

# Wilderness and Accessibility

BY JANET A. ZELLER

The National Wilderness Preservation System (NWPS) ensures an opportunity for challenge, solitude, and self-renewal for each person who is willing to make the effort it will take to pursue those goals. Through the Wilderness Act we all have the right, regardless of ability, to enjoy a wilderness experience in an area untrammelled by modern motorized and mechanized civilization. The effort it takes each of us to visit a Wilderness area is an essential part of this experience. People with a wide range of significant disabilities value their right to that same opportunity to challenge themselves and, thereby, to gain the unique experience wilderness offers, either on their own or with the assistance of family or friends.

For me, the time that I spend in wilderness is my renewal, despite the fact that I now use a wheelchair. In the years before the accident, spending time in silent, self-reliant areas of wilderness was an essential part of my life. A part that I was afraid I had lost. My memory of my return to wilderness is a touchstone for me. The sun was a golden disk slipping lower on the horizon while sending a red beam across the surface of the lake toward me. The towering pines around me were becoming black silhouettes against a sky of quickly deepening pastels. The only sound was the gentle lapping of the lake against the shore. It was sunset in the Boundary Waters Canoe Area Wilderness (BWCAW), on the Superior National Forest in northern Minnesota (see figure 1).

As we paddled and portaged our canoes to get to a remote and primitive campsite, we saw otters, moose, and lots of birds, including loons with their wobbly calls as we watched them dive and then reappear in the distance. The only sounds were the dipping of paddles and quiet conversations within the awesome beauty and majestic silence of this Wilderness. That night, away from the lights of development, we saw the incredible blanket of stars spread across the sky.

Our tents were pitched in the clearing near the campfire, and up the hill was a primitive pit toilet. I had left my

battery powered wheelchair at home as my manual chair is lightweight and folds nicely into a canoe. It takes the help of my friends to get me over the rough terrain, in and out of my tent and sleeping bag,

up the hill to the toilet, and so forth. Whereas in my daily life I often chafe at needing assistance, on a wilderness trip it is simply part of a team effort with a mutual goal of a shared experience and therefore it is worth it to me.

It was not a “wheelchair accessible” area, but as a quadriplegic, I couldn’t have been happier to be there. I was back in wilderness. The part of me I was afraid I had lost had been found. From that point on, I knew I could once again do whatever I set my mind to.

Even before a wheelchair became my means of mobility, spending time in wilderness involved planning and careful preparation. Indeed, that process and the anticipation of the coming trip have always been important aspects of the experience. Now my wilderness trip starts by identifying friends, an organization, or an outfitter that shares my love of these remote



Janet Zeller. Photo by N. Menschel.



Figure 1—Sunset in the Boundary Waters Canoe Area Wilderness. Photo by J. Zeller.

lands and is willing to provide the extra physical assistance I will need (see figure 2). Although I receive a lot of help, I still have to work to the full extent of my ability, and that effort makes reaching our destination incredibly fulfilling for me.

After spending time in a Wilderness area, the effort I have made, the sense of accomplishment, and the time I have spent in the unmatched peace of wilderness, refill that wilderness-shaped space within me, and my spirit is renewed. I take that refreshed spirit back to my daily life and work.

I am not alone in this revelation. In their study, McAvoy, Holman, Goldenberg, and Klenosky (2006) confirmed that people with disabilities transfer the outcomes they gain in wilderness into their daily lives.

### Legal Direction on Wheelchair Use

But how can I use a wheelchair in wilderness, isn't it a mechanized device? Yes, it is. However, for some people who have mobility impairments, a "wheelchair" is their means of daily mobility; it is their footwear. As a result, Congress developed a carefully crafted limited allowance for what is essential for a person's basic physical function, while remaining sensitive to the reasons the use of mechanized devices is prohibited in Wilderness areas. This solution had to be consistent with the protection of wilderness character and the wilderness experience, which both underlie the Wilderness Act's prohibition of mechanized devices. In order to meet this need, one section in the Americans with Disabilities Act (ADA) was developed to apply to fed-



**Figure 2—Canoeing in the Boundary Waters Canoe Area Wilderness with the help of friends. Photo by J. Zeller.**

eral agency programs. That is the ADA Title V, Section 507c, which states:

Federally Designated Wilderness

IN GENERAL—Congress reaffirms that nothing in the Wilderness Act prohibits wheelchair use in a wilderness area by an individual whose disability requires its use. The Wilderness Act requires no agency to provide any form of special treatment or accommodation or to construct any facilities or modify any conditions of lands within a wilderness area to facilitate such use.

(2) Definition—for the purposes of paragraph (1), the term wheelchair means a device designed solely for use by a mobility impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

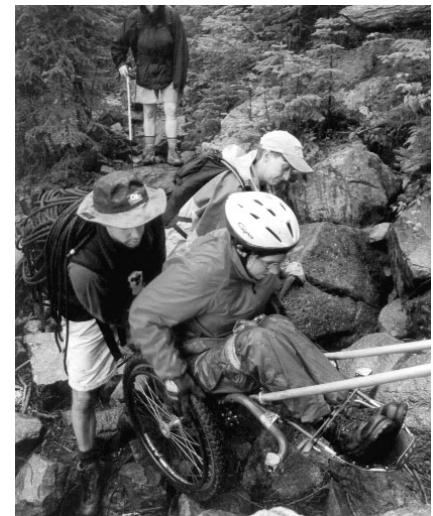
This is a two-part definition. In the first part, "designed solely for use by a mobility-impaired person" means that the original design and manufacture of the device was only for the purpose of mobility by a person who has a limitation on their ability to walk. The second part of the definition states that the device must also be "suitable for indoor pedestrian use," meaning the device would

be allowed to be used inside a mall, courthouse, and so forth.

A mechanized device, including such a device powered by battery, that complies with both portions of this definition is considered to be a "wheelchair," and may be used anywhere foot travel is allowed in the NWPS, providing the device is used for the transportation of an individual. This definition

is broad enough to allow for the inclusion of new mobility device designs as they are developed, if the device is designed solely for use by a person who has mobility impairment for their locomotion, and is suitable for use in an indoor pedestrian area. Anyone whose disability requires use of a wheelchair, as defined above, may use that device in the NWPS for their locomotion (see figure 3).

This simple definition has proven to be both flexible and effective. One of its greatest strengths is that it evaluates only the device used by a person, and does not evaluate the person. That is important because



**Figure 3—Hikers in the Northeast Passage. Photo by K. Belson.**

it is unlawful to ask a person about the existence of a disability, as that is confidential medical information.

### Other Types of Devices Would Make It Easier

Although flexible, this definition appropriately continues to preclude the use in Wilderness of off-highway vehicles or other motorized devices that do not meet the criteria of both parts of the legal definition of a “wheelchair.” That is as it should be. The law was tightly written to ensure that the minimum necessary requirement was utilized. There are devices that might make it easier for a person who has some limitations to their ability to walk long distances or over rough ground. However, the use of such mechanized devices would go beyond the minimum necessary requirement. A study by Lais et al. (1992) confirmed that the vast majority of people who have disabilities are not seeking to expand mechanized use to make access to Wilderness areas easier.

Wilderness is not about what is easy, wilderness is about “solitude or a primitive and unconfined type of recreation,” as stated in the Wilderness Act, and the challenge it takes in order to experience those outcomes (see figure 4). If a person is seeking easier access, there are a wide range of other federally managed lands to choose from where motor vehicles are allowed, and yet the look and feel of the area may be the same as in the NWPS. The result of adhering to that tightly written ADA legal direction within the NWPS, and other areas not designated for motor vehicle use, is that the person who is dependent on a mobility device for locomotion is not denied the opportunity to enter those areas, and can do so without impinging on the challenge, solitude,

and self-renewal that wilderness offers to each person seeking that more difficult NWPS recreational opportunity.

### It’s Worth It

People with disabilities go to wilderness for the same variety of reasons as do people without disabilities (Lais et al. 1992), including to challenge themselves.

Kris Gulden, of Virginia, had been very active in outdoor recreation before a spinal cord injury resulted in her paraplegia (see figure 5). With the disability, simply managing daily activities using her wheelchair consumed her energy. For several years she thought about the recreation she was missing, but was apprehensive about how she could function outdoors with her disability. She learned of Wilderness Inquiry, an outfitter whose motto is bringing people together in the wilderness. All of their trips are inclusive, people with and without disabilities working together to reach a common goal. That made sense to Kris. She knew that although she couldn’t carry gear, she could help with the camp cooking and in other ways. Kris says it takes more effort for a person with a disability to overcome the obstacles en route, but “I want to live life and have new experiences. With teamwork we all succeed.” The assistance she needed served to bind the group together in a mutual effort to ensure they all reached their goal. It is the working together and sharing of



Figure 4—Learning how to back down the hill for safety. Photo by G. Lais.

the wilderness experience that is the highlight for Kris.

David Klingensmith, of Colorado, has cerebral palsy, which makes walking difficult. David learned that paddling is the easiest way to access a Wilderness area. However, once he reaches the destination he still has to deal with the rough terrain on land. David says, “It’s a challenge, but you can get there and once there you can see all there is to see.”

Liebe Gray, of Los Angeles, has multiple sclerosis (see figure 6). She has been an avid hiker and camper for years. During the past two years, her disability has increased to the point at which she must rely on a wheelchair for her mobility. Nevertheless, she has continued her wilderness adventures. It has gotten more difficult and now requires more assistance. but Liebe says, “It’s about life, whatever it takes I want to experience all of it.”

### Balance between Accessibility and Untrammled NWPS

Currently there are 54 million people in the United States who have a disability. The population is also

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For some people who have mobility impairments,  
a “wheelchair” is their means of daily mobility;  
it is their footwear.

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Figure 5—Kris Gulden and her mom. Photo by G. Lais.

aging, and the U.S. Census Bureau tells us that by 2030 more than 80 million people in the country will be over 65. If you live long enough, you may join the minority of people who have disabilities. With increasing numbers of people who have disabilities, how do federal agencies meet the need for accessibility, while ensuring all aspects of the wilderness experience remain untrammled? The 1973 and 1968 laws provide the guidance.

Section 504 of the Rehabilitation Act of 1973 states:

No otherwise qualified person with a disability in the United States ... shall, solely by reason of his disability, be excluded from participation in any program or activity



Figure 6—Liebe Gray. Photo by S. Talbot.

receiving Federal financial assistance or under any program or activity conducted by any Executive agency.

Ensuring that no person is denied the opportunity to participate in any program or activity that is open to all other people is the cornerstone of the concept of equal opportunity. Note the law is written in the negative. A person can't be denied the opportunity to participate just because they have a disability. For example, if permits are available for the dates I want to visit the BWCAW, just because I use a wheelchair, I cannot be denied the same opportunity everyone else has to apply for one of those permits. However, I am also not entitled to any advantage in obtaining one of those permits, just because I use a wheelchair.

The Code of Federal Regulations (CFR) for the federal agencies (7 CFR 15e for the USDA Forest Service and 43 CFR part 17 for the USDOJ agencies) provides the important details for how to implement Section 504 of the Rehabilitation Act of 1973. The two-agency CFRs are virtually identical, and both define a person who is qualified to participate in a program or activity as "an individual with a disability who meets the essential eligibility requirements for participation in that program or activity" (7 CFR 15e.103(4) iii and 42 CFR part 12.202[k][4]). That means a person who has a disability must be able to participate under the same rules and requirements as do those participants without a disability.

### Applying Section 504

For example, if due to the camper's disability, a person feels he/she could

not fully participate in the BWCAW camping experience without the use of a motor on a watercraft, he/she would not meet the essential eligibility requirements for operation within the Wilderness area. The agency would instead refer the person to areas where he/she can use a motor on a watercraft. Those lake areas adjacent to the BWCAW are similar to those within the BWCAW boundaries; however, they allow for the use of motors. The different form of access is the person's choice. Were he/she allowed to use a motor in the Wilderness area, that action would fundamentally alter the wilderness experience. The law expressly prohibits any fundamental alteration to a program, solely because the participant has a disability.

### If We Build It

Under the Architectural Barriers Act (ABA) of 1968, any facility that is constructed, altered, or leased by a federal agency or with federal dollars is required to be accessible. If a decision is made for environmental reasons to place a structure, such as a pit toilet riser, in the NWPS, that riser must be 17 inches (43 cm) to 19 inches (49 cm) in height to comply with the accessibility requirements. Unless there are sturdy walls surrounding that toilet riser, there is no need for grab bars. Please note that at the same time it is important not to overbuild facilities in the name of accessibility. The key is that all facilities, wherever they are located, are to be designed to be appropriate to the setting and accessible.

### It's About Choice

The wide range of recreation opportunities provided by land management agencies is the essential component of

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areas complement the NWPS with additional areas under stewardship and management for wilderness protection for present and future generations. **IJW**

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**Table 1. States with Wilderness programs and states with one or two Wilderness areas, but no program, in 2007**

State	Year Established	Number of Areas	Total Acreage
<b>States with Wilderness Programs</b>			
Alaska	1972	5	1,133,400
California	1974	11	475,725
Maryland	1971	30	43,733
Michigan	1972	4	57,733
Missouri	1977	11	22,993
New York	1972	22	1,214,217
Wisconsin	1973	1	5,939
Subtotal		84	2,953,740
<b>States with Wilderness Areas, but no program</b>			
Minnesota	1975	1	18,000
Hawaii	1981	2	30,857
Maine	1966	2	204,733
Ohio	1988	1	8,000
Oklahoma	1918	1	14,087
Subtotal		7	275,677
<b>TOTAL</b>		<b>91</b>	<b>3,229,417</b>

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access for all people. Each visitor has the right to choose the type of recreation experience they are seeking and then select the area they prefer, in which that activity and means of access are allowed. Information must be clearly provided concerning designated use of motor vehicles, terrain, trails, and so forth so each person can select the most appropriate setting to meet his/her needs. In addition, all facilities constructed or purchased by a federal agency or with federal dollars are to be of an accessible design and appropriate to the setting. It is important that all of us, regardless of ability, work together to protect the

How do federal agencies meet the need for accessibility, while ensuring all aspects of the wilderness experience remain untrammelled?

uniqueness and distinct means of access to the full range of outdoor recreation opportunities and experiences, including to the NWPS. **IJW**

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