

# APPENDIX



## WILDERNESS ACT OF 1964

Public Law 88-577, 78 Stat. 890  
16 U.S.C. 1131-1136

### AN ACT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SHORT TITLE

SECTION 1. This Act may be cited as the "Wilderness Act".

### WILDERNESS SYSTEM ESTABLISHED STATEMENT OF POLICY

SEC. 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. 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; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.

(b) 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. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.



# APPENDIX

## WILDERNESS ACT OF 1964

### DEFINITION OF WILDERNESS

(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. 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 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.

### NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM

SEC. 3. (a) All areas within the national forests classified at least 30 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall-

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

(b) The Secretary of Agriculture shall, within ten years after the enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries.

# APPENDIX



## WILDERNESS ACT OF 1964

Such advice shall be given with respect to not less than one-third of all the areas now classified as "primitive" within three years after the enactment of this Act, not less than two-thirds within seven years after the enactment of this Act, and the remaining areas within ten years after the enactment of this Act. Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

(c) Within ten years after the effective date of this Act the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within, the national wildlife refuges and game ranges, under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or unsuitability of each such area or island for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after enactment of this Act, not less than two-thirds within seven years of enactment of this Act, and the remainder within ten years of enactment of this Act. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

(d) (1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommen-



# APPENDIX

## WILDERNESS ACT OF 1964

dations to the President with respect to the suitability of any area for preservation as wilderness-

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: Provided, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) 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.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section.

### **USE OF WILDERNESS AREAS**

SEC.4. (a) 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 and-

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are

# APPENDIX



## WILDERNESS ACT OF 1964

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).

(2) 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.

(3) 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 the Act of August 25, 1916, 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.).

(b) 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. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

### **PROHIBITION OF CERTAIN USES**

(c) 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.



# APPENDIX

## WILDERNESS ACT OF 1964

### SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(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. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Notwithstanding 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 same extent as applicable prior to the effective date of this Act, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential, the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose.

Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under

# APPENDIX



## WILDERNESS ACT OF 1964

sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: Provided, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, 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; and (2) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the secretary of Agriculture.

(5) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: Provided, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.

[Note: Paragraph 5 repealed by 1978 Boundary Waters Canoe Area Wilderness Act, P.L. 95-495.]



# APPENDIX

## WILDERNESS ACT OF 1964

(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.

(7) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(8) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

### **STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS**

SEC. 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: Provided, however, That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

### **GIFTS, BEQUESTS, AND CONTRIBUTIONS**

SEC. 6. ( a ) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the poli-

# APPENDIX



## WILDERNESS ACT OF 1964

cy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

(b) The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act.

### **ANNUAL REPORTS**

SEC. 7. At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

Approved September 3, 1964.

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

Boundary Waters Canoe Area Wilderness Act of 1978

Public Law 95-495

92 Stat. 1649

### AN ACT

To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### FINDINGS

SECTION 1. The Congress finds that it is necessary and desirable to provide for the protection, enhancement, and preservation of the natural values of the lakes, waterways, and associated forested areas known (before the date of enactment of this Act) as the Boundary Waters Canoe Area, and for the orderly management of public use and enjoyment of that area as wilderness, and of certain continuous lands and waters, while at the same time protecting the special qualities of the area as a natural forest-lakeland wilderness ecosystem of major esthetic, cultural, scientific, recreational and educational value to the Nation.

### PURPOSES

SEC. 2. It is the purpose of this Act to provide for such measures respecting the areas designated by this Act as the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area as will

- (1) provide for the protection and management of the fish and wildlife of the wilderness so as to enhance public enjoyment and appreciation of the unique biotic resources of the region,
- (2) protect and enhance the natural values and environmental quality of the lakes, streams, shorelines and associated forest areas of the wilderness,
- (3) maintain high water quality in such areas,
- (4) minimize to the maximum extent possible, the environmental impacts associated with mineral development affecting such areas,
- (5) prevent further road and commercial development and restore natural conditions to existing temporary roads in the wilderness, and



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

(6) provide for the orderly and equitable transition from motorized recreational uses to nonmotorized recreational use on those lakes, streams, and portages in the wilderness where such mechanized uses are to be phased out under the provisions of this Act.

### **BOUNDARY WATERS CANOE AREA WILDERNESS DESIGNATION AND MAP**

SEC. 3. The areas generally depicted as wilderness on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, comprising approximately one million and seventy-five thousand five hundred acres, are hereby designated as the Boundary Waters Canoe Area Wilderness (hereinafter referred to as the "wilderness").

Such designation shall supersede the designation of the Boundary Waters Canoe Area under section 3(a) of the Wilderness Act (78 Stat. 890) and such map shall supersede the map on file pursuant to such section. The map of the wilderness shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. The Secretary of Agriculture, hereinafter referred to as "The Secretary," shall, as soon as practicable but in no event later than one year after the date of enactment of this Act, publish a detailed legal description and map showing the boundaries of the wilderness in the Federal

Register. Such map and description shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and map may be made.

### **ADMINISTRATION**

SEC. 4 (a) The Secretary shall administer the wilderness under the provision of this Act, the Act of January 3, 1975 (88 Stat. 2096; 16 U.S.C. 1132 note), the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131-1136), and in accordance with other laws, rules and regulations generally applicable to areas designated as wilderness.

(b) Paragraph (5) of section 4 (d) of the Wilderness Act of 1964 is hereby repealed and paragraphs (6), (7), and (8) of such section 4(d) are hereby redesignated as paragraphs (5), (6), and (7).

(c) Effective on January 1, 1979 the use of motorboats is prohibited within the wilderness designated by this Act, and that portion within the wilderness of all lakes which are partly within the wilderness, except for the following:

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

(1) On the following lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted: Fall, Lake County; Newton, Lake County; Moose, Lake County; Newfound, Lake County; Sucker, Lake County; Snowbank, Lake County; East Bearskin, Cook County; South Farm, Lake County; Trout, Saint Louis County; Basswood, except that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island; Saganaga, Cook County, except for that portion west of American Point; Provided: That, on the following lakes, until January 1, 1984, the horsepower limitations described in this paragraph shall not apply to towboats registered with the Secretary: Moose, Lake County; Newfound, Lake County; Sucker, Lake County; Saganaga, Cook County, as limited in this paragraph.

(2) On the following lakes and river, motorboats with motors no greater than ten horsepower shall be permitted: Clearwater, Cook County; North Fowl, Cook County; South Fowl, Cook County; Island River east of Lake Isabella, Lake County; Sea Gull, that portion generally east of Threemile Island, Cook County; Alder, Cook County; Canoe, Cook County.

(3) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than ten horsepower shall be permitted until the dates specified: Basswood River to and including Crooked Lake, Saint Louis and Lake Counties, until January 1, 1984; Carp Lake, the Knife River and Knife Lake, Lake County, until January 1, 1984; Sea Gull, Cook County, that portion generally west of Threemile Island, until January 1, 1999; Brule, Cook County until January 1, 1994, or until the termination of operation of any resort adjacent to Brule Lake in operation as of 1977, whichever occurs first.

(4) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted until January 1, 1984: Birch, Lake County; Basswood, Lake County, that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island.

(d) The detailed legal description and map to be published pursuant to section 3 of this Act shall contain a description of the various areas where the motorized uses permitted by this section are located. No provision of this section shall be construed to limit mechanical portage or the horsepower of motors used on motorboats in the following areas within the wilderness:

Little Vermilion Lake, Saint Louis County; Loon River, Saint Louis County; Loon Lake, Saint Louis County; that portion of the Lac La Croix, Saint Louis County, south of Snow Bay and east of Wilkins Bay.



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

(e) For the purposes of this Act, a snowmobile is defined as any motorized vehicle which is designed to operate on snow or ice. The use of snowmobiles in the wilderness designated by this Act is not permitted except that the Secretary may permit snowmobiles, not exceeding forty inches in width, on (1) the overland portages from Crane Lake to Little Vermilion Lake in Canada, and from Sea Gull River along the eastern portion of Saganaga Lake to Canada, and (2) on the following routes until January 1, 1984:

Vermilion Lake portage to and including Trout Lake; Moose Lake to and including Saganaga Lake via Ensign, Vera and Knife Lakes, East Bearskin Lake to and including Pine Lake via Alder Lake and Canoe Lake.

In addition to the routes listed above, the Secretary may issue special use permits for the grooming by snowmobiles of specified cross-country ski trails for day use near existing resorts.

(f) The Secretary is directed to develop and implement, as soon as practical, entry point quotas for use of motorboats within the wilderness portions of the lakes listed in subsection c, the quota levels to be based on such criteria as the size and configuration of each lake, and the amount of use on that lake: Provided, That the quota established for anyone year shall not exceed the average actual annual motorboat use of the calendar years 1976, 1977, and 1978 for each lake, and shall take into account the fluctuation in use during different times of the year: Provided further, That on each lake homeowners and their guests and resort owners and their guests on that particular lake shall have access to that particular lake and their entry shall not be counted in determining such use.

(g) Nothing in this Act shall be deemed to require the termination of the existing operation of motor vehicles to assist in the transport of boats across the portages from Sucker Lake to Basswood Lake, from Fall Lake to Basswood Lake, and from Lake Vermilion to Trout Lake, during the period ending January 1, 1984. Following said date, unless the Secretary determines that there is no feasible nonmotorized means of transporting boats across the portages to reach the lakes previously served by the portages listed above, he shall terminate all such motorized use of each portage listed above.

(h) The motorized uses authorized by this section shall be confined to those types of snowmobiles, motorboats and vehicles which have been in regular use in the Boundary Waters Canoe Area prior to the date of enactment of the Act. The Secretary may set forth additional standards and criteria to further define the type of motorized craft which may be permitted.

(i) Except for motorboats, snowmobiles, and mechanized portaging, as authorized and defined herein, no other motorized use of the wilderness shall be permitted. Nothing in this Act shall prohibit the use of aircraft,

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

motorboats, snowmobiles, or other mechanized uses in emergencies, or for the administration of the wilderness area by Federal, State, and local governmental officials or their deputies, only where the Secretary finds that such use is essential.

### RESORTS

SEC. 5. (a) The owner of a resort in commercial operation during 1975, 1976 or 1977 and located on land riparian to any of the lakes listed below may require purchase of that resort, including land and buildings appurtenant thereto, by written notice to the Secretary prior to September 30, 1985. The value of such resort for purposes of such sale shall be based upon its fair market value as of July 1, 1978, or as of the date of said written notice, whichever is greater, without regard to restrictions imposed by this Act: Fall, Lake County, Moose, Lake County, Snowbank, Lake County, Lake One, Lake County, Sawbill, Cook County, Brule, Cook County, East Bearskin, Cook County, Clearwater, Cook County, Saganaga, Cook County, Sea Gull, Cook County, McFarland, Cook County, North Fowl, Cook County, South Fowl, Cook County, Jasper Lake, Lake County, Ojibway, Lake County.

(b) An owner requiring purchase of a resort under this provision may elect to retain one or more appropriate buildings and lands not exceeding three acres, for personal use as a residence: Provided, That the purchase price to the Government for a resort shall be reduced by the fair market value of such buildings and lands, with the same valuation procedures outlined above.

(c) With respect to any privately owned lands and interests in lands riparian to the lakes listed above, and if the Federal Government has been required to purchase a resort on said lake, said lands shall not be sold without first being offered for sale to the Secretary who shall be given a period of one hundred days after the date of each such offer within which to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary, and if such lands are reoffered for sale they shall first be reoffered to the Secretary: Provided, That this right of first refusal shall not apply to a change in ownership of a property within an immediate family.

(d) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests therein as provided by this section.

### TIMBER SALE CONTRACTS

SEC. 6. (a) The Secretary is directed to terminate within a period of one year after the date of passage of this Act, all timber sale contracts in the Boundary Waters Canoe Area Wilderness. There shall be no further logging of the virgin forest areas formerly enjoined from logging by the United States District Court on said contract



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

areas during the termination period.

The purpose of said termination period is only to permit completion of the harvesting of timber within existing areas under contract that are not within the areas described above and permit the taking of ameliorative measures, including land and cover restoration that will, at the earliest feasible date, make the imprint of man's work substantially unnoticeable on the lands included as wilderness in this Act.

(b) (1) In the event that termination of timber sale contracts in subsection (a) reduces the total national forest volume which a purchaser has under contract on the Superior National Forest to less than two years cut based on the average volume of Superior National Forest timber harvested by the purchaser in the last three years, the Secretary may, with the consent of the purchaser, substitute, to the extent practicable, timber on other national forest lands approximately equal in species and volume to the timber sale contract affected. In offering substitute timber, the Secretary shall negotiate the substitution at a price that is mutually equitable considering such factors as species, volume, logging accessibility, and other terms of the agreement.

(2) The United States will pay just compensation for any timber contracts terminated or modified by this Act, consistent with amendment V to the Constitution of the United States. Losses due to costs incurred in directly fulfilling the terms of such contracts shall be paid by the United States. Any action for the recovery from the United States of cost as provided above shall be brought in a court of competent jurisdiction. Any such judgments shall be paid from the claims and judgments fund (31 U.S.C. 724a).

(c) Within the limits of applicable laws and prudent forest management:

(1) the Secretary shall, in furtherance of the purposes of subsection (a) of this section and of section 4 of the National Forest Management Act of 1976 (90 Stat. 2949), expedite the intensification of resource management including emphasis on softwood timber production and hardwood utilization on the national forest lands in Minnesota outside the wilderness to offset, to the extent feasible, the reduction in the programmed allowable timber harvest resulting from reclassification of the Boundary Waters Area, and the Secretary shall make a review of progress to date in 1983, and a forecast of planned achievements by 1985 and shall submit, as part of the 1985 program under the schedule called for in the Resources Planning Act of 1974, a Plan and recommendations for 1985-1990. In administering the Superior National Forest, the Secretary is authorized and directed to engage in artificial and natural regeneration, release, site preparation, and other forms of timber production enhancement.

(2) The Secretary, in carrying out the requirements in section (c) (1), is authorized and directed to cooperate with the State of Minnesota and its political subdivisions to develop and implement a system of grants, for the

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

development of renewable resources on State, County and private lands. He may also seek the cooperation of other Federal departments and agencies to assure a coordinated approach to renewable resources development.

(d) There is authorized to be appropriated, in addition to such sums as may otherwise be appropriated for the Superior National Forest from existing authorities established by law, the following additional sums for the fiscal years 1980 through 1990 inclusive:

(1) to carry out the purposes of subsection 6 (c) (1) an additional \$8,000,000 annually; and,

(2) to carry out the purposes of subsection 6 (c) (2) an additional \$3,000,000 annually: Provided, however, That the Federal share of any grant made pursuant to subsection 6 (c) (2) shall not exceed 80 percent of the total cost of said grant.

(e) Funds appropriated pursuant to this section shall remain available until expended. Authorizations in excess of funds appropriated in a given fiscal year shall remain available for appropriation in subsequent fiscal years.

(f) In addition to those personnel who would otherwise be available, the Secretary is authorized to appoint and fix the compensation (not to exceed that of grade 15 on the General Schedule for Federal employees) of additional full-time personnel for the Superior National Forest to carry out the purposes of this Act.

### **LAWS APPLICABLE TO CERTAIN LANDS AND WATERS IN THE SUPERIOR NATIONAL FOREST**

SEC. 7. (a) The provisions of the Acts listed in paragraph (b) of this section shall continue to apply to lands and waters specified in such Acts notwithstanding the inclusion of any such lands and waters in the wilderness or mining protection area designated under this Act. For lands and waters to which such Acts listed in paragraph (b) apply which are also within the wilderness or mining protection area designated under this Act, any withdrawal, prohibition, or restriction contained in such Acts listed in paragraph (b) shall be in addition to any withdrawal, prohibition, or restriction otherwise applicable to such wilderness or mining protection area under any other law.

(b) The Acts referred to in paragraph (a) are as follows:

(1) The Act of July 10, 1930 (46 Stat. 1020; 16 U.S.C. 577a, 577b), herein referred to as the "Shipstead-Nolan Act".

(2) The Act of June 22, 1948 (62 Stat. 568, as amended, 16 U.S.C. 577c- 577b), herein referred to as the "Thye-Blatnik Act".

(c) The provision of the Shipstead-Nolan Act are hereby extended and made applicable to all lands and waters



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

not otherwise subject to such Act which are within the wilderness designated under this Act.

(d) (1) The authorities contained in the Thye-Blatnik Act are hereby extended and made applicable to all lands and waters not otherwise subject to such Act which are within the wilderness designated under this Act.

(2) In applying the second proviso of section 5 of such Thye-Blatnik Act to the areas to which such Act is extended and made applicable under this subsection, the phrase "fiscal year 1980" shall be substituted for the phrase "the first full fiscal year after the approval of this Act" in such proviso.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the Thye-Blatnik Act with respect to the lands and waters within the wilderness designated under this Act. Such sums may be used for the payment of court judgments and condemnation actions brought under the terms of the Thye-Blatnik Act without regard to the date such condemnation actions were initially instituted. Funds appropriated from the Land and Water Conservation Fund may be used for the acquisition of any lands and waters, or interests therein within such wilderness.

### **EXISTING AIRSPACE RESERVATION**

SEC. 8. The provisions of Executive Order 10092 as made applicable to the Boundary Waters Canoe Area established by the

Wilderness Act of 1964 shall be deemed incorporated into this Act.

### **MINING PROTECTION AREA ESTABLISHMENT**

SEC. 9. In order to protect existing natural values and high standards of environmental quality from the adverse impacts associated with mineral development, there is hereby established the Boundary Waters Canoe Area Mining Protection Area (hereinafter in this Act referred to as the "mining protection area"), comprising approximately two hundred and twenty-two thousand acres.

### **MAP AND BOUNDARIES**

SEC. 10. The mining protection area shall comprise the area generally depicted as a mining protection area on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, which shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the mining protection area with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

force and effect as if included in this Act. Correction of clerical and typographical errors in such description may be made.

### **MINING AND MINERAL LEASING IN THE WILDERNESS AND MINING PROTECTION AREA**

SEC. 11. (a) In addition to any other applicable prohibition or withdrawal from entry or appropriation under any provision of the Wilderness Act or under any other provision of law, no permit, lease, or other authorization may be issued by any agency or authority of the United States for --

- (1) exploration for, or mining of, minerals owned by the United States within the Boundary Waters Canoe Area Wilderness and the Boundary Waters Canoe Area Mining Protection Area; or
- (2) exploration for, or mining of minerals within such areas if such activities may affect navigable waters; or
- (3) the use of property owned by the United States in relation to any mining of or exploration for minerals in such areas which may materially impair the wilderness qualities of the wilderness area or which may materially impair the natural values and environmental quality of the mining protection area.

The prohibitions contained in this subsection and any withdrawal from entry or appropriation for mining of or exploration for minerals applicable to the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area shall not apply to the extent specifically provided in legislation enacted by the United States after the date of enactment of this Act pursuant in a national emergency declared by the President.

(b) (1) Consistent with the prohibitions and other requirements in subsection (a) of this section, no permit, lease, or other authorization shall be issued unless and until --

- (A) the Secretary shall have approved a plan that details how mining will be conducted consistent with this Act and with other Federal, State, and local requirements, and that details how the area will be restored to its original condition or to a substantially equivalent condition, including the estimated cost thereof;
- (B) the applicant has posted a bond for performance payable to the United States in an amount determined by the Secretary to be sufficient to assure completion of the reclamation plan if the work had to be performed by the United States;
- (C) the applicant shall have obtained all permits, licenses, certifications, and approvals required by Federal, State, or local law; and (iv) the Secretary has determined that no permanent facility will be constructed nor alteration will occur that could render the area incapable of reverting to its original condition or to a substan-



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

tially equivalent condition.

(2) The provisions of paragraphs (2) and (3) of section 4 (d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1133(d) (2) and 16 U.S.C. 1133 (d) (3) ) shall not apply to the area designated herein as the Boundary Waters Canoe Area Wilderness.

(c) The Secretary is authorized to acquire any minerals or mineral rights within the wilderness and mining protection area alleged to be owned by persons other than the Federal or State governments in the following manner:

(1) The Secretary first may seek to acquire these minerals or mineral rights by donation. In seeking a donation, the Secretary shall inform the person alleging the ownership interest of the procedures and limitations to be followed in acquisition by purchase as set forth in paragraph (2) below.

(2) If the person alleging the ownership interest does not donate his minerals or mineral rights to either the Federal or State governments, the Secretary is authorized to acquire the rights by purchase, within the limits of funds appropriated for property acquisition in the Superior National Forest, and in an amount appropriately discounted for the following factors if existent in relation to particular mineral interest:

(A) The original patenting from the Federal public domain was fraudulent. The patenting of lands in the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area is prima facie fraudulent if (1) the Act under which the patent was issued was one of the Acts intended to put settlers on the land, such as, but without limitation, the Cash Purchase Act of 1820 (chapter LI, Act of April 24, 1820, 3 U.S. Stat. 566, 567, as amended); the Preemption Act of 1830 (chapter CCVIII, Act of May 29, 1830, 4 U.S. Stat. 420, 421, as amended); the Homestead Act of 1862 (chapter LXXXV, Act of May 20, 1862, 12 U.S. Stat. 392-394, as amended); and the Timber and Stone Act (chapter 150, Act of June 3, 1878, 20 U.S. Stat. 88, 89, as amended, particularly by chapter 375, Act of August 4, 1892, 27 U.S. Stat. 348); and (2) the land was patented after 1875 and before the establishment of the Superior National Forest by proclamation on February 13, 1909. The Secretary also shall consider any other evidence of fraud when determining the value of the minerals such as (1) the transfer by the entryman or patentee of whole or partial interests in the property during the patenting process or soon thereafter, (2) the appearance in the chain of title of the persons known to have participated in land speculation as land brokers, entrymen, or in other capacities.

(B) The date of separation of the mineral or mineral rights from the surface interest, if the separation occurred after 1927, the year when the courts have determined that the roadless policy was established by the Secretary for the area.

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

(C) Any other factor, such as restrictions on mining within the area imposed by State or local government, or by operation of treaty.

(D) In the event any legal action or proceeding is instituted by or against the United States in relation to minerals or mineral rights where the patenting is prima facie fraudulent as described in subsection (c) of this section, the Attorney General of the United States shall assert the public's equitable right to constructive or public trusts, or to recover or offset damages including but not limited to those based on the value of land fraudulently acquired plus interest at 6 per centum per annum.

(E) Notwithstanding any requirement of this section, the Secretary shall have authority to acquire within the wilderness or mining protection area designated by this Act, existing mineral interests by donation, purchase, exchange, or through the exercise of the power of eminent domain.

(F) There is authorized to be appropriated to the Secretary such sums as may be required to carry out the purposes of this section, to be available until expended.

### **SEVERABILITY**

SEC. 12. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

### **EXISTING STRUCTURES**

SEC. 13. Nothing in this Act of the Wilderness Act shall be construed to prohibit the maintenance of the Prairie Portage Dam (on the international boundary chain between Birch and Basswood Lakes), and the Secretary is authorized to perform such maintenance work as may be required to keep that dam functional at its present height and width. The Secretary is authorized to maintain other existing water control structures only when such structures are necessary to protect wilderness values or public safety.

### **JURISDICTION OVER FISH AND WILDLIFE**

SEC. 14. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the wilderness and the mining protection area.

### **JURISDICTION OVER WATERS**

SEC. 15. The Secretary is authorized to promulgate and enforce regulations that limit or prohibit the use of motorized equipment on or relating to waters located within the wilderness in accordance with the provisions of this Act: Provided, That nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to such waters except to the extent that the exercise of such jurisdiction is less stringent than the



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

Secretary's regulations promulgated pursuant to this section: Provided further, That any regulations adopted pursuant to this Act shall be complementary to, and not in derogation of regulations issued by the United States Coast Guard.

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection area.

### **COOPERATION WITH STATE**

SEC. 16. (a) The Secretary shall cooperate with the State of Minnesota and any political subdivision thereof in the administration of the mining protection area and in the administration and protection of lands within or adjacent to the mining protection area owned or controlled by the State or any political subdivision thereof. Nothing in this title shall deprive the State of Minnesota or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the wilderness and the mining protection area and impose land use controls and environmental health standards on non-Federal areas within the wilderness and the mining protection area, or of its property, including mineral or other interests, in or on lands or waters within the wilderness and the mining protection area.

(b) The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection area and shall consult with the State of Minnesota in an effort to enhance the multiple-use benefits to be derived from both State and national forest lands.

### **TREATIES**

SEC. 17. Nothing in this Act shall affect the provisions of any treaty now applicable to lands and waters which are included in the mining protection area and the wilderness.

### **EXPANSION OF RECREATION PROGRAMS**

SEC. 18. (a) The Secretary is authorized and directed to expedite and intensify the program of dispersed outdoor recreation development on the Superior National Forest outside the Boundary Waters Canoe Area Wilderness, as designated by this Act. The Secretary shall consider in such new program development the need for the following: additional snowmobile trails, particularly those now planned or under construction; remote campsites on lightly developed lakes; and lake access sites and parking facilities to provide motorized recreation experiences similar to those previously available in the Boundary Waters Canoe Area.

(b) The Secretary, consistent with the Wilderness Act of 1964 and with this Act, is authorized to construct a

# APPENDIX



## BWCA WILDERNESS ACT OF 1978

system of new hiking, backpacking and cross-country ski trails within the Boundary Waters Canoe Area Wilderness as designated by this Act, and on appropriate adjacent Federal lands outside the wilderness. In constructing such a trail system, consideration should be given to locating portions of the system near existing resorts on the perimeter of the wilderness to provide additional outdoor recreation opportunities for resort guests.

(c) The Secretary is authorized and directed to develop an educational program for the recreational users of the wilderness which will assist them to understand the purpose, value, and appropriate use of wilderness lands and the functioning of natural ecosystems in wilderness.

(d) The Secretary in cooperation with the State of Minnesota and other appropriate groups, consistent with the purposes of this Act, is authorized and directed to develop a program providing opportunities for a wide range of outdoor experiences for disabled persons.

(e) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out the purposes of this section.

SEC. 19. (a) The Secretary, in cooperation with other appropriate executive agencies, is authorized and directed to develop a cooperative program of technical and financial assistance to resorts in commercial operation in 1975, 1976, and 1977, and outfitters in commercial operation in 1977 which are located within the mining protection area or which are located on land adjacent to any of the lakes listed in section 5 of this Act. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) There are authorized to be appropriated to the Secretary funds to be made available as grants to the Agricultural Extension service, University of Minnesota, to provide over a three-year period educational and technical assistance to businesses and communities adjacent to the Boundary Waters Canoe Area Wilderness in order to improve economic opportunities for tourism and recreation-related businesses in a manner which is complementary to the management of the wilderness.

### **MANAGEMENT STUDY**

SEC. 20. The Secretary, acting through the Chief, United States Forest Service, shall, not later than October 1, 1981, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive management plan setting forth the specific management procedures to implement the objectives of this Act.



# APPENDIX

## BWCA WILDERNESS ACT OF 1978

An interim report setting forth public involvement procedures, management alternatives, and a timetable for the remaining study actions, shall be submitted within one year from the date of enactment of this Act.

### **LIMITATIONS OF AUTHORIZATIONS**

SEC. 21. All authorizations for any funds to be appropriated under the terms of this Act shall not be effective until October 1, 1979.

Notwithstanding any other provision of this Act, authority to enter into agreements or to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Approved October 21, 1978