structures, and these structures are part of a section devoted to executive orders and proclamations which appears in the following chapter.

Table 4.3: National Park Service Ocean & Coastal Parks²⁵⁰

NPS Ocean & Coastal Parks		
Name	Unit Type	Location
Aniakchak	National Preserve	Alaska
Bering Land Bridge	National Preserve	Alaska
Big Cypress	National Preserve	Florida
Glacier Bay	National Park & Preserve	Alaska
Katmai	National Park & Preserve	Alaska
Lake Clark	National Park & Preserve	Alaska
Wrangell - St. Elias	National Park & Preserve	Alaska
Assateague Island	National Seashore	Maryland/Virginia
Cape Cod	National Seashore	Massachusetts
Cape Hatteras	National Seashore	North Carolina
Cape Lookout	National Seashore	North Carolina
Cumberland Island	National Seashore	Georgia
Fire Island	National Seashore	New York
Gulf Islands	National Seashore	Mississippi & Florida

²⁴⁹ National Park Service, “The Louisiana Coastal Protection and Restoration Plan and Jean Lafitte National Historical Park and Preserve,” National Park Service Park Position Statement (2008).

²⁵⁰ Modified from data from: Curdts, *Shoreline Length and Water Area in the Ocean*.

Table 4.3 cont.

Padre Island	National Seashore	Texas
Point Reyes	National Seashore	California
Acadia	National Park	Maine
American Samoa	National Park	American Samoa
Biscayne	National Park	Florida
Channel Islands	National Park	California
Dry Tortugas	National Park	Florida
Everglades	National Park	Florida
Haleakalā	National Park	Hawaii
Hawai'i Volcanoes	National Park	Hawaii
Kenai Fjords	National Park	Alaska
Olympic	National Park	Washington
Redwood	National Park	California
Virgin Islands	National Park	Virgin Islands

Those units highlighted in blue represent those coastal units containing wilderness.

Those parks highlighted in blue contain coastal wilderness; i.e. where the wilderness is directly tied to the ocean and not where the designated wilderness is part of a park but not physically abutting/containing ocean-space. I call this kind of ocean and wilderness interaction wilderness-ocean interface. For example, Haleakalā National Park contains designated wilderness, but there is no wilderness-ocean interface. Figure 4.3 illustrates this, and Figure 4.4 shows a contrasting coastal wilderness in Hawai'i Volcanoes National Park.

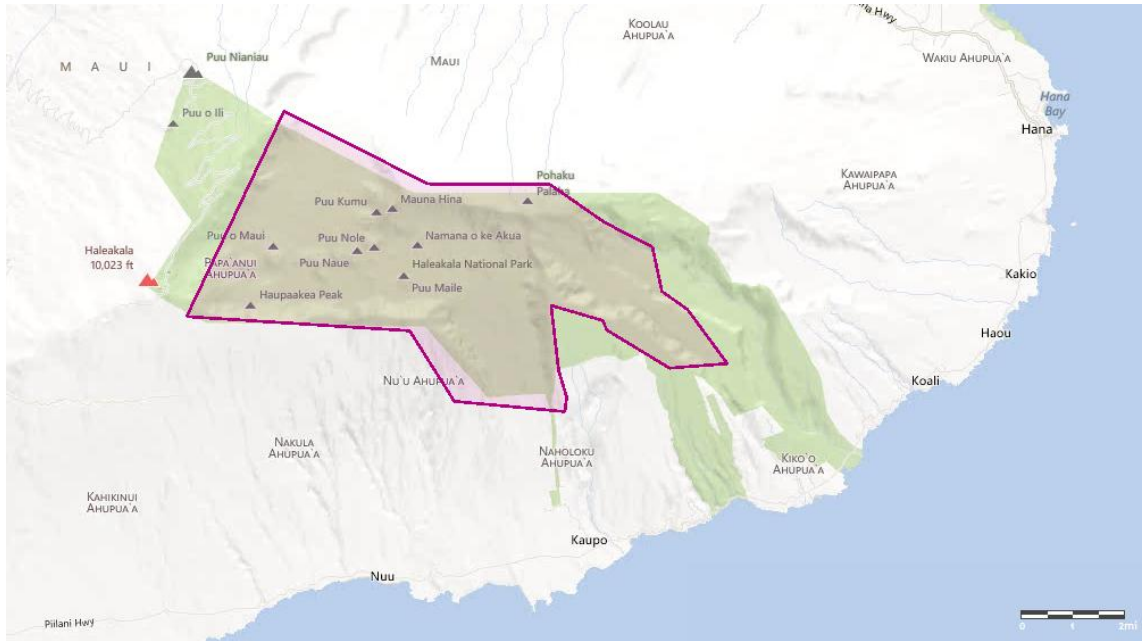


Figure 4.3: Haleakala Wilderness Area. This map is produced at the identical resolution of the original.²⁵¹

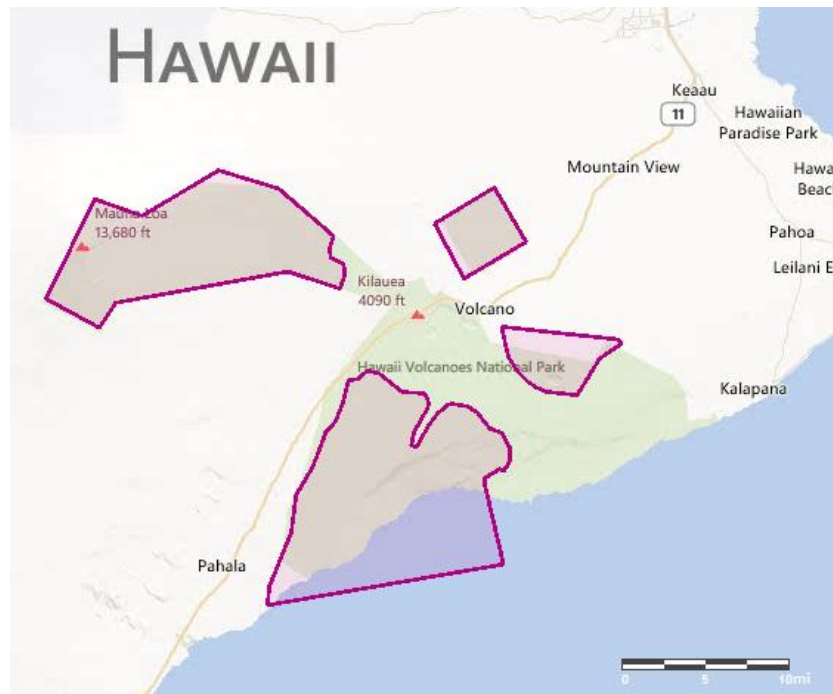


Figure 4.4: Hawai'i Volcanoes Wilderness Area. This map is produced at the identical resolution of the original.²⁵²

²⁵¹ Wilderness.net, "Haleakala Wilderness Map," <http://www.wilderness.net/map.cfm?xmin=-17393100.9797&ymin=2353181.2314&xmax=-17374912.4886&ymax=2363278.51>, (accessed 11 Nov. 2012). Map based on National Park Service shapefile data.

²⁵² Wilderness.net, "Hawaii Volcanoes Wilderness Map," <http://www.wilderness.net/map.cfm?xmin=-17325935.2562&ymin=2174505.2421&xmax=-17266300.2931&ymax=2219499.3002>, (accessed 11 Nov. 2012). Map based on National Park Service shapefile data.

Coastal processes can exist in either of these categories; however, ocean-space is the most pertinent category here. Coastal wildernesses exist throughout the entire NPS system, and Table 4.4 is a complete listing of NPS coastal wildernesses by park and wilderness area.

Table 4.4: NPS Coastal Parks with Coastal Wildernesses

NPS Coastal Wildernesses	
Park	Wilderness Area
Big Cypress/Everglades	Marjory Stoneman Douglas Wilderness
Cumberland Island	Cumberland Island
Fire Island	Otis Pike Fire Island High Dune Wilderness
Glacier Bay	Glacier Bay Wilderness
Gulf Islands	Gulf Islands Wilderness
Hawai'i Volcanoes	Hawai'i Volcanoes Wilderness
Katmai	Katmai Wilderness
Lake Clark	Lake Clark Wilderness
Olympic	Olympic Wilderness
Point Reyes	Phillip Burton Wilderness
Wrangell - St. Elias	Wrangell-St. Elias Wilderness

Table 4.4 includes all of those wilderness areas within the National Park System that contain wilderness-ocean interface. These areas span only a handful of states as Figure 4.5 illustrates.

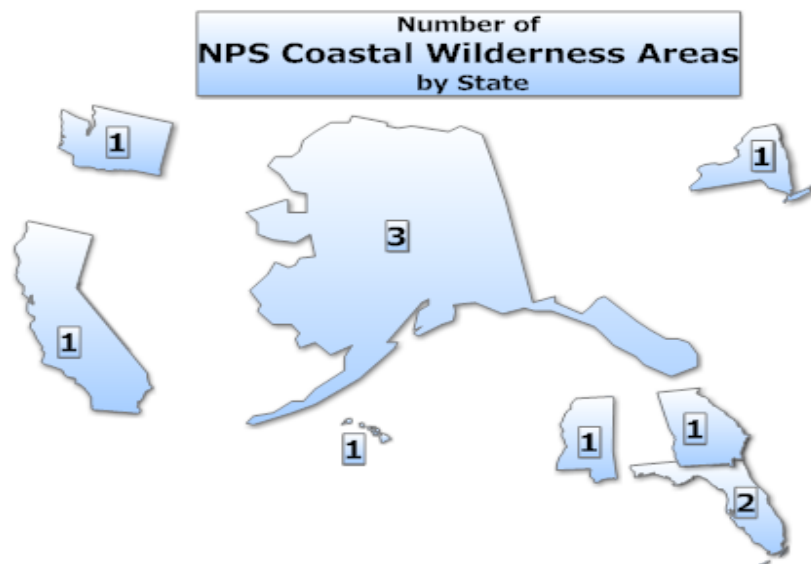


Figure 4.5: NPS Coastal Wilderness Areas by State, cartography by Ryan Orgera

Each of these states contains some form of designated wilderness-ocean interface; however, not each of these spaces is functionally similar. As the following analysis discusses, the actual water-space or water column does not equally factor into designated wilderness. In some cases, the water-space is overtly excluded from the wilderness designation, and in others it forms a spatially integral part thereof.

Wilderness definition is far more fluid than many would think. Through the careful analysis of the bills that created these legal wildernesses, to the General Management Plan (GMP) of each coastal wilderness, a narrative unfurls, recounting a story of an uneven application of wilderness designation vis-à-vis ocean-space. Not all of the planning documents tell new or even interesting stories, but those to follow reveal exciting insights into the legal and functional structures of wilderness-ocean interface.

In a 1973 wilderness study published by Hawaii Volcanoes National Park, the park officials call attention to two roadless areas of the park. The report refers to only one region by name, Mauna Loa. NPS defines this area as “high, mountainous, and characterized by extremely rough terrain.”²⁵³ The second section of the park remains nameless and “represents a sizable, isolated, rugged coastal and marine environment.”²⁵⁴ The report opens by explaining that large parts of the “volcanic features, rain forest, and pacific ocean shoreline” in the park are “suitable for preservation as wilderness.”²⁵⁵ The nameless, later called Unit 2, is part of the Pacific Ocean shoreline; or as NPS explains “the lands between the ocean and palis²⁵⁶ are important features to be preserved in wild status.”²⁵⁷ The report refers to the views afforded by this shoreline in terms of ocean-boundedness: “These sweeping views, and those from the ocean back toward the fault escarpments, will be preserved by placing most of the coastal area in wilderness.” Like in the case of Tongass National Forest wilderness areas, the shoreward view(shed) is the most important feature of a coastal wilderness. And the report clearly demarcates

²⁵³ National Park Service, *Wilderness Study* (Hawaii: Hawaii Volcanoes National Park, 1973), 4.

²⁵⁴ *Ibid.*

²⁵⁵ National Park Service, *Wilderness Study* (Hawaii: Hawaii Volcanoes National Park, 1973), 1.

²⁵⁶ Pali is a Hawaiian term for a cliff.

²⁵⁷ *Ibid.*, 7.

wilderness as a line from “the ocean to a point approximately ¼ mile south of Route 11.”²⁵⁸ Moreover, “wilderness line then follows the Kalapana Extension boundary to the coast and then follows the mean high-tide line west to the point of beginning.”²⁵⁹

While the report situates Unit 2 as a “marine environment,” it is more accurately a coastal environment. As the report advances, it seems to retreat from its opening paragraph. The ocean becomes a linear boundary rather than a part of the structure of the wilderness area. NPS repeatedly paints the coast in terms like “rugged,” “severe,” and “dramatic.” Wilderness can exist in this space, but the report is quick to remind its readers that the space is beautiful and treacherous. In this early report, Hawaii Volcanoes Wilderness Area does not include ocean-space in its construction of wilderness. An even more severe rebuking of ocean-space as wilderness occurs in the Everglades Wilderness planning document.²⁶⁰

The 1979 Everglades National Park Master Plan that defines the management of the then Everglades Wilderness Area is very clear on what constitutes terrestrial and oceanic wildernesses. Congress established the Everglades Wilderness in 1978 as part of the National Parks and Recreation Act of 1978 (Pub. Law 95-625). In 1997, the 105th Congress enacted Marjory Stoneman Douglas Wilderness and Ernest F. Coe Visitor Center Designation Act (Pub. Law 105-82). The latter Act did not restructure the wilderness, and rather simply changed its name to honor Florida’s most famous environmental champion. Douglas wrote of the importance of the Gulf and the Atlantic as parts of the larger natural system that encompasses the Everglades.²⁶¹ This view is not shared by NPS in its master plan. The management plan gives one of the clearest schematics of wilderness-ocean interface: “the marine water surfaces have also been excluded from wilderness, although the submerged lands themselves are in

²⁵⁸ *Ibid.*, 8.

²⁵⁹ *Ibid.*

²⁶⁰ National Park Service, *Everglades National Park Master Plan* (Denver: NPS Denver Service Center, 1979).

²⁶¹ Marjorie Stoneman Douglas, *The Everglades: River of Grass* (Sarasota: Pineapple Press, 1997 (1947)), Chapter 1.

wilderness.”²⁶² Therefore, using this definition, the blue crab is part of wilderness process but the lemon shark, as long as it swims mid-water-column, is not so. The plan does, however, laud Florida Bay as “one of the largest marine preserves in the country. It covers over 300,000 acres.”²⁶³ Similarly exclusive of ocean-space, Florida’s other coastal wilderness, Gulf Islands Wilderness defines its wilderness space as Wilderness ending at the mean high tide mark, and does not extend over submerged lands within the seashore boundary.²⁶⁴

The Olympic Wilderness Area in Washington State is a vast collection of landscapes, and only a smaller western sliver of Olympic National Park touches the Pacific Ocean. This coastal wilderness strip is a landscape dominated by coastal processes and vistas. The park’s General Management Plan defines wilderness zones as having “indicators (that) might include the condition of important resources (meadow condition, riparian communities, indicator species, soil erosion, vegetation cover, snow fields, historic structures, water quality, natural sound scape.”²⁶⁵ None of these indicators shows a wilderness and ocean relationship. Though, the GMP defines “intertidal reserve zones” that are those “nearshore areas (between high tide and low tide).”²⁶⁶ This liminality, a space of almost land and almost ocean, underscores the incongruity with which ocean-spaces exists as a managed space; how and what is part of wilderness process is equally incongruous. Moreover, this GMP suggested action shows an additional layer of “almost wilderness-ness” of the nearshore: “measures would include mandatory no-harvest zones; (including) mussels, hard shell clams, gooseneck barnacles, surf smelt, and Dungeness crabs...the harvesting of these organism and other live organism would no longer be permitted in the designated

²⁶² National Park Service, *Everglades National Park Master Plan*, 37.

²⁶³ *Ibid.*, 48.

²⁶⁴ National Park Service, *Gulf Islands National Seashore Draft General Management Plan/Environmental Impact Statement* (Washington, D.C.: National Park Service, 2011), 20.

²⁶⁵ National Park Service, *Olympic National Park Final General Management Plan/EIS* (Port Angeles, Wash.: NPS, 2008), 142.

²⁶⁶ *Ibid.*, 141-142.

intertidal reserve zones.”²⁶⁷ Olympic Wilderness abuts Olympic Coast National Marine Sanctuary which may explain the overall omission of ocean-space in its wilderness construction.

Point Reyes National Seashore contains the Phillip Burton Wilderness. Environmental historian Laura Watt explains that “Point Reyes wilderness area is not a single contiguous unit but is scattered in pieces across the peninsula.”²⁶⁸ The wilderness area includes “Drakes Estero but not the lands that surround it.”²⁶⁹ This is one of the most interesting cases of coastal wilderness in NPS’ holdings. The story of this small part of Phillip Burton Wilderness is complicated historically (and contemporarily), but the spatial emphasis is quite clear. Congress established an intentionally-aquatic wilderness area: Public Law 94-544 establishes 8,002 acres of “potential wilderness,” and this potential existed in Drakes Estero, an estuary. “The ocean floor was ceded by the State of California to the National Park Service, except for the “right to fish.” The Estuary floor is thus owned by Point Reyes National Seashore.”²⁷⁰ It is important to note, however, that still in 2012 commercial oystering occurs in a portion of this wilderness area. The lease is set to expire in 2012.²⁷¹ One of the most marine of all the wildernesses in the National Wilderness Preservation System, Drakes Estero, still remains a semi-commercialized space. Glacier Bay Wilderness is the absolute closest the National Park Service comes to administering a marine wilderness. The Park and Preserve contain 598,611 acres of “water acres.”²⁷² This is not the largest percentage of aquatic space, but it is the largest expanse of NPS ocean-space. Part of this space belongs to the Glacier Bay Wilderness area. This area is very important to the concept of American marine wilderness. The Glacier Bay National Park General Management Plan draws attention to: “five marine areas designated as wilderness—Rendu Inlet, Hugh Miller Inlet (including Scidmore Bay, Charpentier

²⁶⁷ National Park Service, *Olympic National Park Final General Management Plan*, 141-142.

²⁶⁸ Laura A. Watt, “The Trouble with Preservation, or, Getting Back to the Wrong Term for Wilderness Protection: A Case Study at Point Reyes National Seashore,” *APCG Yearbook* 64 (2002), 65.

²⁶⁹ *Ibid.*

²⁷⁰ National Park Service, “Park News: Point Reyes National Seashore: Drakes Estero,” (Point Reyes Station, Calif: Point Reyes National Seashore, 2011).

²⁷¹ *Ibid.*

²⁷² Thom Curdts, *Shoreline Length and Water Area in the Ocean, Coastal, and Great Lakes Parks: Updated Statistics for Shoreline Miles and Water Acres* (Fort Collins, Colo.: National Park Service, 2011).

Inlet, and Weird Bay), Adams Inlet, the Northwest arm of Dundas Bay, and the area within the Beardslee Islands.”²⁷³ The Alaska National Interest Lands Conservation Act required “a wilderness suitability review conducted during the general management planning process.”²⁷⁴ This occurred before congressional wilderness designation. The following table illustrates a public rebuking of the proposed congressional (marine) wildernesses. Table 4.5 shows the alternatives the NPS and the public explored during the planning process which led to this GMP.

Table 4.5: Glacier Bay (Marine) Wilderness Suitability Review²⁷⁵

Beardslee Islands	The entire marine area surrounding this island group should be redesigned as park nonwilderness. This would result in the deletion of approximately 18,400 acres of designated wilderness waters, and it would allow for the continuation of traditional commercial fishing in the Beardslees without affecting current use.
Muir Inlet and Wachusett Inlet	These two inlets should be redesigned as park wilderness, representing a wilderness addition of approximately 30,900 acres. This action would consolidate the majority of park wilderness waters in one area.
Hugh Miller Inlet	This 1,660-acre marine area should be deleted from wilderness designation to allow for traditional commercial fishing at the mouth of the inlet, which would not affect the wilderness character of interior waters. Scidmore Bay, Charpentier Inlet, and Weird Bay would remain in wilderness status.
Dundas Bay	The entire bay should be redesigned as park nonwilderness, resulting in approximately 6,300 acres being deleted from marine wilderness. This would allow for the continuation of traditional commercial fishing access without visitor impacts because little or no visitor use is now made of the bay.

Some of these areas were nonetheless designated wilderness. Parts of Glacier Bay Wilderness, including nearly 1,900 acres of submerged lands were declassified as wilderness in 1998 with the passage of

²⁷³ National Park Service, *Glacier Bay National Park and Preserve General Management Plan* (Washington, D.C.: National Park Service, 1984), 58.

²⁷⁴ *Ibid.*

²⁷⁵ *Ibid.*

Glacier Bay National Park Boundary Adjustment Act of 1998. This Act groups both land and waters into a shaky spatial category: “For the Purposes of this Act, the term ‘land’ means lands, waters, and interests therein.”²⁷⁶ The separation of water and wilderness represent distinct categories in Glacier Bay management documents. The GMP establishes park zones and categories for them. The categories include: “nonwilderness waters, wilderness lands, wilderness waters, development, and special use.”²⁷⁷

Table 4.6: Aquatic Wilderness Categories of Glacier Bay Wilderness Area²⁷⁸

Nonwilderness Waters Zone:	This zone will include most of the marine waters of Glacier Bay National Park and Preserve. Restrictions on vessel use will be promulgated as a result of past and ongoing whale research.
Wilderness Waters Zone:	The zone will include the areas of Muir, Wachusett, and Adams inlets and the Hugh Miller Inlet Complex. Special management considerations for wilderness waters are discussed under "Fisheries Management"

Glacier Bay Wilderness Area represents the clearest NPS wilderness-ocean interface. It does not represent a wholly marine environment, but is the closest marine wilderness area in NPS’ National Wilderness Preservation System holdings. The U.S. Fish and Wildlife Service is, like NPS, a very ocean-conscious wilderness agency.

THE U.S. FISH AND WILDLIFE SERVICE

The U.S. Fish and Wildlife Service (FWS) manages thirty-seven coastal wilderness areas (Table 4.7). The majority of these areas are in Alaska, and each has a varying amount of ocean-space as part of its spatial boundaries. Like with NPS, on a larger scale, many of the coastal wilderness areas have different

²⁷⁶ Pub. Law 105-317, §2(d)(6)

²⁷⁷ National Park Service, *Glacier Bay National Park and Preserve General Management Plan*, 59.

²⁷⁸ *Ibid.*

interactions with ocean-space. In order to create a narrative of FWS' construction of wilderness-ocean interface, this analysis looks to varied planning documents and legislation.

Table 4.7: A listing of the 37 FWS Coastal Wildernesses

FWS Coastal Wildernesses			
Wilderness Area I	Location I	Wilderness Area II	Location II
Aleutian Islands	Alaska	Kenai	Alaska
Becharof	Alaska	Mollie Beattie	Alaska
Bering Sea	Alaska	Monomoy	Massachusetts
Blackbeard Island	Georgia	Mossehorn	Maine
Bogoslof	Alaska	Nunivak	Alaska
Breton	Louisiana	Oregon Islands	Oregon
Brigantine	New Jersey	Passage Key	Florida
Cape Romain	South Carolina	Pelican Island	Florida
Cedar Keys	Florida	Saint Lazaria	Alaska
Chamisso	Alaska	San Juan	Washington
Chassahowitzka	Florida	Semidi	Alaska
Farallon	California	Simeonof	Alaska
Florida Keys	Florida	St. Marks	Florida
Forrester Island	Alaska	Swanquarter	North Carolina
Hazy Islands	Alaska	Three Arch Rocks	Oregon
Island Bay	Florida	Tuxedni	Alaska
Izembek	Alaska	Unimak	Alaska
J.N. Ding Darling	Florida	Washington Islands	Washington
		Wolf Island	Georgia

Unlike the NPS, FWS principally administers one unit type. These wilderness areas are part of the National Wildlife Refuge System (NWRS) which manages 556 National Wildlife Refuges (NWR).²⁷⁹ Of these, there are a total of 180 “marine refuges.”²⁸⁰ Not all, and in fact, only a small percentage of these contain wilderness-ocean interface. Only twelve states have designated coastal wilderness (Figure 4.6).

²⁷⁹ Fish and Wildlife Service, *Annual Report of Lands under Control of the U.S. Fish and Wildlife Service as of September 30, 2010* (Washington, D.C.: FWS: Division of Realty, 2011).

²⁸⁰ Fish and Wildlife Service, “Marine Refuges National Wildlife Reserve System” 3 April 2012, http://www.fws.gov/refuges/whm/pdfs/MarineProgramFactSheet_7.pdf, (accessed 13 April 2012).

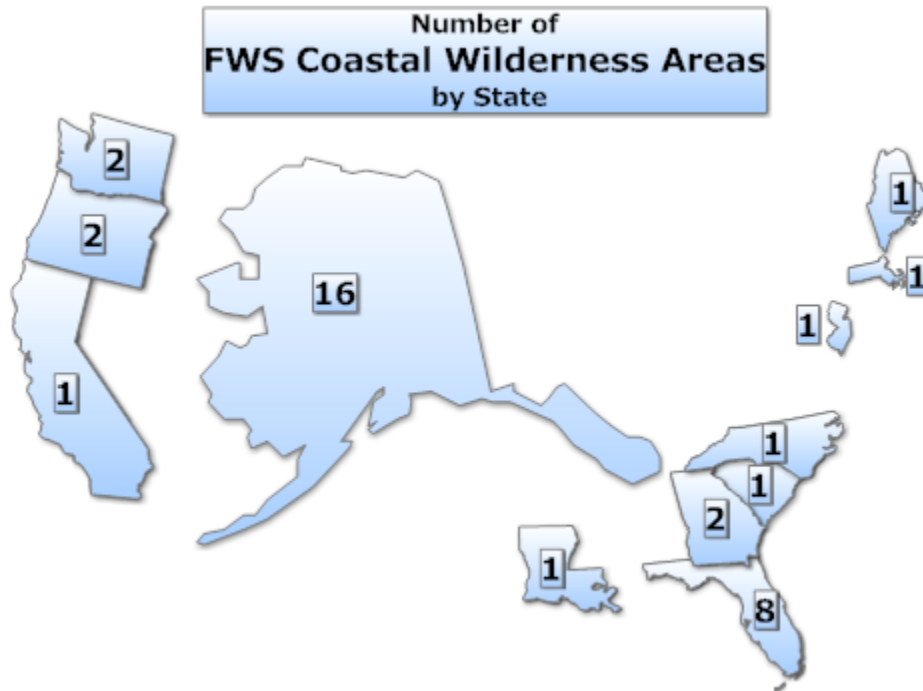


Figure 4.6: FWS Coastal Wilderness Areas by State, cartography by Ryan Orgera

The FWS Coastal wildernesses literally stretch from the southernmost point of the continental U.S.: Key West to the Beaufort Sea in northern Alaska. Each differs in its size, spatial scheme, and ocean-space construction. The refuge documents represent drastically different concepts of what constitutes ocean wilderness. From the rocky outcrops of Oregon to the salt marshes of Georgia, the ocean exists only in shades of wilderness.

Part of the theme of these wilderness areas is the inclusion of a terrestrial feature: Aleutian Islands, Blackbeard Island, Forrester Island, Hazy Islands, Chamisso (Island), Farallon (Islands), Island Bay, Oregon Islands, Pelican Island, Saint Lazaria (Islands), San Juan (Islands), Semidi (Islands), Simeonof (Islands), Washington Islands, Wolf Islands, Florida Keys, or Passage Key. Among these numerous cases, islands are central features. The idea here is that the terrestrial node is a launching point of sorts for seaward pointed wilderness. These bits of land, and in some cases they are truly bits, legitimize wilderness existence. In no case is ocean-space protected as an unattached feature from emergent land. The “island genre” wilderness area yields some of the starkest contrasts of any kind of FWS wilderness.

Washington Islands Wilderness is a series of 600 islands covering 451 acres²⁸¹ (the Wilderness Act allows for island wildernesses of any size, not the standard 5,000 acres). In fact, it includes the entirety of the islands, reefs, and rocks collected among the Flattery Rocks, Quillayute Needles, and Copalis NWRs.²⁸² The Washington Islands National Wildlife Refuges CCP reads: “Although the islands are remote and difficult to access, boating and fishing activities on surrounding waters, and aircraft overflights, pose disturbance threats for the area’s wildlife.”²⁸³ Immediately, there is a separation from the ocean and wilderness: “surrounding waters.” This implies that the waters surround but are not included in the wilderness areas. This is in part because the islands are within the Olympic Coast National Marine Sanctuary. In reference to the entire NWR and not just wilderness, the CCP reads: “Although Service (FWS) responsibilities cover terrestrial environments, the Refuges are vitally linked with the surrounding marine environment and its resources.”²⁸⁴ Furthermore, the Service is responsible only for the landforms above the mean high waterline. Therefore, only those spaces are part of wilderness (and refuge in general), but the waters are seemingly not. FWS is not responsible for the aquatic animals (those who are not semi-aquatic) living in the waters around the refuges, this responsibility falls to the Washington Department of Fish and Wildlife. Similar to the Washington Islands Wilderness are the Farallon Wilderness in California, Oregon Islands Wilderness, and the Three Arch Wilderness in Oregon.

This grouping or similar island wilderness areas represent the functional antithesis of the ocean. They represent respite from water; spaces where pinnipeds and birds partake in their terrestrial habits. This is underlined by the Farallon and Oregon Islands CCPs. Like Washington Islands, Oregon Islands Wilderness is a collection of emergent landforms along Oregon’s tortured coast. In fact, the wilderness

²⁸¹ Fish and Wildlife Service, *Washington Islands National Wildlife Refuges: Flattery Rocks, Quillayute Needles, and Copalis NWRs CCP and EA* (Port Angeles, Wash.: FWS Washington Maritime NWR Complex, 2007), 3-35.

²⁸² *Ibid.*

²⁸³ *Ibid.*

²⁸⁴ *Ibid.*, 1-9.

area constitutes some 1,854 rocks, reefs, islands, and two headlands.²⁸⁵ All of the islands: “lying within three geographic miles of the coast of Oregon and above mean high tide (within the Oregon Islands NWR boundaries)”²⁸⁶ constitute designated wilderness. This means, naturally, that which is below the mean high tide mark does not constitute wilderness. This framework is mostly identical for Farallon Wilderness, save Noonday Rock which remains submerged.²⁸⁷ Another reiterative example is San Juan Wilderness in Northwest Washington.

San Juan Wilderness protects shoreline, reefs, lichenized rocks, bluffs and old-growth forests.²⁸⁸ “The San Juan Islands NWR is a sanctuary for a dazzling array of marine life, including black oystercatchers, pigeon guillemots, tufted puffins, pelagic and double-crested cormorants, glaucous-winged gulls, and pinnipeds.”²⁸⁹ While this CCP evokes “marine life,” its list is incongruous with just that. In fact, all save one live out of ocean-space. There is a connection to the ocean, an undeniable one, but this wilderness is not defined by ocean-space. The CCP reads: “the breathtaking forces of nature shaped this marine wilderness.”²⁹⁰ This construct of “marine wilderness” is free of ocean-space. This is further evident in the statement discussing the overall acreage of the wilderness: “Determining acreage of small islands above the mean high tide is inherently difficult.”²⁹¹ The wildernesses of Alaska offer similar and strikingly divergent stories.

Semidi (Islands) and Simeonof (Island) wildernesses are some of the most ocean-inclusive in the entire NWRS. FWS manages the submerged lands surrounding the Semidi Islands, this does not include the water column; however, FWS does have jurisdiction over the water column and tidelands around Simeonof. It is truly rare to have water column uniquely managed by FWS. As we saw with Washington

²⁸⁵ Fish and Wildlife Service, *Oregon Islands, Three Arch Rocks, and Cape Meares NWRs CCP and Wilderness Stewardship Plan* (Newport, Or.: FWS Oregon Coastal NWR Complex, 2006), 1-15.

²⁸⁶ Pub. Law 104-333 §1027.(b). [Omnibus Parks & Public Lands Management Act of 1996]

²⁸⁷ Fish and Wildlife Service, *Farallon NWR Final CCP* (San Francisco, Calif.: FWS San Francisco Bay NWR Complex, 2009).

²⁸⁸ Fish and Wildlife Service, *Protection Island and San Juan Islands NWRs CCP and San Juan Islands Wilderness Stewardship Plan* (Sequim, Wash.: FWS Washington Maritime NWR Complex, 2010), 1-16.

²⁸⁹ *Ibid.*, 1-17.

²⁹⁰ Fish and Wildlife Service, *Protection Island and San Juan Islands NWRs CCP and San Juan Islands Wilderness Stewardship Plan* (Sequim, Wash.: FWS Washington Maritime NWR Complex, 2010), 1-17.

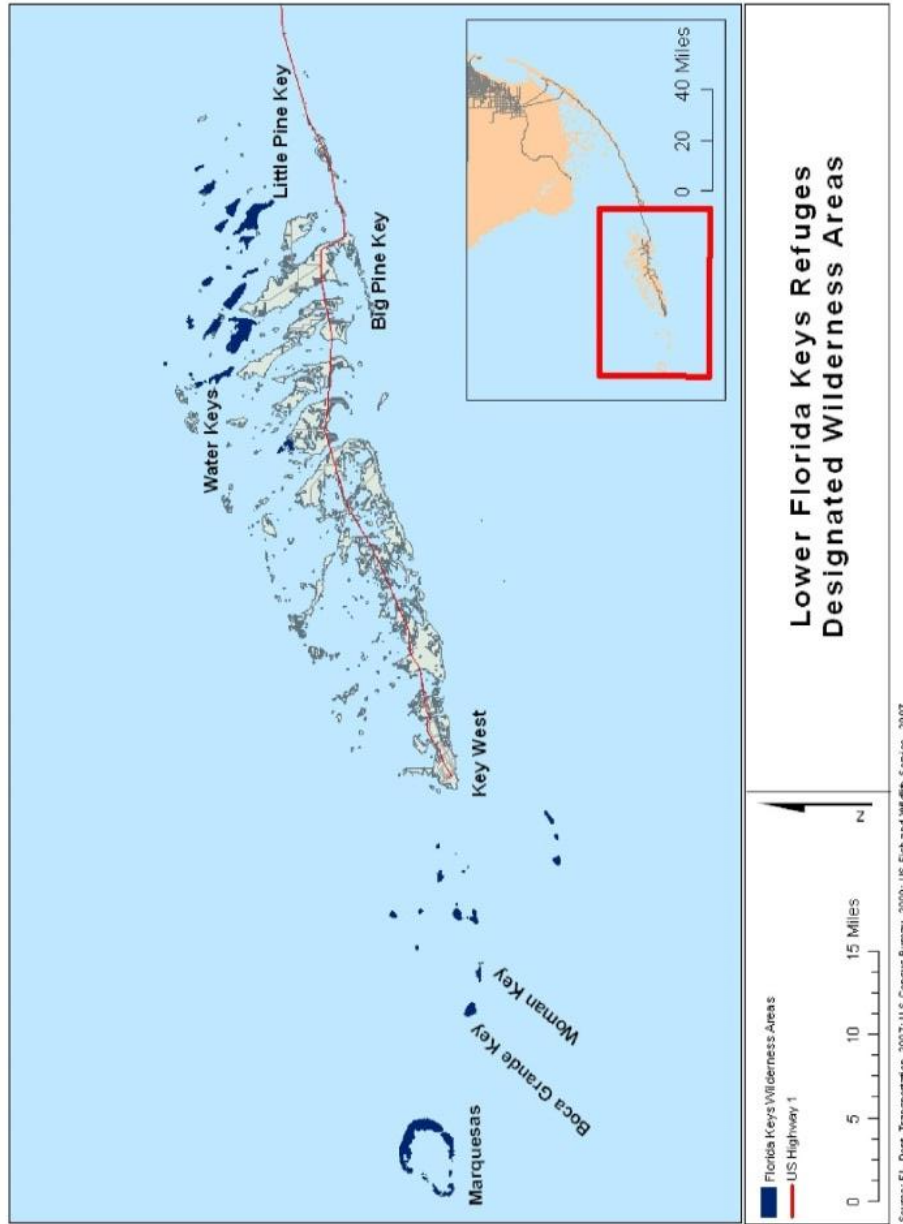
²⁹¹ *Ibid.*, A-8.

Islands Wilderness, states tend to retain the rights to and management of their territorial waters. This is a theme we see in Florida as well. In the Florida Keys Wilderness where the Service “co-manages the open water and submerged lands owned by the State of Florida through a Management Agreement”²⁹² This co-managed ocean-space is considerable. The Florida Keys NWRs Complex CCP reads: “Key West and Great White Heron NWRs contain over 300,000 acres of marine waters, dozens of mangrove islands, and several islands with pristine undeveloped beaches that are designated as wilderness.”²⁹³ While the ocean-space is vast in this wilderness area, a map from the CCP depicts only the wilderness land (Figure 4.7):

²⁹² Fish and Wildlife Service, *Draft CCP and EA: Lower Florida Keys NWRs* (Atlanta, Ga.: FWS Southeast Region, 2008), 9.

²⁹³ *Ibid.*, 35.

Figure 5. Wilderness areas



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Figure 4.7: Florida Keys Wilderness CCP Wilderness Depiction Map²⁹⁴

²⁹⁴ Fish and Wildlife Service, *Draft CCP and EA: Lower Florida Keys NWRs*, 15.

As this depiction shows, the lands are the centerpiece of the wilderness area. These few coastal wildernesses discussed here represent the wilderness-ocean scheme of all of the FWS wilderness areas. FWS' marine spaces are decidedly more interesting versions of their wilderness counterparts.

THE AMERICAN PERIOD OF COASTAL WILDERNESS DESIGNATION

The designation of FWS coastal wildernesses occurred within a very specific time period: 1969-1980 (inclusive). These years correspond to the 91st, 92nd, 93rd, 94th, and 96th congresses [Table 4.8 & 4.9]. The 95th congress (1977-1978) did not designate any coastal wildernesses to be administered by FWS. Furthermore, only six laws created all FWS coastal wilderness areas. These laws, as shown in tables 4.8 & 4.9, were promulgated during this eleven-year period. This period is truly the apogee of American coastal wilderness designation as it accounts for the largest increase of the littoral as wilderness in American history.

Table 4.8: Laws Designating FWS Coastal Wildernesses

FWS Coastal Wildernesses Designating Laws	
Public Law	Number of Designated Coastal Wilderness Areas
91-504	14
92-364	1
93-550	1
93-632	8
94-557	5
96-487	8

Table 4.9 lists all of the FWS Coastal Wildernesses and the laws that designated their wilderness status.

Table 4.9: Individual FWS Coastal Wildernesses and their Designation Laws

FWS Coastal Wildernesses	
Wilderness Area	Designating Law
Aleutian Islands	96-487
Becharof	96-487
Bering Sea	91-504
Blackbeard Island	93-632

Table 4.9 cont.

Bogoslof	91-504
Breton	93-632
Brigantine	93-632
Cape Romain	93-632
Cedar Keys	92-364
Chamisso	93-632
Chassahowitzka	94-557
Farallon	93-550
Florida Keys	93-632
Forrester Island	91-504
Hazy Islands	91-504
Island Bay	91-504
Izembek	96-487
J.N. Ding Darling	94-557
Kenai	96-487
Mollie Beattie	96-487
Monomoy	91-504
Mossehorn	91-504
Nunivak	96-487
Oregon Islands	91-504
Passage Key	91-504
Pelican Island	91-504
Saint Lazaria	91-504
San Juan	94-557
Semidi	96-487
Simeonof	94-557
St. Marks	93-632
Swanquarter	94-557
Three Arch Rocks	91-504
Tuxedni	91-504
Unimak	96-487
Washington Islands	91-504
Wolf Island	93-632

While 1969-1980 was the most important period of FWS coastal wildernesses, the slightly-later period of 1977-1988 (or the 95th, 96th, 97th, and 100th congresses) is the most important for the creation of NPS coastal wilderness. Once again, only a handful of laws designated all of the NPS coastal wildernesses (Table 4.10).

Table 4.10: Individual NPS Coastal Wildernesses and their Designation Laws

NPS Coastal Wildernesses	
Wilderness Area	Designating Law
Cumberland Island	97-250
Glacier Bay	96-487 (105-317)
Gulf Islands	95-625
Hawai'i Volcanoes	95-625
Katmai	96-487
Lake Clark	96-487
Marjory Stoneman Douglas	95-625 (105-82)
Olympic	100-668
Otis Pike Fire Island High Dune	96-585
Phillip Burton	94-544 (94-567)(99-68)
Wrangell-St. Elias	96-487

Table 4.11: Laws Designating NPS Coastal Wildernesses

NPS Coastal Wildernesses Designating Laws	
Public Law	Number of Designated Coastal Wilderness Areas
94-544	1
95-625	3
96-487	4
96-585	1
97-250	1
100-668	1

The decade of 1970-1980 is the most concentrated period of Coastal Wilderness designation for the combined FWS and NPS wildernesses. This decade of coastal wilderness mirrors other important environmental legislative milestones. The 1970s was the most accelerated, landmark-filled decade for legal environmental thought shifts in American history. So much of the environmental statutory landscape still intact today was legally born in that period. Just those marine-themed, or marine-effecting laws include some of the most important in U.S. history: National Environmental Policy Act (1970); Clean Water Act (1972); Coastal Zone Management Act (1972); Marine Mammal Protection Act (1972); National Marine Sanctuaries Act (1972); Endangered Species Act (1973); Federal Land Policy and

Management Act (1976); Fisheries Conservation and Management Act (1976); and many others. Socially, Americans began to formulate a national ocean-as-nature (or at least littoral-as-nature) consciousness during this same period.

Decades earlier, Rachel Carson had laid the groundwork for popular appreciation for the ocean. She authored *Under the Sea Wind* (1941); *The Sea around Us* (1951); and *The Edge of the Sea* (1955). Jacques Cousteau's celebrated television series *The World of Jacques-Yves Cousteau* (1966-68) and *The Undersea World of Jacques Cousteau* (1968-76). Not just reverence marked a national construct of ocean-ness; fear too played a role of raising ocean consciousness in everyday life; the famed 1975 film *Jaws* transformed seabathing for generations. Powerful hurricanes drove the ocean landward, reaffirming the woeful nature of the sea: Betsy (1965); Camille (1969); Celia (1970); or Eloise (1975). These examples underline a shift in social awareness or functional awareness of an oceanic existence, and this especially pointed in the years leading to the greatest designation of coastal wilderness in American history. Elected officials mirrored these sentiments and conception shifts during this same era, and a few senators offer interesting insights into congressional thought. As I point out in Chapter 5, the January 1969 Santa Barbara oil spill acted as a major policy window for the legislative concern with ocean and coastal resources, and to a lesser degree natural space in general.²⁹⁵ The images and events that unfolded during that crisis paved the way for elected officials to take advantage of the political clout such a tragedy can afford.²⁹⁶

In hearings dealing with the protection of marine mammals during the 92nd congress (1972), Senator Ernest Hollings, chairperson of the Subcommittee on Oceans and Atmosphere, draws attention to the conception of ocean as nature: "I cannot emphasize too strongly the need to protect and

²⁹⁵ Peter Borelli, *Stellwagen: The Making and Unmaking of a National Marine Sanctuary* (Hanover, N.H.: The University Press of New England, 2009).

²⁹⁶ Carl Lutrin and Allen Settle, "The Public Ecology: The Role of Initiatives in California's Environmental Politics," *The Western Political Quarterly* 28, no. 2 (1975), 352-371.; Lynton Caldwell, "Authority and Responsibility for Environmental Administration," *Annals of the American Academy of Political Science* 389, May (1970), 107-115.

preserve all elements of our natural environment.”²⁹⁷ He goes on to articulate his perception of the general public’s opinion: “There can be little doubt that public opinion in this country is against the indiscriminate slaughter of marine mammals.”²⁹⁸ And, “As for whale (sic), I am sure there has been no more popular decision than that of U.S. Government to ban whaling and close the American market to whale products.”²⁹⁹ Furthermore, in a hearing a year later, Senator Hollings’ statements underscore a shifting understanding of ocean-space and process: “We have always thought that the oceans were a huge cesspool, capable of assimilating all of man’s waste. Now we know this is not true.”³⁰⁰ And, he is “convinced that we must begin to change our priorities if the sea and its resources are to be protected.”³⁰¹ Senator Claiborne Pell expresses similar angst vis-à-vis need for ocean treatment changes: “The time for dealing with these problems (jurisdiction to the sea and seabed, fishery rights, and preservation of the marine environment) of ocean space is rapidly running out.”³⁰² These examples offer some proof that the U.S. Congress had some sense of these social changes. These elected officials, both from coastal states and coastal communities³⁰³, express a sense of urgency; an urgency that in part can explain this pointed period of coastal wilderness designation. This urgency to protect the ocean and littoral in general may have been due to a sense of dwindling public space and lack of public access. Congressman Bob Eckhardt, member of the House Subcommittee on Fisheries and Wildlife Conservation, and the Environment of the Committee on Merchant Marine and Fisheries, spoke in favor of H.R. 10394 (1973) saying that the resolution was “designed to protect and insure the public rights to

²⁹⁷ Senate Subcommittee on Oceans & Atmosphere, *Ocean Mammal Protection*, 92nd Cong., 2nd sess., 1972, 2.

²⁹⁸ *Ibid.*

²⁹⁹ *Ibid.*, 3.

³⁰⁰ Senate Subcommittee on Oceans and Atmosphere of the Committee on Commerce: *Ocean Pollution*, 92nd Cong., 1st sess., 1973, 1.

³⁰¹ *Ibid.*, 2.

³⁰² Senate Subcommittee on Oceans and International Environment of the Committee on Foreign Relations, *Ocean Policy*, 92nd Cong., 1st sess., 1973, 1.

³⁰³ Senator Hollings of South Carolina is/was a resident of Charleston, and Senator Pell of Rhode Island was a resident of Newport.

access and use of our Nation's ocean shorelines."³⁰⁴ He goes on to lament that of "total shoreline in the 48 States...that only 3,400 miles, a mere 9 percent, are open for public recreation. This includes the nine national seashores, with a total of 467 miles."³⁰⁵ He further expresses a sense of spatial urgency in the disappearance of available "beach land" as it is "being eroded by developers and other private littoral owners blocking existing means of public access to beaches."³⁰⁶ This sense of urgency offers an additional level of proof that congress too understood these concurrent social changes.

CONCLUSIONS ON D.O.I. COASTAL WILDERNESS

While the NPS and the FWS have historically and contemporarily concerned themselves more vigorously with a concept of marine wilderness than the Forest Service or the Bureau of Land Management, they do truly only administer quasi-marine wildernesses. There are only a handful of designated wildernesses that actually fully engage and protect areas of considerable ocean-space and process. No designated wilderness contains marine wilderness a singular feature of said space. As I have illustrated, wilderness-ocean interface exists in many ways, in many forms, but does not wholly constitute an oceanic system as of yet. Every coastal and in turn "marine" wilderness in the country exists firstly in a terrestrial form and only secondly in a marine form. Using this measurement, designated marine wilderness does not exist, but wildernesses containing adjoining ocean-spaces do. Of course, wilderness process exists apart from legal designation. There are many ocean spaces protected as distinct features from terrestrial zones. The two most important ways of achieving oceanic protection are (Marine) National Monuments and National Marine Sanctuaries. Both of these structures allow for the wilderness process, and are even defined by such process. No marine wilderness exists within any Marine Sanctuary or Marine National Monument. Their distinct structures are explored in the following chapter.

³⁰⁴ House Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, *Ocean Beaches*, 92nd Cong., 1st sess., 1973, 1.

³⁰⁵ *Ibid.*, 2.

³⁰⁶ House Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, *Ocean Beaches*, 92nd Cong., 1st sess., 1973, 2.

CHAPTER 5—THE UNITED STATES’ OCEAN PROTECTION SCHEMATICS

This Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark; certain areas of the marine environment possess conservation, recreation, ecological, historical, research, education, or esthetic qualities which give them special national significance.

Marine Sanctuaries Amendments of 1984³⁰⁷

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 (MPRSA)

MPRSA represents the earliest and most important successful legislative enterprise for the sake of conserving ocean-space. From the earliest debates on marine sanctuaries in California in the mid-1960s to the final retooling of the resolutions that would become MPRSA in the final months of 1972, its path to promulgation was mired in a tug-of-war between dueling conservation and preservation philosophies. Fishing groups and oil companies pushed back against commercial moratoria, and environmental groups sought complete preservation.³⁰⁸ Author Peter Borelli believes the policy window which opened, allowing for the passage of MPRSA: “was the blowout, on January 28, 1969, of a Union Oil platform in the Santa Barbara Channel 6 miles off the coast.”³⁰⁹ There was extensive loss of sea life, including 3,500 seabirds, and this prompted elected officials to call for ecological reserves.³¹⁰ This proved a formative event in the history of 1960s/1970s ocean-as-nature trajectory. In fact, because of this, Representative Hastings Keith even called for the Georges Bank (Cape Cod) to be declared a wilderness area, though unsuccessful, this furthered a public understanding of oceanic nature.³¹¹ In the end, MPRSA was a hybrid model of protection for future commercial fisheries and minerals uses as well

³⁰⁷ Marine Sanctuaries Amendments of 1984 (Pub. Law 98-498), §(a).1-2.

³⁰⁸ William Chandler and Hannah Gillelan, “The History and Evolution of the National Marine Sanctuaries Act,” *Environmental Law Review: News & Analysis* 34 (2004), 10505-10565.

³⁰⁹ Peter Borelli, *Stellwagen: The Making and Unmaking of a National Marine Sanctuary* (Hanover, N.H.: University Press of New England, 2009), 31.

³¹⁰ *Ibid.*

³¹¹ *Ibid.*

as protection for inherent value. Borelli also writes that the insistence on a multiple-use in this legislation came from the Department of the Interior's opposition of any legislation that would undermine the Outer Continental Shelf Lands Act, which gives DOI control of the seabed, and it explicitly calls for multiple-use systems in this domain.³¹² Despite President Johnson's administration's call for marine wildernesses in 1966,³¹³ President Nixon's administration's opposition effectively led to the legislative death of a purely preservation-driven policy for ocean-space. As my analysis shows, the concept of oceanic wilderness gave way to a multiple-use philosophy as the bill moved in and out of various chambers and committees. This analysis also looks to the spatial format of the current National Marine Sanctuaries, and then to our most wilderness-like ocean-space protection: National Marine Monuments.

MPRSA is a multi-purposed law; these purposes range from ocean dumping to marine sanctuaries. MPRSA is an anti-pollution law, a law acknowledging the need for further scientific data, and finally a law to create protected spaces within the ocean. The first two elements help determine where protected spaces can best endure. The dumping of pollutants into the ocean became part of a patchwork of social and legal changes occurring in the 1970s.³¹⁴ MPRSA represents one of that decade's most important legal changes vis-à-vis the ocean. As Chapter 4 reminds us, the perception of the ocean as a cesspool was shifting, and the need for science and conservation was paramount during this era.

Passed into law on October 23, 1972, Public Law 92-532 or an act "to regulate the transportation for dumping, and the dumping, of material into ocean waters, and for other purposes" was the most important step toward the current National Marine Sanctuaries System that exists today. This early bill was most acutely focused on ocean dumping, and the creation of sanctuaries fell under the "other purposes" subjects. The bill "may be cited as the 'Marine Protection, Research, and

³¹² Borelli, *Stellwagen*, 31-32.; Outer Continental Shelf Lands Act of 1953 (Pub. Law 83-212).

³¹³ President's Science Advisory Committee, *Effective Use of the Sea*.

³¹⁴ *Ibid.*

Sanctuaries Act of 1972” (§1). Title III, entitled “Marine Sanctuaries,” deals with the creation and restrictions of protected ocean-space. Marine sanctuaries are administered principally by the Secretary of Commerce.

In conference with the President and other secretaries (Defense, State, Interior, or Transportation) are the Secretary of Commerce “may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf” (§302.(a).). These ocean waters also include those “coastal waters where the tide ebbs and flows” (§302.(a).). It is important to note that this earliest declaration of the designation process includes the water space of the ocean and excludes through omission the seabed. We can further glean that this omission was likely intentional in Section 302.(b). It states that the Secretary of Commerce must consult with any state where a possible sanctuary lies and that “prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed...” states may file formal complaints. More interesting than the role of individual states is the usage of the term “superjacent.” The space of a marine sanctuary is further limited to the shape of the water; water as a space above and different from the seafloor. The intentional exclusion of the seafloor is also likely a product of the fact that the act was vetted by the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs and the Subcommittee on Oceans and Atmosphere of the Committee on Commerce of the United States Senate.³¹⁵ The seafloor is the pathway to important minerals and petroleum, and therefore important commercial spaces. The commercial importance of the seafloor is obvious (in many ways) but especially through the testimony of Dr. Wilson Laird the director of exploration for the American Petroleum Institute (API) during a 1971 U.S. Senate hearing before Subcommittee on Minerals, Materials, and Fuels. Dr. Laird was present to work against the creation of marine sanctuaries off of California’s coast stating that the “real issue is the future of the resources of

³¹⁵ Ibid.

the Outer Continental Shelf, resources which we regard as critical to the solution of America's energy problems."³¹⁶ Laird's role and statement both underline the active creation of a seafloor-less definition of early sanctuaries.

This definition of the area where sanctuaries can exist changed in 1984. The Marine Sanctuaries Amendments of 1984 (Pub. Law 98-498) reads "certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance." The current (2012) United States Codes section entitled "definitions" (16 USC §1432) defines "marine environment" as "those areas of coastal and ocean waters, the Great Lakes, and their connecting waters, and submerged lands over which the U.S. exercises jurisdiction." These spatial changes are less significant outside the constraints of this project than those other administrative changes included in the various amendments to the Act. However, the move from simply "ocean waters" to "marine environments" is spatially significant. A sanctuary is any space potentially definable as marine. This means that benthic, surface, and oceanic spaces are feasibly part of a marine sanctuary. The name of the law changed in 1992 as Pub. Law 102-587 modified the Marine Protection, Research, and Sanctuaries Act of 1972 to simply the National Marine Sanctuaries Act (NMSA).

The first congressional debates over the concepts of marine wildernesses in the form of sanctuaries occurred during the 90th Congress (1967).³¹⁷ Based upon and fueled by the findings in the President's (Lyndon B. Johnson) Science Advisory Committee's 1966 report entitled *Effective Use of the Sea*,³¹⁸ members of Congress sought to establish marine preserves similar in structure to terrestrial wildernesses. In addition, elected officials wanted to "protect scenic coastlines and special marine

³¹⁶ Senate Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, *Marine Sanctuaries in California*, 92nd Cong., 1st sess., 1971, 55.

³¹⁷ H.R. 11584 and S. 2415.

³¹⁸ President's Science Advisory Committee, *Effective Use of the Sea* (Washington, D.C.: Government Printing Office, 1966).

places...from oil and gas development.”³¹⁹ The administration of Richard Nixon, especially his Department of the Interior, opposed the concept of marine preserves.³²⁰ This is evidenced in many of the hearings before the House and Senate.³²¹ In an analysis of many such hearings, a mix of muddled sentiment toward the ocean as wilderness prevails. This analysis seeks to uncover the role of wilderness and ocean interface; or the conception of ocean as wilderness in congressional sentiments. Through the analysis of the committees who crafted the eventual bill that became the later National Marine Sanctuaries Act to the content of various hearings before these committees, this chapter will create a tableau of conflicting constructs of ocean-space as wilderness space in the period of 1966 to 2012.

During the hearings of the 90th–92nd Congresses the U.S. House of Representatives’ Committee on Merchant Marine and Fisheries dealt with the concept of marine sanctuaries and the bills associated with them. The *Rules of the House of Representatives of the United States* lists the rules and regulations for the quotidian functioning of either camera of the federal legislature. In its 1967 version (90th Congress), the Committee on Merchant Marine and Fisheries’ function covers issues ranging from the Coast and Geodetic Survey to “Fisheries and wildlife, including research, restoration, refuges, and conservation.”³²² The committee is called Merchant Marine and Fisheries, and §d of its definition broadly encompasses within its legislative jurisdiction “wildlife” and “fisheries.” Based solely on the Committee’s name, wildlife is non-fish species in marine settings, and this is further evident in the concluding paragraph of its description: “the committee exercises jurisdiction as to the seal herds and other revenue producing animals of Alaska.”³²³ Though, the term “animal” further obfuscates through generality their jurisdiction over marine species. This Committee does not or did not exist in the Senate.

³¹⁹ William Chandler and Hannah Gillelan, “How the National Marine Sanctuaries Act Diverged from the Wilderness Act Model and Lost its Way in the Land of Multiple Use,” in *Science and Stewardship to Protect and Sustain Wilderness Values*, eds. A. Watson, J. Sproull and L. Dean (Fort Collins, Colo.: U.S. Department of Agriculture, 2007), 574.

³²⁰ Chandler & Gillelan, “The History and Evolution of the National Marine Sanctuaries Act,” 10505-10565.

³²¹ Senate Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, *Marine Sanctuaries in California*, 92nd Cong., 1st sess, 1971, 55.

³²² Lewis Deschler, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States* (Washington, D.C.: Government Printing Office, 90th Congress, 1966), 348.

³²³ *Ibid.*, 349.

The Senate employed the Committee on Interior and Insular Affairs and the Committee on Commerce to vet the various bills leading to marine sanctuaries. Committees of the same name existed in the House of Representatives, but the committee was less germane to this enterprise in all matters save offshore mineral and petroleum activities. In the same book of rules, the House's Committee on Interior and Insular Affairs' jurisdiction included "forest reserves and national parks created from the public domain," "mineral resources of the public lands," and "petroleum conservation on the public lands and conservation of the radium supply in the United States."³²⁴ The fact that the Speaker of the House, then John W. McCormack, assigned the task of marine sanctuaries to the Committee on Merchant Marine and Fisheries rather than the Committee on Insular Affairs is important. Had the Speaker assigned marine sanctuaries bills to the latter, the House would have effectively relegated ocean-space to a more commercial space. This occurred in the Senate, and thus a more multiple-use approach unfolded vis-à-vis marine sanctuaries.³²⁵ In the hearings from the 92nd Congress (1971 & 1972), the Senate vetted bills dealing with marine sanctuaries in its Committee on Interior Insular Affairs and Committee on Commerce.

The Senate lacked a counterpart to the House's Committee on Merchant Marine and Fisheries. Its Committee on Interior and Insular Affairs, where marine sanctuaries were partially debated, had more of a dual role: that of mineral guards and preservationists. The *Senate Manual* from the 92nd Congress states that the Committee's role is to deal with the following selected categories: "public lands generally," "mineral resources of public lands," "forest reserves and national parks," and "petroleum conservation."³²⁶ This 1971 Senate definition does not differ very much from the 1966 House of

³²⁴ *Ibid.*, 343-344.

³²⁵ Chandler & Gillelan, "The History and Evolution of the National Marine Sanctuaries Act," 10505-10565.

³²⁶ Senate, *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate* (Washington, D.C.: Government Printing Office, 1972), 34-35.

Representatives version. The Senate Committee on Commerce also had the opportunity to consider portions of senate resolutions.³²⁷

The Committee on Commerce was the final Senate say on the bill that would become the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. Law 92-532). The final bill was most directly linked to H.R. 9727, a resolution which required several back-and-forth movements between the House and Senate before its passage in the House on September 9, 1971 and by the Senate on November 24 of that same year. In part because of the dueling theories on how and what to protect, there was nearly a year gap between the independent passing and sending it to President Nixon on October 23, 1972.³²⁸ Part of this delay is likely due to the incongruity of the committees. The *Senate Manual* shows the Committee on Commerce having jurisdiction over “interstate and foreign commerce generally,” “the Coast and Geodetic Survey,” “fisheries and wildlife, including research, restoration, refuges, and conservation.”³²⁹ Like NOAA itself, this committee has a curious role as a policy maker for commercial interests and marine space and process. Neither the Senate Committee on Interior and Insular Affairs, Committee on Commerce, nor the House Committee on Merchant Marine and Fisheries has pretensions of being uniformly preservationist in spirit. The hearings for various resolutions which became the National Marine Protection, Research, and Sanctuaries Act of 1972 unfold in a manner consistent with the final product: one where wilderness-ocean interface is awkward and plagued by the perceived need for multiple-uses.

As a backdrop for the analysis of these collected hearings, the committees’ make-up tells an interesting story. Much like the analysis of the geographic distribution of the members of the House and Senate committees on Interior and Insular Affairs during the of the 88th Congress’ debates concerning

³²⁷ Chandler & Gillelan, “The History and Evolution of the National Marine Sanctuaries Act,” 10505-10565.

³²⁸ *Congressional Record* (vol. 118, part 30, 1972), D704.

³²⁹ Senate, *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate*, 30-31.

the Wilderness Act, the Senate of the 90th Congress shows very little shift from a Western- and landlocked-centric committees of their previous counterparts (Figure 5.1).

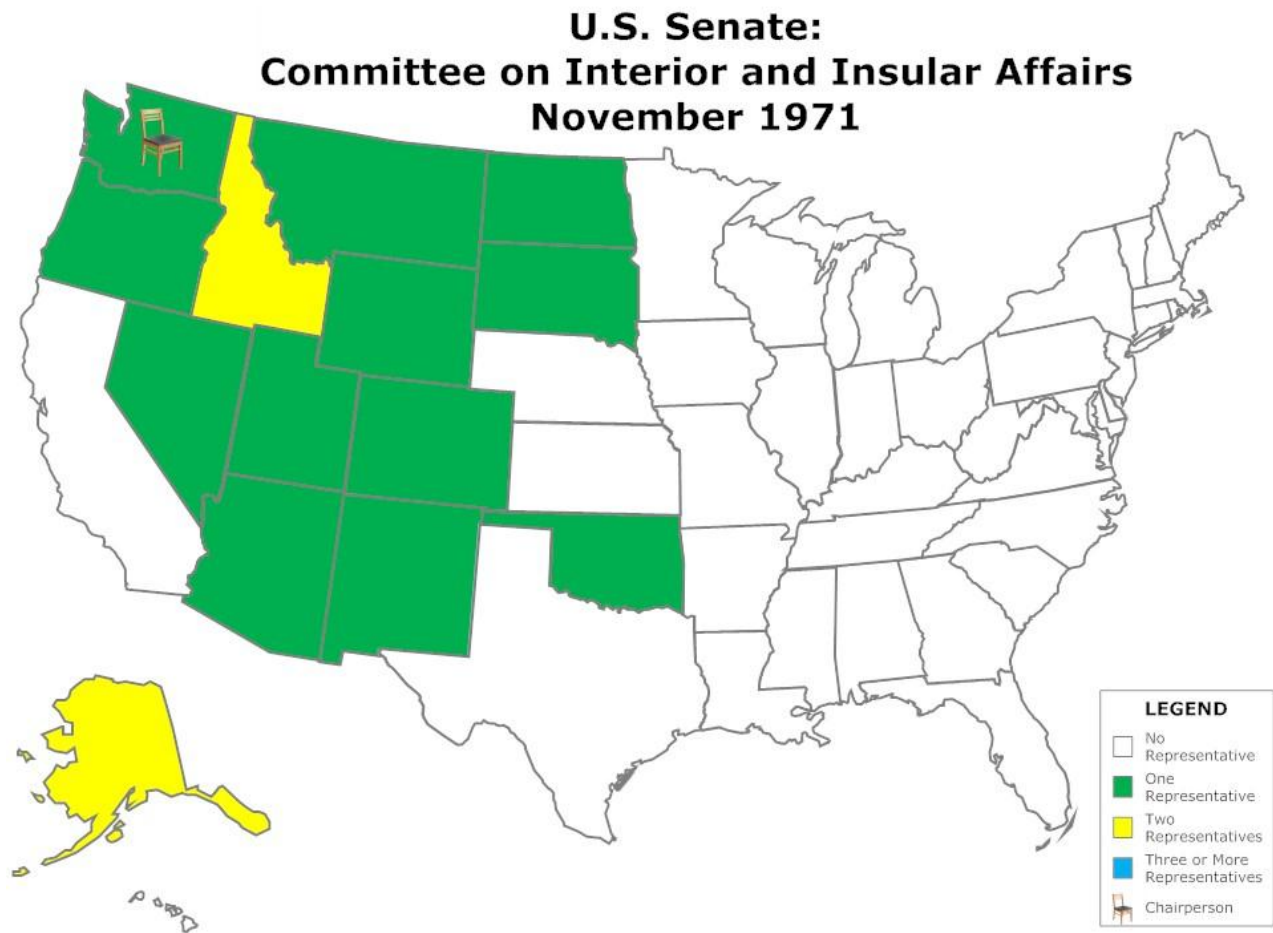


Figure 5.1: Distribution of the Membership of the Senate Committee on Interior and Insular Affairs 1971: Cartography by Ryan Orgera

We can glean several things from this distribution, one being the feasible comprehension of wilderness of the senators on the Committee. Like the Wilderness Act proceedings, these senators are largely from states where no coast exists. With the exception of Oregon, Washington, and Alaska the other states are mostly rural, coast-free, and Western. These states also hold large tracts of terrestrial wildernesses, a construct very familiar in 1971. Therefore, of the sixteen members (including the chairperson) four are from coastal states. Of those four, two are from the same political party of the President whom opposed marine sanctuaries because marine wilderness would not allow for multiple-use. While it is plausible

that a senator would buck his/her party leader, it seems more likely that he/she would be influenced by the stance of the Party. Curiously, however, not one senator voted against the bill. There were twenty-seven non-voting senators and seventy-three “yea” votes.³³⁰ Only four of the members on the Committee on Interior and Insular Affairs did not vote, or effectively voted “nay.” Three of the four abstaining members were Democrats whereas only one Republican member opted out of voting (Table 5.1).

Table 5.1: Voting: Senate Committee on Interior & Insular Affairs and the MPRSA of 1972³³¹

Yea	Nay	Abstain
Alan Bible (D), Nevada		Paul Fannin (R), Arizona
Clifford Hansen (R), Wyoming		Frank Church (D), Idaho
Clinton Anderson (D), New Mexico		Frank Moss (D), Utah
Gordon Allott (R), Colorado		George McGovern (D), South Dakota
Henry Bellmon (R), Oklahoma		
Henry Jackson (D), Washington		
Lee Metcalf (D), Montana		
Len Jordan (R), Idaho		
Mark Hatfield (R), Oregon		
Mike Gravel (D), Alaska		
Quentin Burdick (D), North Dakota		
Ted Stevens (R), Alaska		

If we then compare this to the Senate Committee on Commerce, we get another fold of the story. This Committee is far less regionalized, and has a membership from varied parts of the United States (Figure 5.2).

³³⁰ *Congressional Record* (vol. 117, part 33, 1972), 43078.

³³¹ *Ibid.*

U.S. Senate: Committee on Commerce November 1971

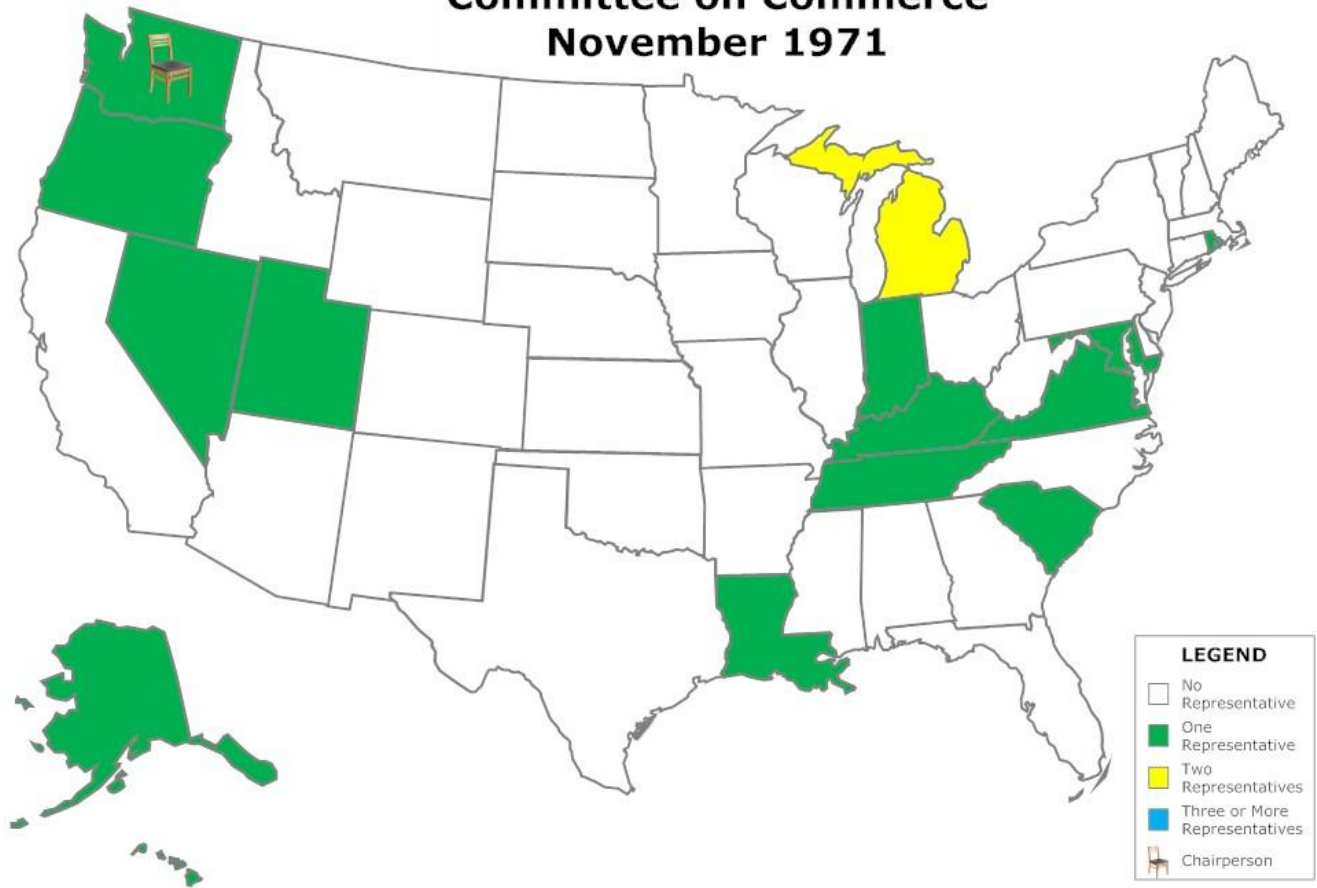


Figure 5.2: Distribution of the Membership of the Senate Committee on Commerce 1971: Cartography by Ryan Orgera³³²

Many of the members come from coastal or Great Lake States. There are only four members from land-locked states (not including Michigan). The membership is two members larger than the Interior and Insular Affairs and is composed of eighteen senators (including the chairperson). Six of these members abstained from voting. Again, as with the Interior Committee, more Democrats did not vote than Republicans. Only two of the six total non-voting members came from the party of President Nixon (Table 5.2).

³³² Data for this map is from: Senate Subcommittee on Oceans and Atmosphere of the Committee on Commerce, *Fishery Legislation*, 92nd Cong., 1st sess., 1971, 1.

Table 5.2: Voting: Senate Committee on Commerce and the MPRSA of 1972³³³

Yea	Nay	Abstain
Ernest Hollings (D), South Carolina		Daniel Inouye (D), Hawaii
Howard Cannon (D), Nevada		Frank Moss (D), Utah
J. Glenn Beall (R), Maryland		Howard Baker Jr. (R), Tennessee
James Pearson (R), Kansas		John Pastore (D), Rhode Island
Mark Hatfield (R), Oregon		Norris Cotton (R), New Hampshire
Marlow Cook (R), Kentucky		Russell Long (D), Louisiana
Philip Hart (D), Michigan		
Robert Griffin (R), Michigan		
Ted Stevens (R), Alaska		
Vance Hartke (D), Indiana		
Warren Magnuson (D), Washington		
William Spong Jr. (D), Virginia		

If we compare these Senate Committees to the House of Representatives' Committee on Merchant Marine and Fisheries, we begin to understand the divide in geographic regions represented by the members of the committees (Figure 5.3).

³³³ *Congressional Record* (vol. 117, part 33, 1972).

The House voted overwhelmingly for the Bill: 305 yeas, 3 nays, and 125 not voting.³³⁵ The members of the Committee on Merchant Marine and Fisheries voted twenty-nine yeas and eight abstains; the split was even: four Democrats and four Republicans. There was a total of thirty-seven members in November of 1971, and their voting, in this case, does not differ much from their Senate colleagues (Table 5.3).

Table 5.3: Voting: House Committee on Merchant Marine and Fisheries and MPRSA of 1972³³⁶

Yea	Nay	Abstain
Edward Garmatz (D), Maryland		Leonor K. Sullivan (D), Missouri
Thomas Ashley (D), Ohio		Frank Clark (D), Pennsylvania
John Dingell (D), Michigan		Frank Stubblefield (D), Kentucky
Alton Lennon (D), South Carolina		Speedy Long (D), Louisiana
Thomas Downing (D), Virginia		Philip Ruppe (R), Michigan
James Byrne (D), Pennsylvania		William Bray (R), Indiana
Paul Rogers (D), Florida		Paul McCloskey Jr. (R), California
John Murphy (D), New York		M.G. Snyder (R), Kentucky
Joseph Karth (D), Minnesota		
Walter Jones (D), North Carolina		
Robert Leggett (D), California		
Mario Biaggi (D), New York		
Charles Griffin (D), Mississippi		
Glenn Anderson (D), California		
Eligio de la Garza (D), Texas		
Peter Kyros (D), Maine		
Robert Tiernan (D), Rhode Island		
James Stanton (D), Ohio		
Thomas Pelly (R), Washington		
William Mailliard (R), California		
Charles Mosher (R), Ohio		
James Grover Jr. (R), New York		
Hastings Keith (R), Massachusetts		
George Goodling (R), Pennsylvania		
Jack McDonald (R), Michigan		
Robert Steele (R), Connecticut		
Edwin Forsythe (R), New Jersey		
Pierre du Pont (R), Delaware		
William Mills (R), Maryland		

³³⁵ *Congressional Record* (vol. 117, part 24, 1972), 31159-31160.

³³⁶ *Ibid.*

While their votes were very similar to the Senate, the hearings from the House of Representatives vis-à-vis the Marine Protection, Research, and Sanctuaries Act of 1972 (and those bills leading to it) were far more wilderness-oriented.

HEARINGS ON MARINE SANCTUARIES

In a 1968 set of hearings published for the U.S. House Committee on Merchant Marine and Fisheries, the term “wilderness” appears sixty-eight times.³³⁷ This particular set of hearings predates the NMSA (Pub. Law 92-532) by four years, and represent some of the groundwork laid for the eventual passage of the Marine Protection, Research, and Sanctuaries Act of 1972 (later National Marine Sanctuaries Act). In sections entitled “Oceanography Legislation” and “Marine Sanctuaries,” both occurring on Tuesday April 9, 1968 before the House of Representative’s Subcommittee of Oceanography of the Committee on Merchant Marine and Fisheries, the public officials and private citizens weighed in on the nascent concept of marine sanctuaries. The hearings’ purpose was to evaluate several House of Representative resolutions dealing with the creation of marine sanctuaries (H.R. 11584; H.R. 11460; H.R. 11469; H.R. 11987; all of the 90th Congress). H.R.s 11460, 11469, and 11987 aimed at authorizing “the Secretary of the Interior to study the feasible and desirable means of establishing a marine sanctuary on the Santa Barbara Channel, California.”³³⁸ Section 2.(d). looks to the Secretary’s reports insofar as their “applicability...to other areas lining the coastal waters of the U.S. with similar values and the feasible and desirable means of creating a marine wilderness system as an extension to the marine environments of the basic principles established in the Wilderness Act. This Congress, four years after the passage of the Wilderness Act, has some understanding of the need for a marine wilderness system. This framework of “areas lining the coastal waters of the U.S.” is similar to the construct of marine wilderness areas that exist in the twenty-first century. The concept of staying-close to land is a theme

³³⁷ House Subcommittee on Oceanography of the Committee on Merchant Marine & Fisheries, *Oceanography Legislation*, 90th Cong., 1st sess., 1968.

³³⁸ *Ibid*, 18.

that repeats itself throughout modern coastal protection history. In a report written by John A. Schnittker, acting Secretary of Agriculture, he informs Committee on Merchant Marine and Fisheries chairperson Edward A. Garmate that the “National Forest System does not encompass the coastal waters of the U.S.,” and therefore “cannot comment on the suitability of the Santa Barbara Channel and other coastal areas for preservation as part of a marine wilderness system.”³³⁹ In a similar letter from Assistant Secretary of the Interior Stanley A. Cain to the Chairman, the Department of the Interior’s stance is that it “recommend against the enactment of this bill.”³⁴⁰ Cain notes that oil and gas, kelp harvest, and fishing interests all exist in this area.

Rupert Cutler, the Executive Director of the Wilderness Society urged that “underwater wilderness areas could be established.”³⁴¹ Cutler employs a correspondence by Secretary of the Interior Stewart L. Udall as justification: “the Department will consider both the surface and underground potential wilderness”³⁴² (in reference to Mammoth Cave National Park). Cutler goes on to write “We (the Wilderness Society) believe that undersea areas would similarly be qualified for designation as wilderness under the 1964 law.” Lloyd Tupling from the Sierra Club of San Francisco testifies that “the marine sanctuaries proposal adapts the principles of the historic Wilderness Act of 1964 to ocean areas.”³⁴³ Many of those who testify during these hearings reference a 1966 report produced by the Panel of Oceanography of the President’s Science Advisory Committee.³⁴⁴

This report is a product of the Executive Branch. This is not to be confused with the Stratton Commission’s 1969 report entitled *Our Nation and the Sea: A Plan for National Action*. The latter is the most famous of the early federal ocean reports. The Stratton Report exists because of a bill which followed these early hearings by only a year and some months: The Marine Resources and Engineering

³³⁹ Ibid., 24.

³⁴⁰ Ibid., 33.

³⁴¹ Ibid., 105.

³⁴² Ibid.

³⁴³ Ibid., 106.

³⁴⁴ President’s Science Advisory Committee, *Effective Use of the Sea* (Washington, D.C.: Government Printing Office, 1966).

Development Act of 1966 (Pub. Law 89-454). Its purpose is “To provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other Purposes.” The purpose is not nature-bent; it is mostly commercially-oriented or scientifically exploratory in trajectory. The 1966 Panel on Oceanography report is not necessarily less economic nor scientific, yet it calls for the establishment of “a system of marine wilderness preserves as an extension to marine environments of the basic principle established in the Wilderness Act of 1964.”³⁴⁵ The report bases this conclusion on the findings that humans can modify marine environments to such an extent that protected marine wildernesses must exist. This was a ground-breaking sentiment. Ocean publicly equaled wilderness. This sentiment for ocean as wilderness did not carry into the Marine Protection, Research, and Sanctuaries Act. The concept of ocean as wilderness is completely devoid from the Act, and nearly nonexistent in its published hearings throughout its reauthorizations. In these few years 1966-1971(2), a shift occurs away from creating a system of marine wildernesses to protecting the ocean in extra-wilderness terms.

This shift toward a non-wilderness ocean is evident in a later 1971 testimony of Philip A. Douglas, the Assistant to the Executive Director of the National Wildlife Federation. In the 169 pages of testimony and statements leading to the passage of the 1972 Marine Protection, Research, and Sanctuaries Act, the word “wilderness” only occurs twice, and once in a substantive manner. Douglas read: “The President’s Science Advisory Committee recommended the creation of marine sanctuaries as means of preserving as much as possible the unmodified quality of the marine environment. It also recommended an effort to restore as much as possible the damaged environment. These are similar to the many efforts made to establish a good many terrestrial wilderness and primitive areas that have an

³⁴⁵ President’s Science Advisory Committee, *Effective Use of the Sea*, 18.

obviously important place in our modest society.”³⁴⁶ Speaking on behalf of the National Wildlife Federation, Douglas is seemingly sheepish, or at least intentional in not marrying the terms wilderness and ocean in once place. In doing so, he underlines a decided shift in perception of ocean as potential wilderness. The difference is likely attributable to a change in legislative bodies and committees.

In hearings on California’s outer continental shelf and its suitability for sanctuaries, Senator Alan Cranston states “oil companies attacked my sanctuary bills because they oppose in principle any limitation on where they can drill for oil.”³⁴⁷ And that “the same argument might have been made against that Wilderness Act—that it created a precedent for more wilderness.”³⁴⁸ Cranston draws attention to the act of protecting the ocean as analogous to wilderness protection. During hearings before the House Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, Congressman Lester Wolff of New York states: “these marine sanctuaries, which would be analogous to the wilderness areas in our national park system, would be out of bounds for mining activities.”³⁴⁹ What both of these officials underline here is the fact that while marine sanctuaries will exist; they will only exist as analogues to wilderness, thus not wilderness. They will be similar to wilderness areas in prohibition of activities that harm their inherent value, but they will not be elevated to their honorific status.

³⁴⁶ Senate Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, *Marine Sanctuaries in California*, 92nd Cong., 2nd sess., 1972, 92.

³⁴⁷ Senate Committee on Interior and Insular Affairs, *Pursuant to S. Res. 45, A National Fuels and Energy Policy Study: Part II*, 92nd Cong., 1st sess., 1972, 1026.

³⁴⁸ *Ibid.*

³⁴⁹ House Subcommittee on Fisheries and Wildlife Conservation and the Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries, *H.R. 285, 336, 337, 548, 549, 805, 807, 808, 983, 1095, 1329*, 92nd Cong., 1st sess., 1971, 227.

THE SPATIAL FRAMEWORK OF THE NATIONAL MARINE SANCTUARIES TODAY

*The fundamental flaw of the Sanctuaries Act is its lack of a singular focus on preservation.*³⁵⁰

NOAA administers all or part of the fourteen National Marine Sanctuaries (NMS) in the United States. There are thirteen marine National Marine Sanctuaries and one freshwater NMS in the Great Lakes (Thunder Bay). These protected aquatic spaces span the entire breadth of the United States' territorial waters from American Samoa to Florida (Figure 5.4).

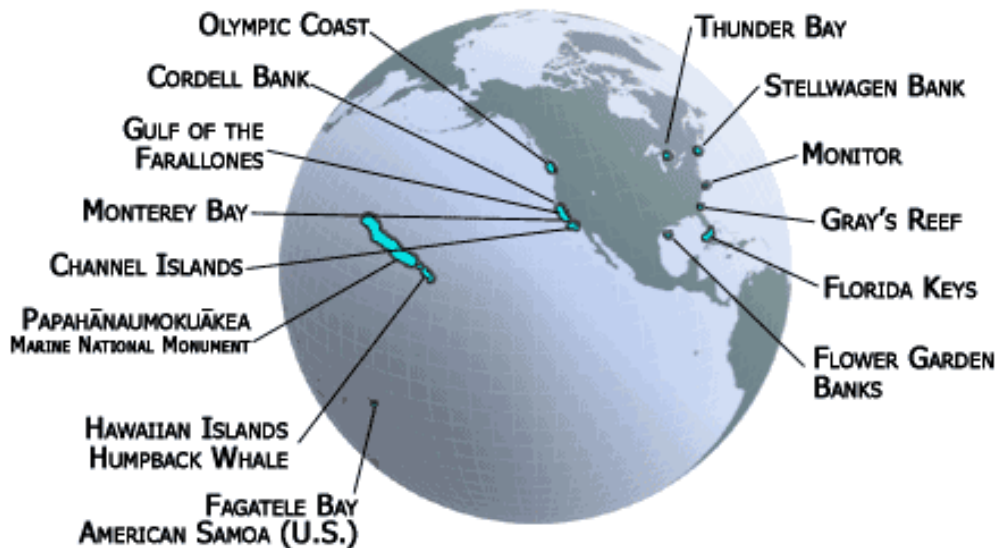


Figure 5.4: NOAA National Marine Sanctuaries; Source: NOAA Sanctuaries.³⁵¹ This map is produced at the identical resolution of the original.

The thirteen truly marine National Marine Sanctuaries vary greatly in size (Table 5.4).

Table 5.4: Name and Size of National Marine Sanctuaries, Source: Code of Federal Regulations

National Marine Sanctuary	Size in Square Miles
Channel Islands	1,110 ³⁵²

³⁵⁰ William Chandler and Hannah Gillelan, *The Makings of the National Marine Sanctuaries Act* (Washington, D.C.: Marine Conservation Biology Institute, 2005), 20.

³⁵¹ NOAA: National Marine Sanctuaries, "Visiting the Sanctuaries," 1 Aug. 2012, <http://sanctuaries.noaa.gov/visit/welcome.html> (accessed 7 Aug. 2012).

³⁵² 15 CFR 922.70

Table 5.4 cont.

Cordell Bank	399 ³⁵³
Fagatele Bay	0.25 (163-acres) ³⁵⁴
Florida Keys	2,900 ³⁵⁵
Flower Garden Banks	42.34 ³⁵⁶
Gray's Reef	16.68 ³⁵⁷
Gulf of the Farallones	966 ³⁵⁸
Hawaiian Islands Humpback Whale	1,218 ³⁵⁹
USS Monitor	1-mile diameter water column ³⁶⁰
Monterey Bay	4,601 ³⁶¹
Olympic Coast	2,408 ³⁶²
Papahānaumokuākea	139,797 ³⁶³
Stellwagen Bank	638 ³⁶⁴

The size of the NMS is spatially significant, but it does not tell much about the holistic spatial make-up these spaces. We know that they are not legal wildernesses, but they do share spatial and regulatory commonalities with wilderness areas. Unlike wilderness they are standalone features, and are not part of a larger area; therefore, they are primary protections rather than secondary ones. Table 5.5 offers a sketch of the legal underpinnings of the NMS System by providing an overview of the regulatory framework existent in each of the National Marine Sanctuaries.

³⁵³ 15 CFR 922.110

³⁵⁴ 15 CFR 922.101

³⁵⁵ 15 CFR 922.161

³⁵⁶ 15 CFR 922.120

³⁵⁷ 15 CFR 922.90

³⁵⁸ 15 CFR 922.80

³⁵⁹ The Code of Federal Regulations does not provide an official area for HIHW; this area is provided by <http://hawaiihumpbackwhale.noaa.gov/management/welcome.html>.

³⁶⁰ 15 CFR 922.60, The Code of Federal Regulations does not provide an area more specific than this.

³⁶¹ 15 CFR 922.130

³⁶² 15 CFR 922.150

³⁶³ The Code of Federal Regulations does not provide an official area for HIHW; this area is provided by <http://www.papahānaumokuākea.gov/about/welcome.html>. Papahānaumokuākea (listed as Northwestern Hawaiian Islands Marine National Monument in the CFR) is the only NMS that does not appear in Title 15. It appears in Title 50 Wildlife and Fisheries since it is a jointly-administered area (FWS, NOAA, and the State of HI).

³⁶⁴ 15 CFR 922.140

Table 5.5: Regulatory Framework for the NMS System³⁶⁵

National Marine Sanctuary	Oil/Gas Leases	Bottom Trawling
USS Monitor	Prohibited	Prohibited
Channel Islands	New Leases Prohibited; Old leases allowed	Restricted
Gulf of the Farallones	Prohibited	Allowed
Gray's Reef	Prohibited	Prohibited
Fagatele Bay	Allowed	Prohibited
Cordell Bank	Prohibited	Allowed
Florida Keys	Prohibited	Restricted
Flower Garden Banks	Restricted	Prohibited
Monterey Bay	Prohibited	Allowed
Stellwagen Bank	Prohibited	Allowed
HI Humpback Whale	Prohibited	Prohibited
Olympic Coast	Prohibited	Allowed
Papahānaumokuākea	Prohibited	Prohibited

Those NMS highlighted in yellow represent the completely restrictive sanctuaries.

There is further evidence that the NMS System does not universally offer preservation-like or wilderness-like protections (Table 5.5). Only those highlighted sanctuaries prohibit all extractive commercial practices. For instance, Fagatele Bay and Channel Islands allow oil and gas leases; Gulf of the Farallones, Cordell Bank, Monterey Bay, Stellwagen Bank, Channel Islands, Florida Keys, and the Olympic Coast all allow for some form of bottom trawling fishing practices. These regulatory allowances underline the multiple-use origins of the Marine Protection, Research, and Sanctuaries Act of 1972. Equivalent commercial activities are not allowed in terrestrial wilderness, and thus the current NMS framework has bifurcated from the wilderness system we cherish in the United States.³⁶⁶ USS Monitor, Gray's Reef, Hawaii Islands Humpback Whale, and Papahānaumokuākea are the only NMS where regulations prohibit both bottom trawling and oil/gas leasing. These sanctuaries are the closest

³⁶⁵ Modified chart from: Chandler & Gillelan, *The Makings of the National Marine Sanctuaries Act*, 37.

³⁶⁶ Chandler and Hannah Gillelan, "How the National Marine Sanctuaries Act Diverged from the Wilderness Act Model and Lost its Way in the Land of Multiple Use," in *Science and Stewardship to Protect and Sustain Wilderness Values: 8th World Wilderness Congress Symposium*, eds. A. Watson, J. Sproull and L. Dean (Fort Collins, Colo.: U.S. Department of Agriculture, 2007).

wilderness as ocean approximation we have in the United States. Looking to how we spatially constructed these areas we begin to see more continuity and less divergence.

Most of the NMS include all layers of a marine environment: seafloor, water column, surface, as well as all processes and life therein. The Code of Federal Regulations defines these spaces in nearly-universal terms (Table 5.6).

Table 5.6: What the NMS Spatially Protects, Source: 15 CFR 922 & 50 CFR 440

National Marine Sanctuary	Spatial Protection
Channel Islands	coastal and ocean waters, and the submerged lands thereunder
Cordell Bank	ocean waters, and submerged lands thereunder
Fagatele Bay	Fagatele Bay in its entirety (ending at mean high water line)
Florida Keys	coastal and ocean waters, and the submerged lands thereunder
Flower Garden Banks	ocean waters over and surrounding the East and West Flower Garden Banks and Stetson Bank, and the submerged lands thereunder
Gray's Reef	ocean waters and the submerged lands thereunder
Gulf of the Farallones	coastal and ocean waters, and submerged lands thereunder
Hawaiian Islands Humpback Whale	submerged lands and waters; waters only in certain areas to 100-fathom isobath, excluding lands thereunder; the waters seaward of the three nautical mile limit in areas
USS Monitor	vertical water column: one-mile in diameter extending from the surface to the seabed.
Monterey Bay	coastal and ocean waters, and submerged lands thereunder
Olympic Coast	coastal and ocean waters, and the submerged lands thereunder
Papahānaumokuākea	emergent and submerged lands and waters
Stellwagen Bank	federal marine waters and the submerged lands thereunder

The spatial make-up of the National Marine Sanctuaries is largely uniform. With exception of the Hawaiian Islands Humpback Whale NMS, Papahānaumokuākea NMS, Fagatele Bay NMS, Monitor NMS, and Stellwagen Bank NMS all of these protected zones include similar spatial wording: “coastal” or “ocean waters and the submerged lands thereunder.”³⁶⁷ Unlike the original wording of the Marine Protection, Research, and Sanctuaries Act of 1972 that excluded the benthic zone from inclusion in sanctuaries, the current forms include both the ocean-space and the seafloor. In the cases of the exceptions, we find varying spatial constructs. The two sanctuaries in Hawaii are possibly the most complex of all.

Hawaiian Islands Humpback Whale NMS is a collection of whale-frequenting coastal zones. Some of the protected areas of the NMS are strictly water column and exclude the seafloor. This NMS exists through a nautical mile to isobath ratio. NOAA constructs certain sanctuary areas as surface nautical miles while others are isobathic depths (Figures 5.5 and 5.6).

³⁶⁷ U.S.C. §922.130(b)

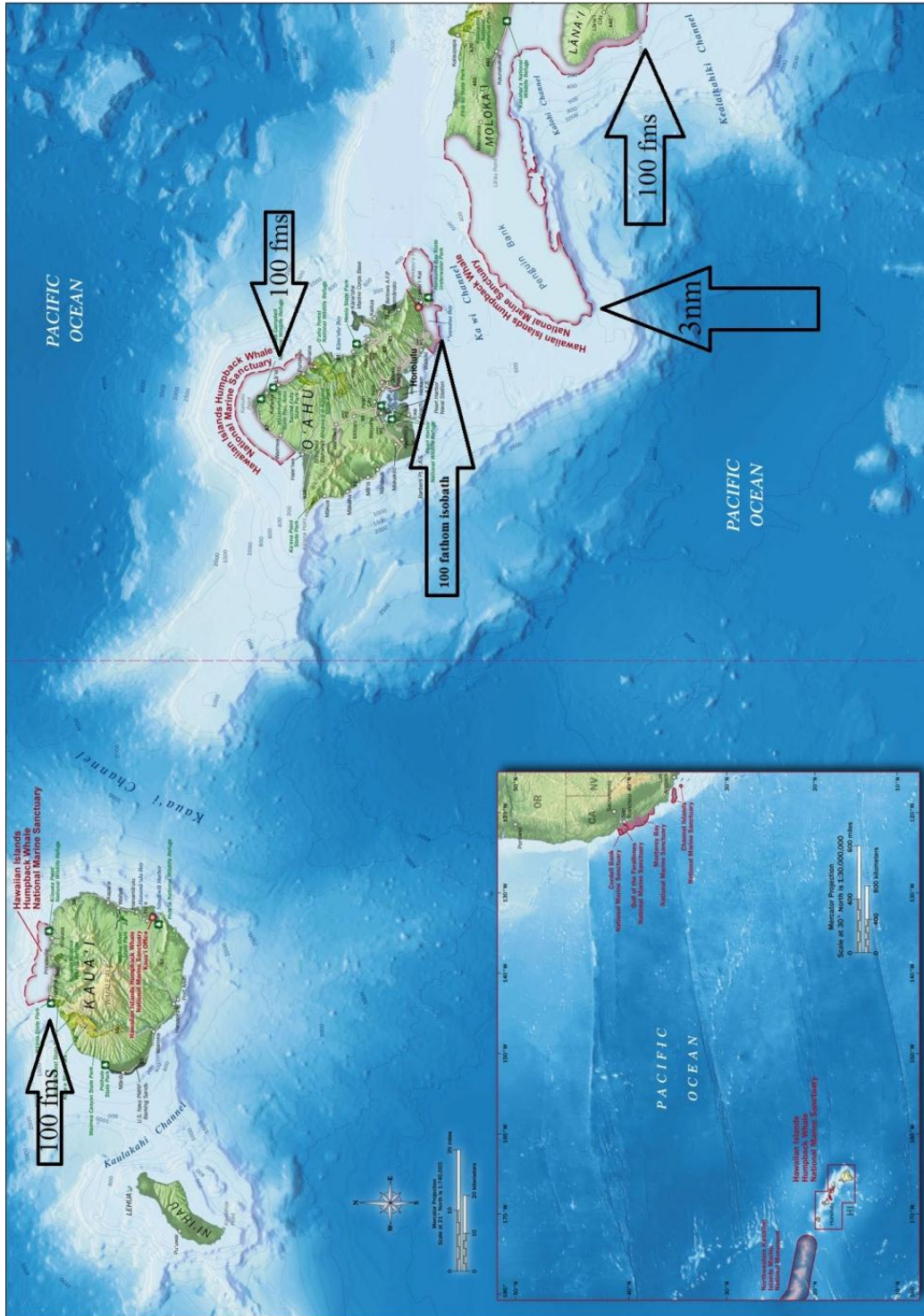


Figure 5.5: Surface-space of the Hawaiian Islands Humpback Whale NMS, source: NOAA Sanctuaries.³⁶⁸ The arrows indicate the boundaries of the territorial depths of the sanctuary. This map is produced at the identical resolution of the original. Arrows added by Ryan Orgera.

³⁶⁸ Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, "Maps, Charts, and GIS Data," 9 July 2012, <http://hawaiihumpbackwhale.noaa.gov/documents/maps.html#maps> (accessed 12 July 2012).

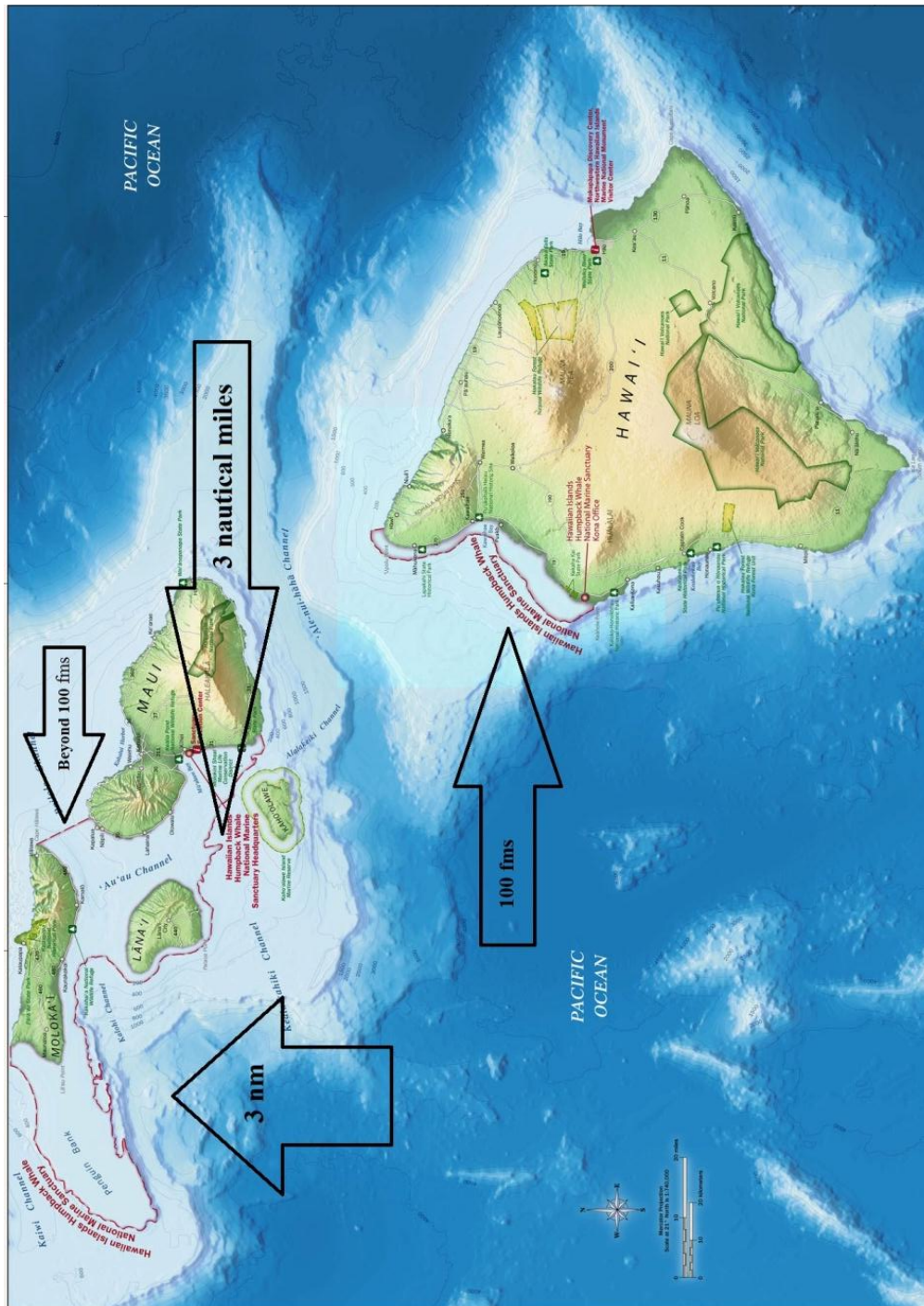


Figure 5.6: Surface-space of the Hawaiian Islands Humpback Whale NMS, source: NOAA Sanctuaries.³⁶⁹ The arrows indicate the boundaries of the territorial depths of the sanctuary. This map is produced at the identical resolution of the original. Arrows added by Ryan Orgera.

³⁶⁹ Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, “Maps, Charts, and GIS Data,” 9 July 2012, <http://hawaiihumpbackwhale.noaa.gov/documents/maps.html#maps> (accessed 12 July 2012).

The spatial framework of Hawaiian Islands Humpback Whale National Marine Sanctuary is very much land-dependent; all of the protected waters are directly tied to laterally-adjacent shores. In fact, all of the NMS are tied to emergent lands save Cordell Bank, Flower Garden Bank, Stellwagen Bank, Gray's Reef, and Monitor. These five sanctuaries are constructed strictly of marine environments and are formed exclusively of water and seafloor. None of these sanctuaries touches a shore, islands, or any form of supra-surface land. As the Figures 5.7-5.10 illustrate, the four nature-purposed NMS are the most oceanic spaces protected in any American schematic of ocean-space conservation.

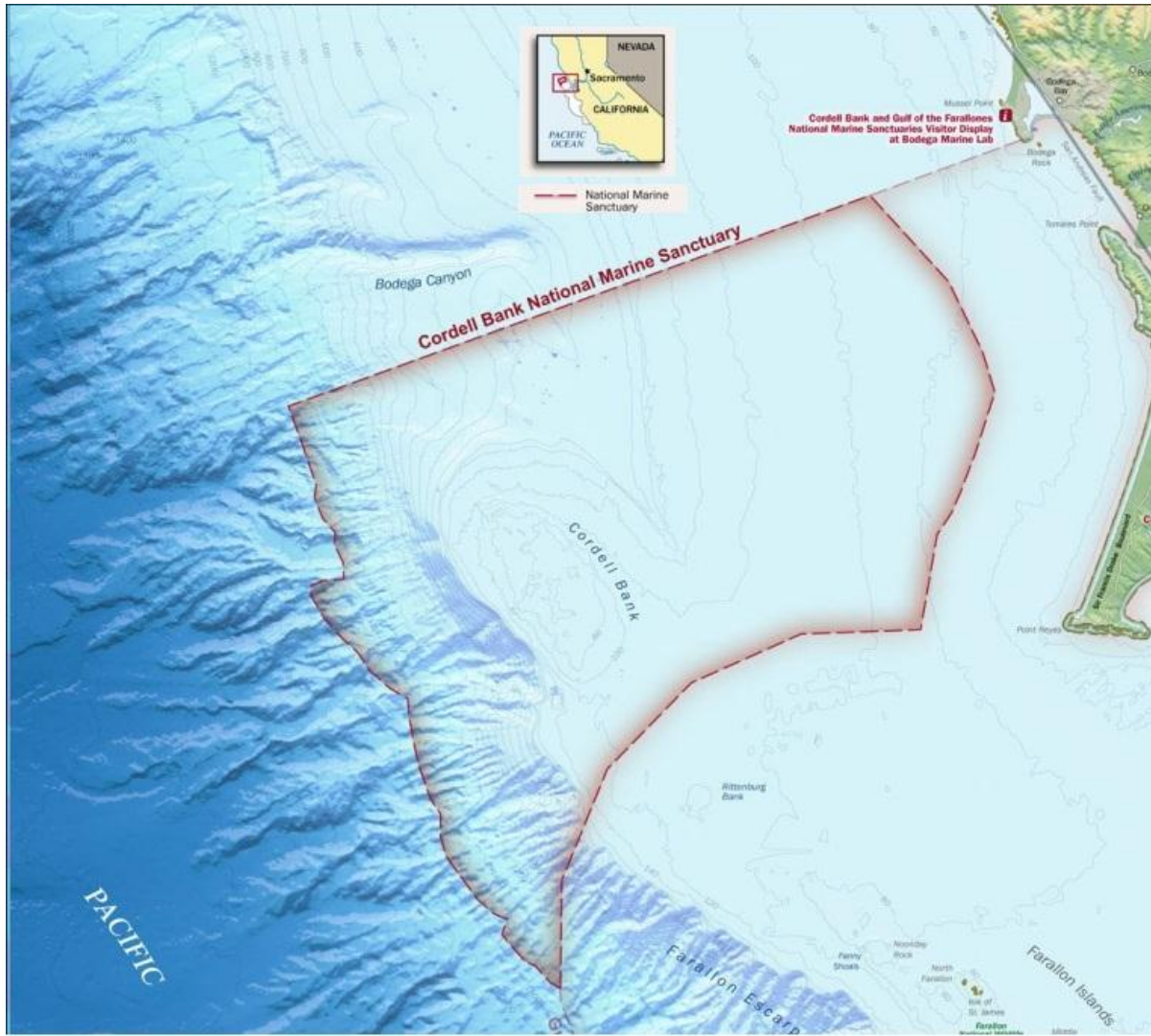


Figure 5.7: Cordell Bank NMS, source: NOAA Sanctuaries.³⁷⁰ The red line indicates the boundary of the NMS. This map is produced at the identical resolution of the original.

³⁷⁰ Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, "National Marine Sanctuary Maps," 9 July 2012, <http://sanctuaries.noaa.gov/pgallery/atlasmaps/cb.html> (accessed 12 July 2012).



Figure 5.8: Flower Garden Bank NMS, source: NOAA Sanctuaries.³⁷¹ The red lines indicate the boundary of the NMS. This map is produced at the identical resolution of the original.

³⁷¹ Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, "Southeast Atlantic, Gulf of Mexico, and Caribbean Region," 9 July 2012, <http://sanctuaries.noaa.gov/about/southeast.html> (accessed 12 July 2012).

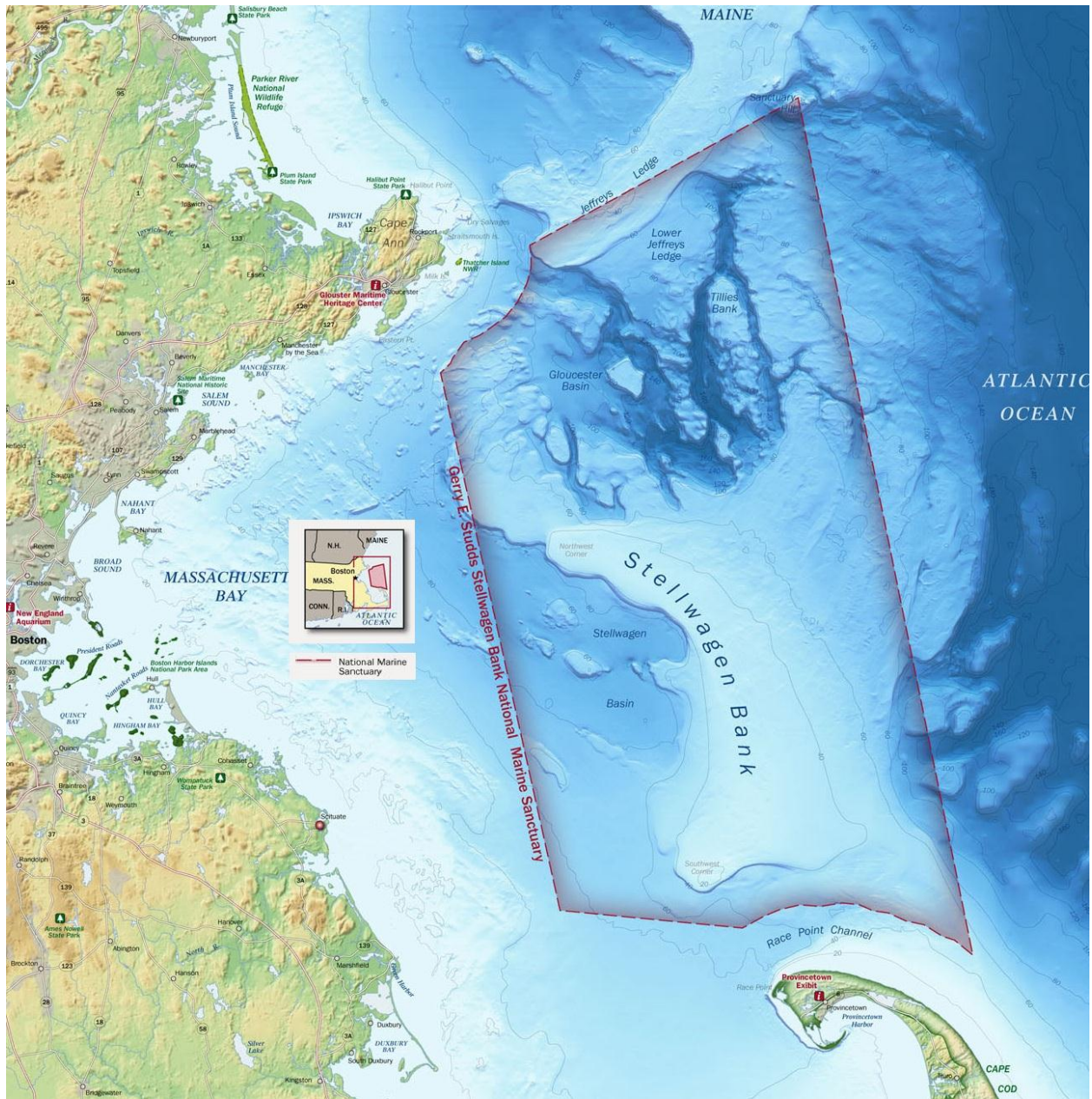


Figure 5.9: Stellwagen Bank NMS, source: NOAA Sanctuaries.³⁷² The red line indicates the boundary of the NMS. This map is produced at the identical resolution of the original.

³⁷² Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, “Northeast Region,” 9 July 2012, <http://sanctuaries.noaa.gov/about/northeast.html> (accessed 12 July 2012).

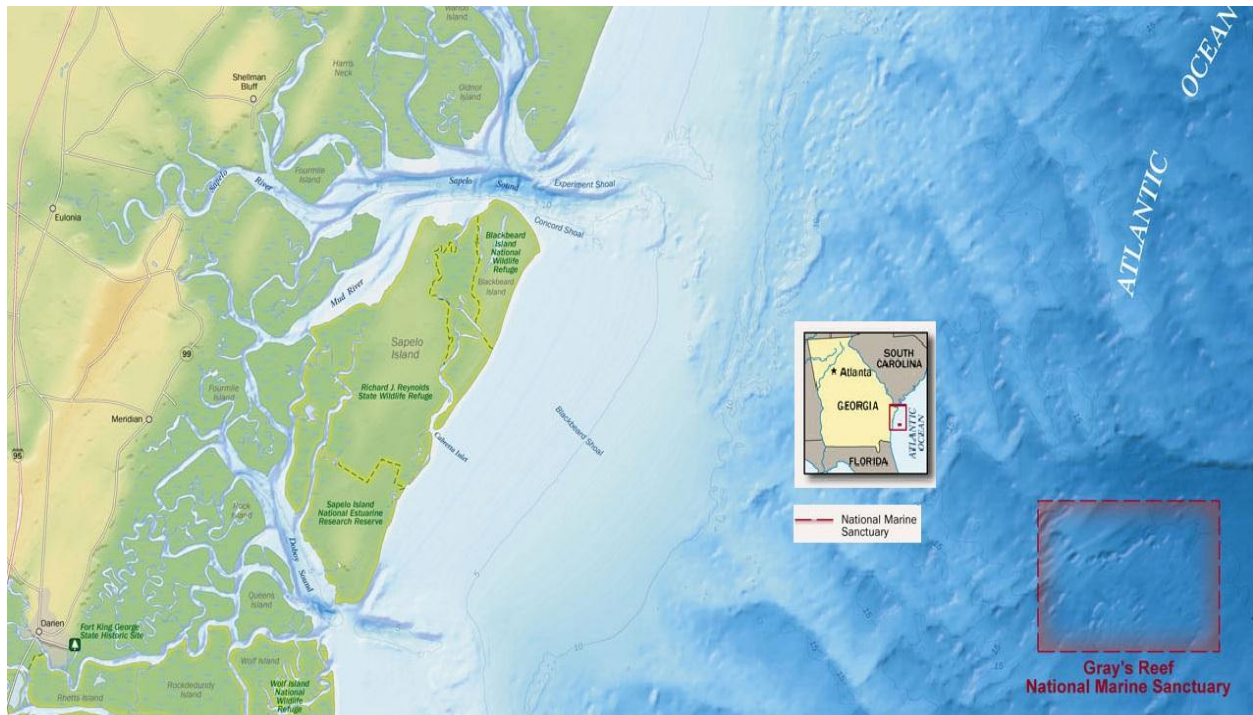


Figure 5.10: Gray's Reef NMS, source: NOAA Sanctuaries.³⁷³ The red line indicates the boundary of the NMS. This map is produced at the identical resolution of the original.

Of all of the National Marine Sanctuaries, Gray's Reef is the most oceanic, and is least affected by the shore's size or distance; it is a rectangular space of ocean (Figure 5.10). While it is as meant to protect its eponymous reef system, it also creates what I consider a gold standard of purely oceanic spatial protection. It is literally a squared bit of ocean set aside for its natural make-up. Its wilderness properties are no more developed than any similar NMS, yet its dimensions are singular in its disregard for space other than ocean-space; it is a true outlier in this American system.

³⁷³ Modified by Ryan Orgera from: NOAA: National Marine Sanctuaries, "Southeast Atlantic, Gulf of Mexico, and Caribbean Region," 9 July 2012, <http://sanctuaries.noaa.gov/about/southeast.html> (accessed 12 July 2012).

THE NATIONAL MONUMENT AS A MARINE PROTECTED AREA (MPA)

*The Sanctuaries Act is now so constrained by its own architecture that it stands little chance of producing the comprehensive system of marine preservation areas envisioned by early supporters who had hoped to create a system of marine wilderness preserves analogous to the terrestrial wilderness system.*³⁷⁴

Multiple-use framework plagues the National Marine Sanctuaries; legal wilderness does not exist in the National Marine Sanctuaries System. It does not exist as part of any Marine National Monument either; however, in the entire, complex system of American ocean protection the Marine National Monuments approximate ocean-as-wilderness more closely than any other ocean-specific conservation framework.

The Presidentially-driven system of National Monuments and now Marine National Monuments “inspires a preservationist philosophy.”³⁷⁵ This preservation bent is unique in America’s oceans, and is the most recent form ocean protection has taken. President George W. Bush reaffirms this in his remarks at the signing of the Northwest Hawaiian Islands Marine National Monument:

“As a marine national monument, the waters of the Northwestern Hawaiian Islands will receive our Nation’s highest form of marine environmental protection.”³⁷⁶ But in a truly preservationist spirit he also says that “our duty is to use the land and seas wisely or, sometimes, not use them at all.”³⁷⁷ He himself uses the word “preserve” in reference to the marine environment: “this region holds the largest and healthiest untouched coral reef system in the United States. And we’re going to preserve it.”³⁷⁸ This Marine National Monument may not be legal wilderness, but the regulations that President Bush explains here are reminiscent of parts of the Wilderness Act, and certainly mirror its intent.

Within the boundaries of the monument, we will prohibit unauthorized passage of ships; we will prohibit unauthorized recreational or commercial activity; we will prohibit any resource extraction or dumping of waste. And over a 5-year period, we will phase out commercial fishing as well. For sea birds and sea life, this unique region will be a sanctuary for them to grow and to

³⁷⁴ Chandler & Gillelan, *The Makings of the National Marine Sanctuaries Act*, 30.

³⁷⁵ Robin K. Craig, “Are Marine National Monuments Better Than National Marine Sanctuaries?,” *Sustainable Development Law & Policy* 7, no. 1 (2006), 30.

³⁷⁶ George W. Bush, “Remarks on the Establishment of the Northwestern Hawaiian Islands Marine National Monument,” *Weekly Compilation of Presidential Documents* 42, no. 24 (June 19, 2006), 1147.

³⁷⁷ *Ibid.*, 1148.

³⁷⁸ *Ibid.*

thrive. And for the American people, it will be a place that honors our responsibility to protect our natural resources.³⁷⁹

Forty years after the publication of *Effective Use of the Sea* by President Johnson's Administration, President Bush and to a lesser degree President Clinton before him, have begun to answer the call to create a national system of marine wildernesses.

The president creates National Monuments through the power bestowed by The Antiquities Act of 1906. President Theodore Roosevelt was the signer and first employer of the Act. Its undertaking defines a preservationist spirit, embodies the conservation-driven presidency of Roosevelt, and underlines the power of changing perceptions of human-environmental relationships in the early twentieth century.³⁸⁰ The Act is quite short and deals succinctly with criminal penalty for the mistreatment of America's scientific and historic patrimony. Most apt for this project, the Act also deals with the establishment of "historic landmarks, historic, and prehistoric structures, and other objects of historic or scientific interest..." (16 U.S.C. 431). The Act allows for the procurement of lands not within federal holdings, though it looks first to areas already publicly owned.

Unlike wilderness areas, national monuments can exist for multifarious reasons and intents. For instance, one of the most common forms in the national monument portfolio is the historical site. These historic sites include some of the most famed humanized, non-Western places in the United States: Agua Fria National Monument, Aztec Ruins National Monument, Bandelier National Monument, and many others. Historical protection is not limited to native-American structures, such proclaimed areas also include Booker T. Washington National Monument and St. Augustine's famed Castillo de San Marcos National Monument. Some of America's most prized ahistorical or nature-themed spaces are monuments as well: Craters of the Moon National Monument or Giant Sequoia National Monument. This is the most versatile conservation tool afforded to the President. It does not require, in most cases,

³⁷⁹ Ibid, pg. 1149.

³⁸⁰ Hal Rothman, *America's National Monuments: The Politics of Preservation* (Lawrence, Ks.: University of Kansas Press, 1989).

Congressional approval.³⁸¹ In recent decades, Presidents Bill Clinton and George W. Bush both used the Antiquities Act powers to create some of the world’s largest protected marine areas.

National Monuments can include wilderness areas; they can be coastal; but the most singular form they have taken since the early twentieth century is marine. Rather than explore those monuments that are coastal in structure, like Cape Krusenstern or Admiralty Island in Alaska, this section looks to those areas that contain mostly of ocean-space. These monuments represent coastal spaces very similar to those wildernesses discussed in this and previous chapters, and in interest of analyzing a distinct layer of U.S. ocean governance this section engages those more oceanic monuments rather than these more coastal ones. Furthermore, I have intentionally overlooked the historically-oriented World War II Valor in the Pacific National Monument. While this collection of nine areas is partially within ocean-space and almost wholly within coastal space, it exists primarily as a commemorative place rather than natural space.

Each of these monuments represents a different kind of marine process or space. These spaces are defined by each of the various presidential proclamations that created them (Table 5.7).

Table 5.7: A List of the U.S. Marine National Monuments

U.S. Marine National Monuments		
National Monument	Location	Presidential Proclamation #: Date
Buck Island Reef	near St. Croix	3443: December 28, 1961 4346: February 1, 1975 (enlargement) 7392: January 17, 2001 (enlargement)
California Coastal	Entirety of the California Coast to 12nm	7264: January 11, 2000
Marianas Trench	Mariana Ridge (near Guam)	8335: January 6, 2009
Pacific Remote Islands	South and West of Hawaii	8336: January 6, 2009
Papahānaumokuākea	Northwest Hawaiian islands	8031: June 15, 2006
Rose Atoll	130nm ESE of American Samoa	8337: January 6, 2009
Virgin Islands Coral Reef	near St. John	7399: January 17, 2001

³⁸¹ Alaska National Interest Lands Conservation Act limits the scale of presidential monument decree and the Antiquities Act itself forbids the proclamation of additional National Monuments in Wyoming without the approval of Congress.

Only those National Monuments created after 2006 are legally considered Marine National Monuments: Marianas Trench, Pacific Remote Islands, Papahānaumokuākea, and Rose Atoll. The term did not exist as an official category before Presidential Proclamation 8031.³⁸² Furthermore, there is no one catalog of features that encompasses all that exists in a Marine National Monument; it varies slightly by presidency, geography, and epoch.

President Kennedy's administration created Buck Island Reef National Monument as an area of approximately 850 acres.³⁸³ President Ford later, and because of Public Law 93-435 which returned certain lands to territories unless presidential action was taken, extended the boundaries to include thirty additional "acres of submerged land."³⁸⁴ President Clinton later further expanded the area to include "additional coral reefs, unusual 'haystacks' of elkhorn coral, barrier reefs, sea grass beds, and sand communities."³⁸⁵ Unlike the proclamations of his predecessors, President Clinton's number 7392 is very specific and further-reaching. The Clinton expansion added "18,135 marine acres"³⁸⁶ to Buck Island Reef National Monument. The size now dwarfs President Kennedy's originally-proclaimed area by twenty times (Figure 5.11).

³⁸² George W. Bush, "Proclamation 8031-Establishment of the Northwestern Hawaiian Islands Marine," National Monument," (15 June 2006).

³⁸³ John F. Kennedy, "Proclamation 3443-Establishing the Buck Island Reef National Monument in the Virgin Islands of the United States," (28 December 1961).

³⁸⁴ Gerald R. Ford, "Proclamation 4346-Buck Island Reef National Monument, U.S. Virgin Islands," (1 February 1975).

³⁸⁵ William J. Clinton, "Proclamation 7392-Boundary Enlargement and Modifications of the Buck Island Reef National Monument," (17 January 2001).

³⁸⁶ Ibid.



Figure 5.11: NPS Buck Island Reef National Monument Boundary, 2012³⁸⁷

“The monument's vulnerable floral and faunal communities live in a fragile, interdependent relationship and include habitats essential for sustaining the tropical marine ecosystem: coral reefs, sea grass beds, octocoral hardbottom, sand communities, algal plains, shelf edge, and oceanic habitats.”³⁸⁸ Spatially this wording is land-associative; each of the habitats is linked to the seafloor save “oceanic.” In a rare occasion, federal spatial definition includes water-column as an overt spatial category that is structurally different than the seafloor. Through the use of seafloor or submerged lands, this Proclamation reinforces a space of extra-benthic habitat. Proclamation 7392 also discusses these submerged lands in terms of “marine acres.” This term is not very clear, and does not seem to represent a different area than terrestrial acres. Assumedly, this term appears in the text to define submerged lands as those lands under the surface of the Caribbean Sea rather than surface acreage. Thom Curdts reaffirms this in a NPS report where he defines “water acres” as including “ocean, estuarine, and intertidal areas and Great

³⁸⁷ National Park Service, “Buck Island Reef National Monument,” 4 May 2012, <http://www.nps.gov/buis> (accessed 22 May 2012).

³⁸⁸ Ibid, paragraph 1.

Lakes.”³⁸⁹ It is safe to posit that marine acres are thus those units which are perpetually subsurface. This offers an acknowledgement that the seafloor or benthic environment is terrestrial in form, but requires a different nomenclature when submerged.

The nearby Virgin Islands Coral Reef National Monument is composed of 12,708 marine acres.³⁹⁰ President Clinton’s Proclamation 7399 created it only five years after Buck Island Reef National Monument’s expansion. Similarly, the concept of submerged lands and marine acres form part of the proclamation; however, the inherent inclusion of the water column is less evident. In fact, this is a far more benthic-centric proclamation. As Figure 5.12 shows, the submerged lands surrounding and apart of the monument are complexly intertwined and overlain.

³⁸⁹ Curdts, *Shoreline Length and Water Area in the Ocean, Coastal, and Great Lakes Parks*, 11.

³⁹⁰ William J. Clinton, “Proclamation 7399-Establishment of the Virgin Islands Coral Reef National Monument,” (17 January 2001).



Figure 5.12: Virgin Islands Coral Reef National Monument.³⁹¹ The yellow lines indicate the NM boundaries. This map is produced at the identical resolution of the original.

California Coastal National Monument exists thanks to President Clinton’s administration as well. It is administered by the Bureau of Land Management, and much like the coastal wildernesses it manages, there is little engagement of the actual space of the ocean. Rather, this monument exists to

³⁹¹ Modified by Ryan Orgera from: National Park Service, “Virgin Islands Coral Reef National Monument,” 6 May 2012, <http://www.nature.nps.gov/water/oceancoastal/assets/images/parkmaps/VICR.pdf>, (accessed 7 June 2012).

protect: “islands, rocks, exposed reefs, and pinnacles”³⁹² This structurally establishes the monument only as those places above the surface. Proclamation 7264 does not set aside any ocean-space, per se, rather it establishes nodes from which ocean-going/ocean-dependent semi-aquatic beings can participate unfettered in their extra-pelagic activities. The actual interaction with ocean-space, beyond the egress therefrom, lies in the surface dimension of 12 nautical miles seaward from the shore. Only a year earlier Presidential Proclamation 7219 established the contiguous zone of the United States as 24 nautical miles rather than the previous 12.³⁹³ Yet, this monument only includes those islands within the older contiguous zone.³⁹⁴ Also, the California Coastal National Monument Proclamation explicitly reads that it does not affect the submerged lands of the state of California or federal lands. So, while this monument is not ocean-space oriented in the sense that it somehow engages the benthic or pelagic environments, it does engage the surface as well as the process of the ocean. The map provided by BLM shows a net-like inclusion of its protected area, and the legend simply states that this mesh area simply represents islands, rocks, pinnacles, and reefs (Figure 5.13).

³⁹² William J. Clinton, “Proclamation 7264-Establishment of the California Coast National Monument,” (11 January 2000).

³⁹³ William J. Clinton, “Proclamation 7219-Contiguous Zone of the United States,” (2 September 1999).

³⁹⁴ The vast majority of California’s islands are within 12nm of the shore.

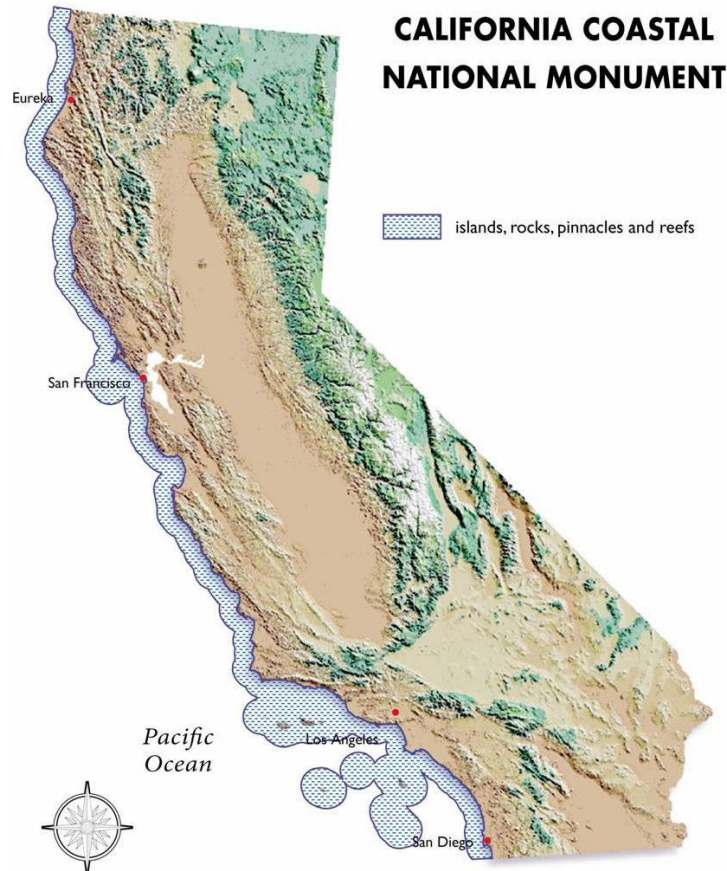


Figure 5.13: California Coastal National Monument BLM Map, source: BLM³⁹⁵

THE TRULY MARINE NATIONAL MONUMENTS

The years of 2006-2009 represent the most earnest era of America's ocean-space protection. In these few years of the George W. Bush administration, the United States experienced the creation of some of the world's largest and most naturally-intact oceanic reserves. The Bush administration created these preserved ocean spaces in a time and a context that seem truly antithetical to conventional wisdom about his presidency. In fact, in 2003, the League of Conservation Voters wrote that: "The primary beneficiaries of the administration's environmental actions have been timber, mining, oil and gas, and real estate development companies."³⁹⁶ Similarly scathing in its rebuking of the Bush administration's

³⁹⁵ Bureau of Land Management, "California Coastal National Monument," 4 May 2012, http://www.blm.gov/ca/st/en/prog/blm_special_areas/nm/ccnm/map.html (accessed 13 June 2012).

³⁹⁶ J.R. Pegg, "League of Conservation Voters," *Environmental News Service*, 24 June 2003, <http://www.ens-newswire.com/ens/jun2003/2003-06-24-10.html> (accessed 8 Nov. 2012).

environmental policies, a 2008 *Time* article reads that “greens” “distrust virtually everything that comes out of this White House, which they consider one of the least environmentally friendly ever.”³⁹⁷ Despite this abysmal praise from environmental groups, George W. Bush did set aside some of the most important oceanic habitats in the Pacific Ocean. In a half-hearted approval of the outgoing president *Time* columnist Bryan Walsh writes: “for now, ocean advocates are just happy that in one of his last acts as President, Bush has finally gone green—for the deep blue.”³⁹⁸ The Bush administration’s 2006-2009 Marine National Monument creation is truly mysterious in the larger context of the Bush presidency. Nonetheless, these monuments are singular in the history of the United States, and exist as their own context.

These years 2006-2009 constitute the establishment of Marianas Trench, Pacific Remote Islands, Papahānaumokuākea, and Rose Atoll national monuments. In fact, even more narrowly, it was in the last days of President Bush’s second term in office when he signed three consecutive proclamations 8335, 8336, and 8337; thus creating a complex system of protected islands, atolls, reefs, and ocean-space. January 6, 2009 is a singular date as it is the most important day in an American history of ocean protection. Papahānaumokuākea is the first of the G.W. Bush Administration’s marine national monuments; it is based on the Clinton Administration’s Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve.³⁹⁹ Created three years prior to those 2006 Marine National Monuments, it laid much of the groundwork for the three to follow.

Originally, Proclamation 8031 established Papahānaumokuākea as the Northwestern Hawaiian Islands Marine National Monument, and the later Proclamation 8112 changed its name to a more Hawaiian one. Its title alone creates a new category, that of “Marine National Monument.” This marine

³⁹⁷ Bryan Walsh, “George W. Bush’s Last Environmental Stand,” *Time*, 5 Nov. 2008, <http://www.time.com/time/health/article/0,8599,1856829,00.html> (accessed 8 Nov. 2012).

³⁹⁸ Bryan Walsh, “President Bush’s Last Act of Greenness,” *Time*, 6 Jan. 2009, <http://www.time.com/time/health/article/0,8599,1869917,00.html> (accessed 8 Nov. 2012).

³⁹⁹ The Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve was created by Exec. Order 13178 on December 4, 2000. Rather than using the authority of the Antiquities Act, President Clinton cited NMSA, Coastal Zone Management Act, Endangered Species Act, Marine Mammal Protection Act, and others in order to create this protected area.

national monument contains “139,793 square miles of emergent and submerged lands and waters,”⁴⁰⁰ making it larger than New Mexico. The expression of size includes square miles of water as well as benthic- and surface-space. Papahānaumokuākea is both a National Marine Sanctuary and Marine National Monument. The proclamation partitions its land and its ocean-space into two different management systems:

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), will have primary responsibility regarding management of the marine areas...the Secretary of the Interior, through the Fish and Wildlife Service (FWS), will have sole responsibility for management of the areas of the monument that overlay the Midway Atoll National Wildlife Refuge, the Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge...”⁴⁰¹

In this framework, Papahānaumokuākea is able to coexist as a space of terrestrial and ocean processes and spaces. The entire littoral and oceanic systems make up the boundaries of the sanctuary; from coral atolls to seabed and water column (Figure 5.14).

⁴⁰⁰ George W. Bush, “Proclamation 8031-Establishment of Northwestern Hawaiian Islands Marine National Monument,” (15 June 2006).

⁴⁰¹ Ibid.

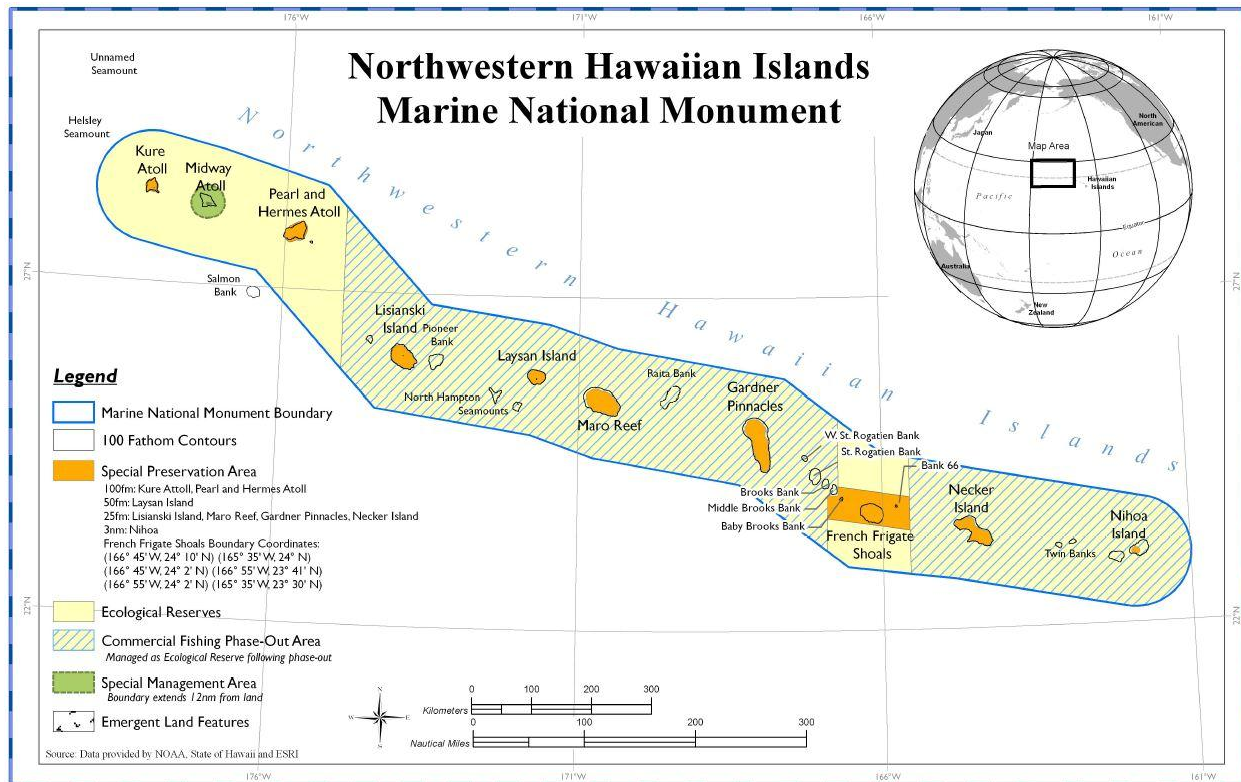


Figure 5.14: Papahānaumokuākea NMS and Marine National Monument, source: NOAA.⁴⁰² This map is produced at the identical resolution of the original.

This hybrid land-sea schematic is nearly identical to management scheme that exists as part of the Rose Atoll Marine National Monument. Both of these unique ocean-dominated monuments help to create an understanding of the management mechanisms as well as the ocean-space construction of this new form of under-explored marine protection. The governance similarities in these monuments help to build a case for a new legal construction of protected ocean-space, a new framework for how America preserves its oceans.

The dominant ocean-land management binary that exists in Papahānaumokuākea also exists in Rose Atoll; NOAA manages ocean-space and FWS manages the slivers of emergent lands. Having multiple geographic features under a single designation allows for uninterrupted inter-spatial wilderness process. However, like many of the coastal wildernesses from previous chapters, these Marine National

⁴⁰² NOAA Fisheries Service: "Papahānaumokuākea Marine National Monument," 16 May 2012, http://www.fpir.noaa.gov/DIR/dir_nwhimnm.html, (accessed 7 June 2012).

Monuments base themselves off of terrestrial features. The fundamental difference is the simple fact that these mostly ocean protected areas only use their spatial relationship to terrestrial features insofar as the Law of the Sea requires. Rather than the oceanic wilderness process and space being afterthoughts in these terrestrial protected areas, the converse instead exists. The land exists only as a point to which a marine monument hitches. Land in no way represents a spatially dominant feature; rather it acts as the legal fulcrum for the entire oceanic protection scheme around it. Proclamation 8337 reads “Federal land and interests in land reserved consists of approximately 13,451 square miles of emergent and submerged lands and waters of and around Rose Atoll...” Water appears as an equal space of measurement. In a departure from standard claims, this national monument extends to “boundaries that lie approximately 50 nautical miles from the mean low water line of Rose Atoll.”⁴⁰³ This is an extraordinary case of protecting beyond the United States’ contiguous zone of twenty-four miles; though, it remains within the U.S. Exclusive Economic Zone of 200 nautical miles. The Pacific Remote Islands Marine National Monument also extends to fifty nautical miles.

Much like Rose Atoll, the Pacific Remote Islands Marine National Monument extends its protection to fifty nautical miles. Unlike many other national monuments, the Pacific Remote Islands represent just that, a series of uninhabited islands and atolls: Wake, Baker, Howland, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll. These bits of land are scattered across the Pacific stretching from Wake Island in the north to Jarvis Island in the south. The distance between these two islands is roughly 2,600 miles. Uniquely, this Marine National Monument requires three agencies to undertake its management.⁴⁰⁴ Wake Island has historically been an important military outpost, and thus remains under the jurisdiction of the Department of Defense; FWS manages waters to 12 nautical miles whereas the Department of Commerce (NOAA) administers waters extending from the seaward point of

⁴⁰³ George W. Bush, “Proclamation 8337-Establishment of the Rose Atoll Marine National Monument,” (6 January 2006).

⁴⁰⁴ George W. Bush, “Proclamation 8336-Establishment of the Pacific Remote Islands Marine National Monument,” (6 January 2006).

12nm to the landward boundary at 50nm. A similarly singular and complicated spatial management is apparent in the Marianas Trench Marine National Monument. It comprises fourteen islands in the Commonwealth of the Northern Mariana Islands and the Territory of Guam.⁴⁰⁵ It covers an area of 480 nautical miles.⁴⁰⁶ The spatial structure of this monument is perhaps the most complex of all. It is split into three different units: Islands Unit, Volcanic Unit, and Trench Unit (Figure 5.15).

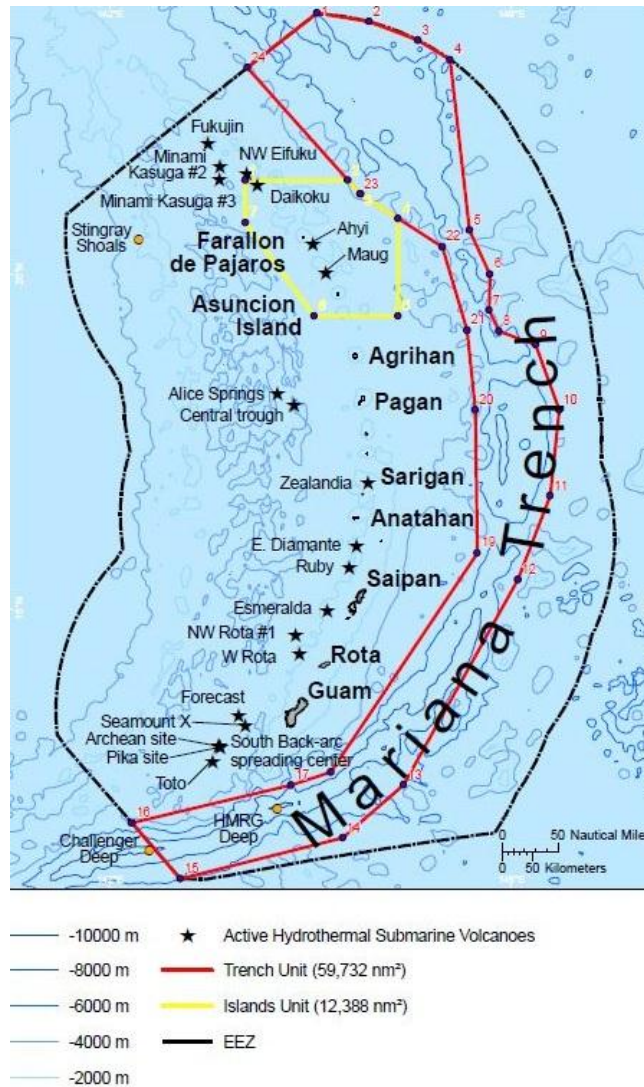


Figure 5.15: Mariana Trench Marine National Monument Units, source: NOAA Coral Reef Conservation Program

⁴⁰⁵ George W. Bush, "Proclamation 8335-Establishment of the Marianas Trench Marine National Monument," (6 January 2006).

⁴⁰⁶ Ibid.

The Islands Unit “includes the waters and submerged lands of the three northernmost Mariana Islands.”⁴⁰⁷ The Volcanic Unit includes “only the submerged lands of designated volcanic sites” with a “1 nautical mile radius centered on each of the volcanic features.”⁴⁰⁸ The Trench Unit is by far the most spatially-convoluted of the Monuments. It: “extends from the northern limit of the EEZ (200nm) of the United States in the Commonwealth of the Northern Mariana Islands to the southern limit of the EEZ of the United States in Guam.”⁴⁰⁹ The entire area “consists of approximately 95,216 square miles of submerged lands and waters of the Mariana Archipelago” and it is proclaimed to be the “smallest area compatible with the proper care and management of the objects to be protected.”⁴¹⁰

THE MUDDLED AND SCARCELY-PROTECTED OCEANS

The ocean is mostly not legal wilderness in the United States. Much of how we protect the oceans is indicative of a nation obsessed with nature and economics. We protect spaces because it is our cultural duty, and we celebrate doing so; yet, the fiscal bottom-line is omnipresent. We conserve lands and oceans for their resources, but we celebrate them as well through preservation. We preserve lands as wildernesses for their extra-economic values. The United States has yet to elevate a distinctly ocean realm to the status of legal wilderness. Though, this is not to say that de facto wilderness designation does not exist in the oceans, especially in the National Marine Sanctuaries. The Pew Oceans Commission points out this very shortfall: “the ocean under U.S. jurisdiction protected in marine reserves—where all extractive and disruptive activities are prohibited—is a small fraction of one percent” (of the total U.S. ocean area).⁴¹¹ This is in part because we conceive of the ocean in different terms, but it is equally because the resources marine environments give us are fundamental parts of our economy. The

⁴⁰⁷ Presidential Proclamation, “Proclamation 8335-Establishment of the Marianas Trench Marine National Monument,” (6 January 2006).

⁴⁰⁸ *Ibid.*

⁴⁰⁹ *Ibid.*

⁴¹⁰ *Ibid.*

⁴¹¹ Pew Ocean Commission, *America's Living Oceans: Charting a Course for Sea Change* (Washington, D.C.: Pew Oceans Commission, 2003), 31.

statistics for 2010 oil and gas production from the Outer Continental Shelf reveal that 29.7 percent of the United States' total oil production and 10.2 percent of the natural gas production come from the ocean.⁴¹² Ocean-space is very much dually economic and revered; and this duality is more marked than any other space in the United States. Through these analyses, we can see how this theme of ocean-as-economic and ocean-as-inherently-valuable has played out in the legislative and executive history of protecting oceans. Furthermore, these analyses have made it possible to point to the Marine National Monument as the most categorically “wilderness-like” of all of the ocean protections. The National Marine Sanctuary System does contain wilderness-like elements, and I believe that Gray’s Reef can offer unprecedented recreation of ocean spatial form in our legal understanding of ocean-space.

⁴¹² Bureau of Ocean Energy Management, “2010 Oil Production,” 1 June 2012, <http://www.boemre.gov/stats/PDFs/CY2010Chart.pdf>, (accessed 12 June 2012).

CHAPTER 6—OCEAN-WILDERNESS CONCLUSIONS

*Despite these positive steps we find that from even a conservative estimate, marine science activities and oceanic affairs are still being coordinated by 21 organizations in 6 separate departments and 5 agencies. Such a scatter-shot approach at formulating and carrying out policy has got to create much overlapping and confusion at best.*⁴¹³

Congressman John Breaux

This convoluted path that then Congressman Breaux grudges is systematically evident in each step the United States has made as an ocean-protecting nation. There are few cases when the ocean is actually its own protected feature, and it is often part of a multi-agency management scheme as Breaux suggests. What is quite clear is that legal wilderness does not effectively exist in a uniquely oceanic realm, and it was my express goal to explore those reasons why such an oversight exists in our national wilderness tradition. First and possibly most prevalent is the affirmation of this point that I uncovered through various levels of research. I employ novel approaches to how researchers can perceive of the legislative process, including the analysis of geographic distribution of elected officials; close readings of legislation; and finally the tracking of bill sponsorship from authorship to passage.

The geographic analysis of the Wilderness Act and the National Marine Sanctuaries Act creates a geographic perception of a legal process. These analyses create space from a single dimension; offering researchers the ability to fold a secondary level of analysis into political research and offering geographers an innovative tool through which they can rehash past and future political events. I conclude that the ocean is likely devoid from our current legal wilderness framework because the elected officials whom created and vetted the Wilderness Act all lacked geographically-motivated political impetus to include ocean-space. By analyzing the geographic makeup of the states represented in each of the committee meetings, I offer future researchers a tool to look at legislation as a multifaceted, once-living document. Bills become laws for innumerable reasons; this can include

⁴¹³ House Subcommittee on Oceanography and the Committee on Merchant Marine and Fisheries, *National Ocean Policy* 94th, Cong., 2nd sess., 1976, 2.

economic, cultural, or magnanimous goals. My research isolated one important input that of spatial bias. By gathering data on the members of congress whom participated in the sponsorship, committee membership, and passage of each of these aforementioned laws I have effectively created a way to understand potential geographic bias that led to the omission of ocean-space as legal wilderness. As my research has shown, those elected officials implicated in some aspect of the law, were overwhelmingly from landlocked, Western states. While this does not definitively assert that these members of congress were ignorant of the importance of oceanic nature, it does suggest that they most keenly considered a terrestrial nature as wilderness. Further research into the micro histories of elected official lives and personal residences could offer another layer to this field of inquiry.

Unlike those before me whom have treated legislation as a geographic entity, I have created both a model that dissects legislation and legislative process into smaller pieces through close analysis coupled with the geographic distribution analysis. I first look to how a bill is worded and the weight and dignity of each word. In the case of the Wilderness Act, legislation becomes poetry almost, and Howard Zahniser assumedly chose his flowery language carefully. My analysis looks deep into the imagery of his words, and creates a bridge between society and its laws. In reading these bills carefully, we learn of a background element, that of linguistic choice and consequence. This too applies in my readings of congressional hearings. Therein, elected officials often speak very candidly or contrarily in a much rehearsed manner. By looking into the subtleties of their word-choices, the weight of their structure, we begin to once again find a subtext. Both of these methods in unison have led me to answer, in part, my initial research questions.

How does the United States construct legal wilderness? The actual mechanics of legal wilderness creation, as I found, is quite straightforward in its legal structure. This research took it many layers below the surface mechanics. Rather, I looked to the subtle beginnings of its passage and those characters involved in the legislative process. Simply put, I coaxed an additional dimension from a

largely two-dimensional process. So much of what we know of politics in the United States is tallies, votes, and political parties. What I can simply conclude, and what my research reaffirms, is that legislation is as much a story of its parts and actors rather than simply a guiding document. We have constructed and we continue to construct wilderness on a legal rail which was laid in the 1950s and 1960s. The legal legacy, founded in the geographic bias I uncovered, continues to haunt our ability to create preserved ocean-space in the twenty-first century. Furthermore, I have found geography in our legislative process and vestiges of past geographies in our current laws.

How does the federal government of the United States construct protected ocean-space; and do those spaces constitute wilderness? The first portion of this second research question is too mechanical. We construct protected ocean-space in myriad ways. We do construct preserved ocean-space in Marine National Monuments and as parts of other mixed spatial categories; we do not preserve ocean-space features as standalone wilderness in the United States. Though the exploration and analysis of the multifarious categories of ocean/ocean-potential protections, I can firmly draw two conclusions. The first is that we treat the ocean as an unequal natural space, and the second is that we have a fundamental need to rewrite the Wilderness Act to include ocean-appropriate language if we are to remedy this. While legal wilderness exists and precludes ocean-space we cannot have a spatially equitable national nature framework. The ocean is separate and unequal from the terrestrial, and the Wilderness Act perpetuates this. Moreover, the Marine Sanctuaries Act does little to elevate ocean-space to be on par with land either. None of the complex language of the act engages the preservation of the ocean *per se*, and it certainly does not elevate it to the status of wilderness. We have a long history of muddle cultural relations with ocean-space, and this is too part of our understanding of ocean-as-wilderness.

The oceans are in motion, churning, liquid; there is no place where we can stand or lie, but rather there is the antithesis of what we know terrestrially. Ocean-space represents, distinctly, a space

where humans do not abide. With each ebb and flow, each wave and shutter, we understand only what we can see. We appreciate breaching whales or leaping great whites, we fear submerged tiger sharks or mysterious undertows. Our interactions with the oceanic are limited; we eat from its life, we drill at its floor, we swim in its fringes, and we sail across its expanse. We do not meaningfully engage with its internal space; the aquatic dimensions, the physical liquidness of the ocean's space is feebly integral to the quotidian human experience. Our non-mineral interactions with the ocean are almost without exception surface-craft: fishing, sailing, and kneeboarding. By definition humans do not experience an inherent connection to the ocean as a space, but rather as a place it becomes more connective. The largest number of humans interacting with the ocean takes place in a liminal, not exactly oceanic space: the shore. Most people venture only so far as to ensure that their feet are firmly planted on a sandy bottom. Shore-fishing or pier-fishing only pierce the water's surface, though all the visual interaction between human and sea is above the surface. Sailing requires water's physical properties but not an oceanic essence, a wild space where primordial processes unfold beyond our ability to make place. Scuba diving, free diving, and snorkeling allow for ephemeral encounters with ocean-space. Places are made from shipwrecks and coral, though the watery space around them is simply an accoutrement much like the air that floats in and over forests. Our oceanic place-making mirrors our terrestrial place-making: shipwrecks and coral, both attached, ships are surface-craft and coral are arboreal in visual structure. We seek commonality between our human-earth relationship and oceanfloor-human relationship. Our academic understanding of ocean is largely based on knowledge of the surface. Nautical in themes are not scarce in American artwork: *Moby Dick*, *Watson and the Shark* (Figure 6.1), *Jaws*, and *Old Man and the Sea*.⁴¹⁴ Like terrestrial wilderness, the ocean is often portrayed as a foreboding space, and each of these oeuvres reaffirm this.

⁴¹⁴ Herman Melville, *Moby-Dick or, The Whale* (New York: Harper & Brothers Publishers, 1851).; Peter Benchley, *Jaws* (New York: Doubleday, 1973).; John Singleton Copley, *Watson and the Shark* (1778).; Ernest Hemingway, *The Old Man and the Sea* (New York: Scribner, 1951).



Figure 6.1: Watson and the Shark, National Gallery of Art, Washington, D.C.

This foreboding space is a celebrated one as well; though, like wilderness, the ocean is at odds with the framework of civilization. It represents ideas and a surface-space that are integral to many societies, but as a space its social role becomes less clear. Ocean-space plays a role in American society: artistically, legally, and recreationally. Because the space of the ocean is so alien to humans, imagining a role for legally-preserved ocean-space requires a certain amount of effort. And as this dissertation has indicated, it poses such a sizeable imagination issue that ocean wilderness does not exist as a standalone feature. So, often, we preserve oceanic process rather than designate oceanic wilderness.

The United States chooses to either protect the ocean process or ocean-space. The space of the ocean must *be* in order for oceanic processes to exist, but the core archetypes we protect in the ocean are actors in a process rather than actors creating space. This means that the U.S. largely protects the things in the ocean rather than the ocean itself. The Endangered Species Act and the Marine Mammal

Protection Act are examples of process-driven, part rather than whole, governance tools. They both preserve wildlife, and the former protects some space, but both are process-driven, rather than spatially driven in the ocean environment. The designation of wilderness is very much equal part space and process. Space is required to house process, and the Wilderness Act celebrates both equally: “A wilderness...is hereby recognized as an area where the earth and its community of life are untrammelled by man” (§2(c)). This space/process binary is not unique to designated wilderness, but it the Act’s uniqueness lies in its determination to preclude humanity. The gravest inequality exists in the level of management, prestige of such management, and level of reverence that is associated with wilderness areas and its exclusion of ocean-space as a viable primary spatial entity. A National Park exists as a designated zone of preserved process and space, but does not disallow many potentially injurious activities, whereas a legal wilderness demands the near-complete lack of any such activities or structure. Wilderness is as close to unhumanized as any space in the United States, and its image of pristineness is truly the highest honor a natural space can achieve. Ocean-space is excluded from this honor, and relies on complex, primary protections to achieve wilderness approximation. Through the advent of the Marine National Monument, created during the George W. Bush presidency, ocean-space now enjoys measures which approximate legal wilderness guidelines.

The Wilderness Act involves the Department of the Interior and the Department of Agriculture through their wilderness arms: the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the U.S. Forest Service. As we have seen, NPS and FWS are both mostly preservationist, while BLM and the Forest Service are largely conservationist in spirit. All four, despite their leanings as entities, manage preserved wildernesses. FWS and NPS are the most oceanic in their landholdings, and also those which manage the eleven “marine wildernesses.” Historically none has been particularly involved with marine environments, though we now observe a change in their uni-spatial paths. Since these specific departments and agencies are the only wilderness agencies, a very

real logistical problem is broached. Conserved American ocean-space is principally managed by the Department of Commerce. The Department of the Interior manages mineral and petroleum leases in marine environments, but is not necessarily tasked with spatial conservation therein. Therefore, since the Wilderness Act specifically names DOI and USDA as the wilderness departments, the Secretary of Commerce is unable to suggest wilderness areas within National Marine Sanctuaries or Marine National Monuments. This is an integral part of wilderness designation (Figure 6.1).

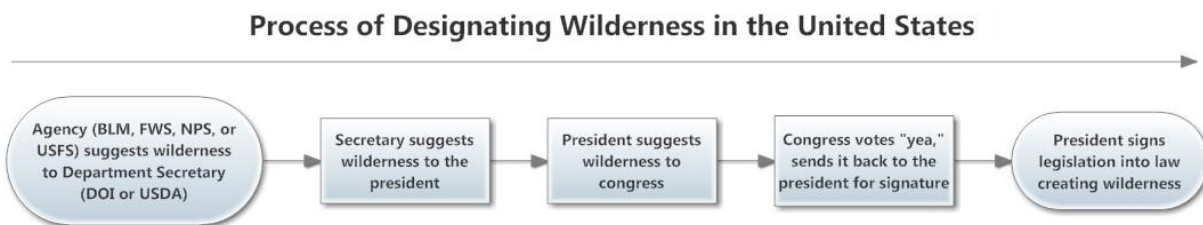


Figure 6.2: Wilderness Designation Process, created by Ryan Orgera

Since the Secretary of Commerce lacks this ability, an additional non-theoretical roadblock prevents ocean-space from being designated wilderness. As I have shown, those coastal lands in DOI and USDA holdings can include some adjoined ocean-space in wilderness areas. This relegates the ocean to a space not worthy of intentional wilderness designation, and rather it becomes a tagalong feature in terrestrial wildernesses.

Two other issues pose considerable problems for the designation of ocean wilderness: economic latency and unclear boundaries. As George Gonzales reminds us, the willingness to create wilderness connotes a willingness to remove a space from an active economy.⁴¹⁵ I firmly believe that the ocean remains the most commercial spatial category in the United States. Examples as pedestrian as the Fish and Wildlife Service, where its title reminds us that fish are not wildlife because of their inherent commercial value; Or the fact that the United States' foremost protector of ocean-space is the Department of Commerce. Ocean-space is home to the largest wild harvest in the world: fish, bivalves,

⁴¹⁵ George A. Gonzales, "The Wilderness Act of 1964 and the Wilderness Preservation Policy Network," *Capitalism Nature Socialism* 20, no. 4 (2009), 31-52.

and, seaweed. In 2010, U.S. landings of fish alone accounted for some 8.2 billion pounds and a value of \$4.5 billion.⁴¹⁶ Furthermore, fuels derived from the ocean account for nearly 30 percent of the national oil production and 10 percent of national natural gas production.⁴¹⁷ By any measure, American ocean-space is a viable economic space as well; making wilderness designation all-the-harder. Choosing where to create ocean wilderness is seemingly difficult as well.

In nearly all cases of marine sanctuaries, the ocean they protect is directly attached to or near land. There are several reasons for this, the most important being the definition of our territorial sea. All national oceans are measured in concert with their distance from a terrestrial shore. Most human-ocean interaction occurs within the first five seaward nautical miles of the ocean, and therefore part of what we understand to be the ocean includes those few miles as paramount features. Furthermore, we often see the ocean as two dimensional: surface and seabed, or surface-space and benthic-space. We can easily create boundaries in terrestrial spaces, but it requires less obvious means in the ocean. Where to define the start and end of a marine sanctuary, how to post its boundaries, and how to police them are all valid management concerns. Though other protected spaces exist without clearly defined borders: New Orleans Jazz National Historical Park and the Lewis and Clark National Historic Trail. The former exists to preserve the distinct jazz culture of New Orleans, and functions more as a reminder of cultural process than a spatial protector. This kind of schematic could be applied in ocean-space for natural rather than cultural spaces; though this, like the Marine Mammal Protection Act, does little for the creation of preserved ocean spaces. It does, however, help assuage any misgivings about the necessity for clearly defined boundaries; offering a clear example of how preservation occurs on land in a boundary-free manner.

⁴¹⁶ National Marine Fisheries Service, "Statistical Highlights: Fisheries in the United States, 2010," 25 Jan. 2011, <http://www.st.nmfs.noaa.gov/st1/fus/fus10/highlight2010.pdf>, (accessed 15 July 2012).

⁴¹⁷ Bureau of Ocean Energy Management, "2010 Oil Production," 5 May 2012, <http://www.boemre.gov/stats/PDFs/CY2010Chart.pdf>, (accessed 12 June 2012).

Another spatial concern in the protection of ocean-space is the insistence of representing the ocean in two dimensions. Ocean-space has many dimensional facets to consider: vertical zonation (epipelagic, mesopelagic, bathypelagic, abyssalpelagic, hadalpelagic); horizontal zonation (neritic and pelagic); seafloor (benthic-space); and the surface-space. Cartography is perhaps the greatest problem in conceiving of ocean as a multi-dimensional space. If we look at a NOAA representation of the U.S.S Monitor National Marine Sanctuary, the limitations become evident (Figure 6.3).



Figure 6.3: Monitor National Marine Sanctuary Map, source NOAA Sanctuaries.⁴¹⁸ This map is the identical quality of the original NOAA map.

Two issues of immediate concern is both the emphasis on its proximity to land, rather than showing it as a focus, and the other is that we only see the surface of the water as cartographically depicting the marine sanctuary. NOAA Sanctuaries underlay a bathometric map to draw attention to the depth of the ocean; however the visual emphasis is very much centered on the sanctuary's surface space. Despite the fact that the sanctuary includes a mile-wide column of water as well as the bones of a historical shipwreck, the map limits how we can represent a marine environment. This is equally emblematic of

⁴¹⁸ NOAA: National Marine Sanctuaries, "National Marine Sanctuary Maps," 5 June 2012, <http://sanctuaries.noaa.gov/pgallery/atlasmaps/monitor.html>, (accessed 10 July 2012).

how we conceived of the ocean-space in general. We tend to focus on a single layer rather than the multiple layers required in understanding the ocean. This dissertation has used various methods to engage multiple layers of ocean-space, and insisted on inserting the water column as a fundamental part of ocean-space. Whereas Figure 6.3 represents the most prevalent form of ocean cartography, Figure 6.4 shows how my research helps to insert all layers of ocean-space into popular and academic conceptions.

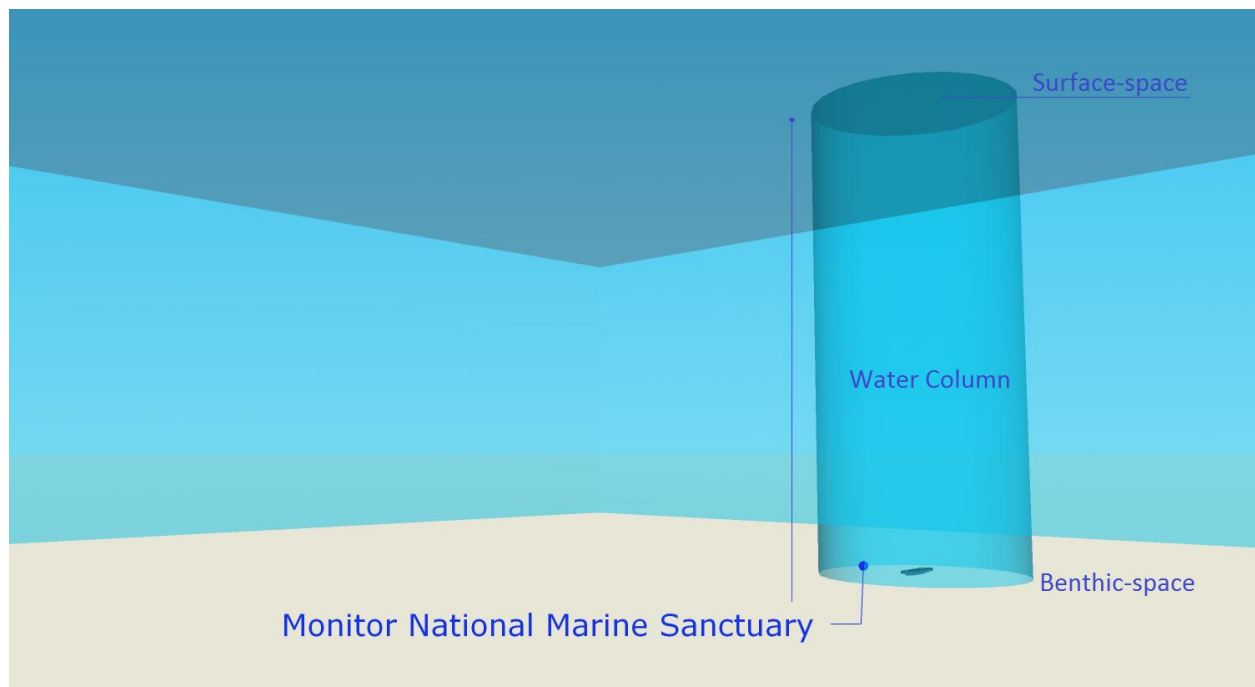


Figure 6.4: Monitor National Marine Sanctuary Conceptual Map, illustration by Ryan Orgera

Unlike the limited-dimensions of the NOAA Sanctuaries map, Figure 6.4 represents a much more robust, evenhanded representation of ocean-space that is the Monitor National Marine Sanctuary. Since the sanctuary is equal parts benthic-space, water column, and surface-space, it is important that we consider them all, and this provides groundwork for other geographers in our quest to understand the ocean as a dynamic and social space. If we can perceive of ocean-space as an entity of fibrous dimension, multi-layered in its reality, we can begin to understand ocean-space as more than a surface on which we ship toys, or a reef which we visit, or a tide pool we peer into. The ocean is all of those

things, but it is too a singular space of existence, where the water is unlike the air in that it is both the physical and idiomatic life support. Its aqueousness is what makes it toxic to humans, but that what facilitates our harvest and commerce. Humans are connected to the ocean in innumerable ways; from sharing in its products to breathing the oxygen it produces. The ocean is inextricably socially important, and how we treat and represent it, as legal wilderness or otherwise, is fundamentally important in our social framework in the United States. The ocean is one of the economic pillars of the U.S., and accounts for an important actor within innumerable economic and thus social networks in American society.

If we look at only surface-space, there is only one world-ocean. There is no interruption; all ocean surfaces are continuous. If we look only at benthic-space, there is no interruption between landmasses. In fact, as a visual non-geologic plain, the seafloor never falters. It continues over the Himalayas and under the watery corpus of the Pacific Ocean. The ocean is completely motive, and without continents, it would not exist in its current form, as would a bowl-less soup simply thin itself over a counter or floor. The ocean is an entity whose form is dependent upon the land. The land underneath and which creates the sloping walls of Earth's gargantuan bowls, is an integral part of the larger idea of ocean-space; a space which we create out of its multifarious parts. In order to understand the ocean we must create words to engage its pieces and spaces. This dissertation employs carefully chosen words, informed by geographers, oceanographers, and laypeople, and standardizes their meanings to create a language of marine-geography.⁴¹⁹ For instance, ocean-space refers to the idea of the space of the ocean, and was first employed by Philip Steinberg.⁴²⁰ Steinberg uses it largely to engage the surface-space of the ocean, but does not intentionally exclude the other spatial forms. It is very important to engage the surface-space of the ocean as a separate entity from the rest of the ocean, and thus I employ the term "surface-space" to these ends. Furthermore, the seafloor too is a distinct entity, and I employ the term "benthic-space" to refer to the space that constitutes the land beneath the water

⁴¹⁹ Alan Trujillo and Harold Thrurman, *Essentials of Oceanography* (Upper Saddle River, N.J.: Prentice Hall, 2008).

⁴²⁰ Phillip Steinberg, *The Social Construction of the Ocean* (Cambridge, Cambridge University Press, 2001).

column. And one final important new term is “littoral-space.” This term refers to the liminal ocean-land space which exists along all shores. It equally defines the marine space adjacent to the shore, and is the zone in which most human activity occurs.

National Oceans, Unclear Nature

In revisiting those two guiding questions I laid out in the opening pages of this project, I find that the answers I uncovered are more complex than I could have possibly imagined when I began this research. How does the U.S construct legal wilderness? There are definite parameters that congress follows: 5,000 acres or more or “untrammeled by man,” yet these parameters only tell a narrow story of dimension rather than function. As I uncover, the construction of wilderness has long been contentious. Wilderness cannot play any significant economic role; and, in rendering any space economy-less, there is bound to be political strife. The Wilderness Act of 1964 is indeed the guiding document for the construction of legal wilderness. This dissertation has helped in clearing a path between what legislation purports and how legislation is born; we now know that the ocean was not meant to be legally designated wilderness in a 1960s congressional construct. Even more complex in its answer is the second of the two questions: How does the Federal Government of the United States construct protected ocean-space; and do those spaces constitute wilderness?

This dissertation examines the multifarious dimensions of this second question. By looking to the Forest Service as a coastal wilderness agency, I elucidate the systematic neglect of ocean-space as part of coastal wilderness holdings. The Forest Service coupled with the Bureau of Land Management represent the most dually-purposed wilderness agencies; they are mostly economically-motivated, but hold vast tracks of preserved space. This schematic also is an allegory for the larger conservation-preservation binary that exists in the United States. Looking to the wilderness departments as entire entities is important to understanding a holistic American ideal of coastal preservation. In addition to

the Forest Service's home department, I looked to DOI and its wilderness agencies. Bureau of Land Management, National Park Service, and the U.S. Fish and Wildlife Service manage their coastal wildernesses in varying shades of cognition; the ocean plays a greater role in NPS and FWS than any other wilderness agency. Turning attention away from the wilderness agencies and to the National Oceanic and Atmospheric Administration, this research uncovered the role of non-wilderness ocean-space, and how does a concept of ocean-as-nature factor in. The complexity of these systems is evident at each stage, and requires the analysis of intricate conceptual issues to truly treat ocean wilderness in legal and theoretical terms.

This is very much in line with Psuty, Steinberg, and Wright's challenge to geographers: merge the "study of conceptual issues in the human-ocean relationship with practical problem-solving in ocean management."⁴²¹ Wilderness is a tenant of American nature preservation, and this concept is very much present as an agent for controlled management of natural spaces. It is indeed the most fervent measure of natural protection in the preservationist's arsenal, and this now-commonplace concept has yet to become applicable in ocean management schemes. This is in part why it is so important for geographers to begin, as I have, to understand the ocean as a dynamic space rather than simply an idea. Wilderness is as much function as it is space, it is equal parts process and dimension, and the ocean is also so. Yet, wilderness is too an idea, and certainly an ideal; the ocean is equally thus. As an idea it has been explored, but this dissertation looks to the dimensions of that idea, and unexpectedly encourages geographers to look at the ocean as a space beyond its prowess and importance as a social concept.⁴²² Furthermore, as I have pioneered here, it is imperative that geographers begin to see the ocean as a space of nature, not just a space of resource-extraction; Americans socially construct the nature of the ocean as much as we economically depend on its produce. Geographic inquiry into the ocean has nearly

⁴²¹ Norbert Psuty et al., "Coastal and Marine Geography: More than Just Flotsam and Jetsam," in *Geography in America at the Dawn of the 21st Century* (Oxford: Oxford University Press, 2004), 321.

⁴²² Martin W. Lewis & Karen Wigen, "A Maritime Response to the Crisis in Area Studies," *Geographical Review* 89, no. 2 (1999), 161-168.; P. Steinberg, *The Social Construction of the Ocean* (Cambridge, U.K.: Cambridge University Press, 2001).

been devoid of ocean-as-nature concepts, and therefore this dissertation's insistence on the ocean wilderness as a valid field of inquiry is my greatest contribution to the field of geography.

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APPENDIX

A. WILDERNESS FLYER

South Baranof Wilderness



Wilderness Character

Bounded on the west by the Gulf of Alaska, the scenery is stunningly picturesque with glacier-scored granite mountains, long saltwater fjords and hanging valleys containing lakes. On the east side of the Wilderness, the saltwater coastline along Chatham Strait is less rugged and there is greater snow accumulation over the whole area. Mount Ada at 4,528 feet is on the east side of the island and is the highest peak in the Wilderness. Permanent snowfields and active glaciers blanket the high country above 2,000 feet, giving way to dense undergrowth in a coastal forest of spruce and hemlock. Wildlife in this area includes brown bears, Sitka black tail deer, mink, marten and river otters, trout and salmon, as well as eagles and shorebirds. Seals, sea lions, whales, and a large population of sea otters are often seen offshore, and crab, shrimp, herring, salmon and halibut are harvested from the sea. The western bays and fjords can experience 100 mile-per hour winds from the open Pacific Ocean. The more tame waters and winds off the South Baranof Island Wilderness can be a haven for boats and the human spirit.

In 1980, the United States Congress designated 319,568 acres as the South Baranof Wilderness. Located 20 miles south of Sitka on the southern half of Baranof Island, this Wilderness is accessible by boat or floatplane. The Tongass National Forest manages this undeveloped, enduring set of ecosystems to preserve them for the enjoyment of present and future generations.

Wilderness Management Direction

Management direction for the wilderness comes from the Wilderness Act, the Alaska National Interest Lands Conservation Act (ANILCA), and the Tongass Land and Resource Management Plan, as amended, 2008. The Wilderness Act prescribes the general management direction, but ANILCA provides for some specific exceptions. Direction includes:

- The Wilderness Act prohibits commercial uses with the exception of what may be allowed as necessary for visitor services.
- The Wilderness Act prohibits the use of motorized equipment, but ANILCA Section 1316 can allow for the continued use of traditional equipment directly necessary for the taking of fish and game (subject to regulation and compatibility).
- The Wilderness Act prohibits mechanized form of transport (i.e. bicycles, wheelbarrows), but ANILCA Section 811 can allow for the continued use of traditional equipment used for subsistence activities by rural Alaska residents (subject to regulation and compatibility)
- While the Wilderness Act prohibits the use of aircraft, ANILCA Section 1110 allows for the use of airplanes, motorboats, and snow-machines (during periods of adequate snow cover). Helicopters are not specifically identified in the ANILCA exception and their use is prohibited.
- The Tongass Plan identifies **group size limit of no more than 12 persons** for commercial or general public use within this wilderness.

These regulations are established for the wilderness character to remain undeveloped, natural and untrammelled for future use.



Tongass National Forest



United States
Department of
Agriculture

Forest Service
Alaska Region

Tongass National Forest
Sitka Ranger District
204 Siginaka Way
Sitka, AK 99835

Phone: 907.747.6671
Fax: 907.747.4253
www.fs.fed.us/r10/tongass



Threats and Benefits

While designated wilderness areas have the most protections of any other public lands, there are still threats that degrade the wilderness resource. Unauthorized trespass structures, litter, conflicts between user groups, loss of solitude, and construction of illegal trails are the major human problems to this wilderness. Building awareness and a better understanding of designated wilderness areas is the key foundation to ensure that these areas stay wild.

Along with providing recreational opportunities, designated wilderness areas protect natural ecosystems. They provide us with clean air and clean water, and allow the natural processes to continue without the permanent presence of humans. Due to the action of Congress in 1980, South Baranof Wilderness will remain protected for future generations.

Wilderness Challenges

People are lured to Alaska for its beauty and excitement, but environmental conditions can be very unforgiving. South Baranof Wilderness is within a temperate rainforest where the average annual rainfall is over 200 inches and temperatures range from 25 -65°F. Be prepared with the appropriate clothing, safety equipment, shelter supplies, and water purifying devices for a cool and frequently overcast climate. This Wilderness also contains brown bears so store food and trash properly. During the summer months, be aware of bears congregating around salmon spawning streams. If traveling by boat, caution should be taken on the open ocean where winds could exceed 100 mph.

Leave No Trace

To insure that this area is left unimpaired for future use, practice the following Leave No Trace principles.

- Plan ahead and prepare for extreme weather conditions, hazards, and emergencies.
- Clean equipment and gear **before** going to the field to avoid the potential spread of invasive plants or seeds.
- Travel and camp on durable surfaces. When possible, disperse use to prevent the creation of campsites and trails.
- Dispose of waste properly. **Pack out** all trash, leftover food, and toilet paper. At appropriate conditions dispose of human waste in the intertidal zone. If camping in upland forests dispose of solid waste by digging a cat hole 6 to 8 inches deep located at least 200 feet from water or campsite.
- Leave what you find. Examine but do not touch the historical structures or artifacts.
- Minimize campfire impacts. Use a lightweight stove when possible. When a campfire is necessary, keep fires small. Build a fire below mean high tide, or when in a forested area, build a mound fire or use a fire pan to avoid damaging the ground vegetation. Stay away from boulders or tree bases to avoid long lasting black scars.
- Respect wildlife and be considerate of other visitors.

Wilderness Facilities

There are three public recreation cabins that are accessible by foot or floatplane, and one primitive hiking trail in South Baranof Wilderness.



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B. LEGAL PARAMETERS

The Wilderness Act & Legalese

The following will assist in the analysis of the Wilderness Act as it references many others laws. Therefore, a clear understanding of how to discuss and understand this terminology is paramount.

“Public Law” describes a promulgated bill that affects the general public (as opposed to a private entity). To become a public law a bill has to pass both chambers of the legislature, and be (1) signed by the president; (2) unsigned (by the president) for ten days after the receipt of a bill from an in-session congress; or (3) in the event of an executive veto, reapproved by a two-thirds vote in each legislative body thus overriding the president. Once one of these three actions occurs, a bill becomes a public law. Public laws are cited as Pub. L. 00-000, where the first set of numbers correspond to the session of congress, or the congressional number, and the second set corresponds to the sequence of laws passed in the congressional session. For instance, the Wilderness Act is Pub. L. 88-577, thus the eighty-eighth congress (1963-1964) and the number 577, is in a sequence of public laws of that congress. Public law can refer to laws either before or after codification; though the codification process does not affect the sequence or numbering of a public law. Once numerically-assigned, it is permanent. A listing of public laws can be found in the *United States Statutes at Large*. *The United States Statutes at Large* is a collection of public and private laws of the United States. They appear in volume form, and include each law passed in the session/year they represent. Unlike the citation for public laws, the numerical sets used to cite statutes do not correspond to a congressional sessions, rather they represent a volume’s number (which contains one or more congressional session). For instance, the Wilderness Act appears in volume number 78 (1964) on page 890, this the citation for it reads: 78 Stat. 890. The laws (and resolutions) that appear in the *U.S. Statutes at Large* are compiled text of laws that occurred in the year. This differs from the United States Code.

Once a public or private law, the next step is codification. The codification process creates code from public laws. The Law Revision Counsel or the LRC is responsible for the creation and maintenance of the U.S. Code. The codification of laws is largely a way of simplifying the “laws on the books.” Subject determines the organization of U.S. Code and for the purposes of the Wilderness Act, Title 16 is most pertinent. Title 16 is where the LRC maintains all laws dealing most directly with conservation. A law in its entirety or portion can appear in more than one title. For instance, the Wilderness Act is 16 U.S.C. 1131-1136, or Title 16 and sections 1131-1136 of the United States Code. While the Wilderness Act is codified in its own chapter (23), this is unnecessary for citation purposes. Unlike the *U.S. Statutes at Large*, the United States Code does not (mostly) publish entire laws; rather the LRC codifies those portions most directly related to the creation of administrative law or regulations. The U.S. Code is not to be confused with the Code of Federal Regulations or the CFR.

VITA

The first six months of my life were in Connecticut, a place where I would return for childhood summers. The following twelve years unfolded in South Carolina, the native home of my paternal grandmother. Following these years, my family moved to Englewood, Florida where I spent my most formative time, and consequently I consider myself a Floridian. I am lucky to have two wonderful sisters, a loving mother and father, and dear grandparents. We have always lived close to the ocean, and Englewood provided ample opportunity to discover Florida's wild spaces. Some of my fondest memories involve sitting on our back porch listening to mullet leaping out of the creek; stiff manatee breaths shooting from the water; and the mechanic caw of the osprey. From an early age I showed propensity for foreign languages; I encouraged my Italian grandparents only communicate with me in their native tongue. I began learning French at a young age, and my passion for the French and Italian languages has never subsided. I turned this passion into a career, attending the University of South Florida where I obtained bachelor's and master's degrees in French with minors in Spanish and Italian respectively. During my master's degree I met my future wife Melanie. We both embarked on a year-long teaching adventure in St. Raphaël, France. During that year we were able to visit eleven nations, including Kenya. We returned to the United States to begin doctoral studies at Louisiana State University. I began my Ph.D. in geography in fall of 2007, and started teaching French in the Department of French Studies in the winter of 2008. Our time in Baton Rouge has been wonderful thanks to the amazing friendships we have made here. I will move to Washington, D.C. in January of 2013 to begin a year-long adventure as a Dean John A. Knauss Marine Policy Fellow with a member of congress.