

A HISTORY OF WILDERNESS IN THE SHAWNEE NATIONAL FOREST

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The Wilderness Act defines “Wilderness” as “an area of undeveloped federal land retaining its primeval character and influence . . . which generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable” (emphasis added). This definition does not require a pristine appearance with no evidence of man’s activities, rather it requires that an area appear to be substantially natural and the presence of man’s work not dominate.

On several occasions wilderness has been interpreted to only allow 100% pristine areas into the NWPS, but both Congress and the Federal Courts have made it clear this is an improper interpretation. For example, the Eastern Wilderness Act (P.L. 93-622) designated several areas that had once been heavily logged and scarred, but had recovered. The reports of the committee for the Act were highly critical of the Forest Service for taking the position that these areas did not qualify for Wilderness. The findings of the Act stated there was an “urgent need” to include additional areas in the east in the NWPS.

In the Endangered American Wilderness Act (P.L. 95-220), Congress criticized the Forest Service because they implemented a “sights and sounds” doctrine which disqualified areas because sights and sounds of civilization could be heard or seen. Congress found this is not justification for disqualifying an area by making several such designations.

Early Studies

The first areas considered for Wilderness were the 28,000 acre LaRue Pine Hills/Hutchins Creek area, consisting of Bald Knob, Clear Springs, Camp Hutchins, and the LaRue Pine Hills Ecological Area, and a 15,000 acre area including the present Lusk Creek area. Both areas were considered by Congress in Wilderness Bills in 1973, 1974 and 1975. Neither area was designated primarily because of several miles of gravel roads within their boundaries.

In December of 1975, the Sangamon Wilderness Group (Sangamon State University), published a 200-page study and proposal for a Wilderness Study Area in Illinois for the LaRue-Pine Hills/Hutchins Creek area.

In 1973 the Illinois Nature Preserves Commission issued a report titled “Report on the Natural Character and Preservation Values of Clear Creek and Hutchins Creek Watershed in Union and Jackson Counties, Illinois.” The report indicated that protecting the Hutchins Creek/Clear Creek watershed is essential to protecting Hutchins Creek. The Commission noted that the watershed, the land drained by the creeks, is over 70% forested; that it is the largest watershed in the state which is so completely forested; and, according to the Commission, it is considered by many the finest stream of its kind in “valuable adjunct” to the LaRue Pine Hills-Ecological Area as a buffer and as an environment which supports plant communities distinct from those of the swamp or Pine Hills. The Report stated that, with the Trails of Tears State Forest and the LaRue Pine Hills Ecological Area, the entire area constitutes “one of the most noteworthy wild areas in the state.”

RARE II Process

In 1977 the Forest Service initiated RARE II (Roadless Area Review and Evaluation) the second nationwide attempt to decide the fate of roadless areas. [The first attempt, RARE I was made in the early 1970's but a Federal

Court enjoined its use because the Forest Service did not prepare an Environmental Impact Statement (EIS) *Wyoming Outdoor Coordinating Council v. Butz*, 484 F.2d 1244 (10th Cir. 1973).]. The RARE II process had two parts: A) The identification of areas which qualify for inclusion in the NWPS, and B) The determination of the Forest Service recommendations.

A) Identification of areas which qualify for Wilderness

The first step was to identify the areas which may qualify for inclusion as Wilderness Areas by the Forest Service and the public. 26 areas in Shawnee National Forest were studied by the Forest Service. The Forest Service determined Bald Knob, Clear Springs, Ripple Hollow, Panther's Den, Murray Bluff, Burden Falls, Garden of the Gods, Lusk Creek and Burke Branch qualified for Wilderness.

In order to be in the inventory, the areas had to have: A) less than 1/2 mile of improved road for each 1,000 acres and b) less than 15% of the area planted in non-native vegetation or less than 20% of the area had been logged within the past 10 years. The Forest Supervisor recommended 7 areas be included in the inventory: Lusk Creek, Ripple Hollow, Panther's Den, Burden Falls, Murray Bluff, Garden of the Gods and Burke Branch. The Hutchins Creek Area which consisted of Bald Knob, Clear Springs and Camp Hutchins was not recommended by the Forest Supervisor. The Regional Forester disqualified Lusk Creek leaving 6 areas.

The Sierra Club questioned why these areas were not included. The Regional Forester responded that Hutchins Creek was not included because the area contained:

- 16 miles of gravel road.
- 12 Miles of electric transmission line.
- Several recreational developments.
- 12 or more residence.

Lusk Creek was not recommended because:

- Less than 70% of the area within the boundaries was in federal ownership.
- There is an active church and a local cemetery in the area.
- 15 permanent family dwellings are involved.
- There are 12 miles of maintained gravel road.

The Sierra Club responded that Hutchins Creek's problems could all be eliminated by breaking it into smaller areas and Lusk Creek's problems could be eliminated by having smaller boundaries.

The Forest Service agreed to break up Hutchins Creek. It contained what is known now as Bald Knob, Clear Springs and Camp Hutchins. The Forest Service created Bald Knob and Clear Springs and determined they met the requirements and included them in the inventory. Even though Camp Hutchins met the inclusion requirements and had nothing in its boundary to disqualify it, for unknown reasons it was not included in the inventory and subsequently was never considered for wilderness.

The Forest Service refused to include Lusk Creek in their Draft EIS, but because of overwhelming public support received in the public comments, the Forest Service determined with a much smaller boundary, Lusk Creek qualified for Wilderness and included it in the Final EIS.

B) Determination of areas allocation

The second part of the RARE II process was allotment of the RARE II areas into 3 planning categories: Wilderness, Further Planning and non-wilderness. Areas designated Wilderness were to be recommended to Congress for inclusion in the NWPS. Further Planning meant the area would be protected pending completion of a Forest Plan which would consider whether to recommend an area for inclusion in the NWPS. Since this time the Forest Service has changed their policy in the Eastern United States to only recommend areas for “Wilderness Study”.

Contrary to law, this process was extremely biased against Wilderness. For example, none of the eight nationwide alternatives seriously considered designating more than 33% of the RARE II acreage to Wilderness, and none designated less than 37% of that acreage to non-wilderness. More than half of the RARE II acreage was allotted to non-wilderness in 6 of the 8 alternatives.

The end result of the RARE II process was 4 areas: Bald Knob, Clear Springs, Panther’s Den and Garden of the Gods were recommended for Wilderness. Two areas: Lusk Creek and Burden Falls were placed in Further Planning, three areas: Ripple Hollow, Murray Bluff and Burke Branch were placed in non-wilderness. Later a Federal Judge ruled that non-wilderness designations of RARE II areas were illegal.

The second part of the RARE II process had two parts, the development of allotment criteria and studying the area’s wilderness character and trade-offs. The public was also asked to comment. In Illinois the public overwhelmingly by a 7 to 1 ratio supported Wilderness for all the areas. There were 3,232 comments in favor of wilderness and only 471 opposed.

The RARE II process evaluated the Wilderness character of the area and assigned the area a WARS (Wilderness Attribute Rating System) score. The WARS score evaluated the area’s natural integrity and apparent naturalness and opportunities for solitude and primitive recreation. The scores ranged between 4 and 28. (Only one area studied in the midland supplement, Lusk Creek, scored higher than 22). Shawnee Area scores were:

Panther’s Den	18
Burke Branch	20
Garden of the Gods	20
Ripple Hollow	21
Murray Bluff	19
Burden Falls	20
Clear Springs	22
Bald Know	21
Lusk Creek	24

The Forest Service also evaluated the area for wilderness attributes and resource outputs.

The second part of the RARE II process was the development of criteria to determine which classification the areas should be placed in. The final process involved a complex 10-step process which was very prejudiced against wilderness. Nationwide 15 million acres were allotted to Wilderness, 10.8 million to Further Planning and 36 million to non-wilderness. It was nearly impossible to get an area with any “resource attribute” recommended for Wilderness . For example, even though Lusk Creek had the highest WARS score in the midland supplement, it was allotted to Further Planning, primarily because it was thought to have high mineral potential. (Ozark Mahoney later prospected the area and found no economical deposits.)

C) RARE II Litigation: *California v. Block*

On July 25, 1979, the State of California brought action in Federal District Court against the Secretary of Agriculture. The lawsuit only challenged the non-wilderness allotments. On January 8, 1980 the District Court enjoined the Forest Service from taking any action in non-wilderness and ruled the EIS was legally inadequate to support non-wilderness designation. *California v. Bergland*, 483 F Supp. 465 (1980). The Forest Service appealed the decision on October 22, 1982. The United States Court of Appeals upheld the lower courts decision. *California v. Block*, 690 F. 2d 753 (1982). The Appeals Court held that the RARE II EIS, 1) did not have enough site specific data, 2) contained an inadequate range of alternatives and 3) did not have enough public participation to support a non-wilderness designation. Even though the litigation only dealt with non-wilderness allotment, the court held in a side bar that it was legally adequate to support a Wilderness designation.

Many of the court's findings are very pertinent to the Shawnee and demonstrate why only four areas were recommended for Wilderness at this time. For example the court found that

The EIS does not comprehensively describe any of the RARE II areas No attempt is made to assess the wilderness value of each area (e.g.. tourism, sales of wilderness orientated recreational equipment, conservation of wildlife and flora populations, soil conservation and stability, watershed protection, clean water and air).... The EIS does not discuss the impact of non-wilderness designation upon each areas wilderness characteristics and values.... The EIS does not attempt to balance economic benefits of non-wilderness designation for an area against the consequent environmental loss.... Rather than utilizing the Final EIS as an instrument for airing the issue of resource demand, the Forest Service instead shrouded the issue from public scrutiny behind the claim of administrative expertise.

The most serious deficiency of the RARE II EIS was its inadequate range of alternatives. The most profound deficiency which is also very relevant to the Shawnee is the Forest Service's failure to consider an alternative of increasing production on federally owned land that is currently open to development. The court stated:

The policy at hand demands a trade-off between wilderness use and development. This trade-off, however, cannot be intelligently made without examining whether it can be softened or eliminated by increasing resource extraction and use from already developed areas. The economic value of non-wilderness use is a function of its scrutiny.... In the absence of an alternative that looks to already developed areas for future resource extraction and use, the RARE II decisional process ends its inquiry at the beginning.

California v. Block, at 767.

Another fundamental flaw of the RARE II EIS was that it did not seriously consider an alternative which designated all areas as Wilderness, which is now proposed. Furthermore, all alternatives seriously considered, assume that at least 37% of the RARE II acreage should be developed. Commenting on the NEPA violations the court stated:

Although the RARE II FEIS poses the question whether development should occur at all, it uncritically assumes that a substantial portion of the RARE II areas should be developed and considers only those alternative with that end result.

California vs Block at 767

Some of the other findings of the court were that the Forest Service did not adequately respond to public comments. The court also found that the Forest Service's consideration of Wilderness attributes was "arbitrary" and biased against Wilderness.

Illinois Natural Areas Inventory

In 1978 a three year project was completed which identified high quality natural areas in Illinois. Fourteen Natural Areas were identified within the boundaries of the nine areas : Ozark Hill Prairie, Cretaceous Hills, Garden of the Gods, Caney Branch Glade, Burke Branch, Lusk Creek Canyon, Bald Knob, Klondike Spring, Martha's Woods site, Chimphila site, East Fork *Oxalis gandis* site, Lusk Creek North, Reddick Hollow Geological area and Cave Springs Cave. The Inventory identified 32 significant features and 49 exceptional features in the nine RARE II areas.

In addition, two areas: LaRue Pine Hills and Lusk Creek were identified as having two significant features and 28 exceptional features. (All features are not within the RARE II boundary.)

Shawnee National Forest Wilderness Evaluation Project

In 1979, Southern Illinois University at Carbondale released the Final Report of the Shawnee National Forest Wilderness Evaluation Project. This 350 page study was prepared by 25 researchers over a one year period. This report developed much more information about the wilderness attributes of the nine areas.

- Random sampling identified 20 of the 31 natural communities identified by the Illinois Natural Areas Inventory in Illinois. The Natural Areas Inventory identified the additional communities because their study was more extensive and thorough.

- The study identified 59 special ecological features within the nine areas.

- The study identified numerous historical and cultural features in the nine areas.

- The study identified numerous opportunities and rated the areas for primitive recreation potential. There were 13 points possible.

Clear Springs	11 1/3
Garden of the Gods	10 2/3
Bald Knob	11 1/3
Ripple Hollow	10 1/3
Panther's Den	12 1/3
Burden Falls	10 2/3
Lusk Creek	12
Murray Bluff	10 2/3
Burke Branch	10

- During the year-long study the researchers encountered and identified in the nine areas:

- 18 species of amphibians
- 20 species of reptiles
- 103 species of birds
- 27 species of mammals

- The study rated the natural integrity of the areas. 5 points were possible.

4.3	Clear Spring
4.22	Bald Knob
4.19	Ripple Hollow
3.99	Garden of the Gods
3.95	Murray Bluff
3.84	Lusk Creek
3.74	Burden Falls
3.56	Burke Branch
3.44	Panther's Den

- The studies rated the apparent naturalness of the areas. 7 points were possible.

5.68	Clear Springs
5.62	Ripple Hollow
5.56	Bald Knob
5.53	Garden of the Gods
5.39	Lusk Creek
5.28	Burden Falls
5.24	Murray Bluff
4.83	Burke Branch
4.50	Panther's Den

- The study rated the areas potential for solitude. 4 points were possible.

3.59	Clear Springs
3.44	Ripple Hollow
3.52	Bald Knob
3.53	Garden of the Gods
3.23	Lusk Creek
3.31	Burden Falls
2.99	Murray Bluff
2.84	Burke Branch
2.71	Panther's Den

- The study also identified numerous areas with scenic beauty.

1983 Forest Service Study

The Forest Service choose not to appeal the Appeals Courts ruling thereby conceding to the inadequacy of RARE II. On March 9, 1983, the Chief of the Forest Service sent a memo to the Regional Foresters giving field direction on the RARE II lawsuit. The Chief noted the injunction only applied to California, but acknowledged “the government is likely to lose any future court challenge” in other parts of the country. Therefore the Chief directed the Regional Foresters to redo the wilderness evaluations as part of the Forest Planning process. As a result the Shawnee National Forest Service began to restudy these areas in July 1983.

In December 1983, a 250 page study was issued. The primary focus of the study was a description of the wilderness features of the nine RARE II areas. This brought together previous studies and added new information.

The 1983 study describes the topography, vegetation, streams and tributaries, geology, wildlife habitat, cultural resources, recreation, soils, special management opportunities and minerals. The study deals with the natural integrity and apparent naturalness. Description of opportunities for solitude and primitive recreation are included. Special and scenic features, threatened and endangered species and specific primitive recreation activities available in the areas are identified.

The objective of these studies were to comply with the Appeals Court decision and no recommendations were made as a result.

1986 Forest Plan

The 1984 Draft Forest Plan only recommended Bald Knob, Clear Springs, Panther's Den and Garden of the Gods for Wilderness Study. Camp Hutchins was not addressed. The comments on the draft overwhelmingly favored Wilderness for all areas. The 1986 Forest Plan recommended seven areas Bald Knob, Clear Springs, Panther's Den, Garden of the Gods, Burden Falls, Murray Bluff, and Lusk Creek for Wilderness Study. (Camp Hutchins was not addressed.) Burke Branch was not recommended for wilderness study because of existing private farmland, the road system, and the current ORV use within the area. Forest Plan, Page III-7. Ripple Hollow was not recommended for wilderness study because of the existing improved roads, the recent logging, and the high probability for future surface disturbance from the exercise of outstanding and reserved mineral rights. Id.

The Forest Plan was appealed by several groups in part over the wilderness study recommendations. The appeal argued that Ripple Hollow and Burke Branch qualified for wilderness and should be recommended. Appeal Resolution meetings were held and a settlement was reached. The settlement addressed Camp Hutchins as:

- A. The entire 2,967 acre (National Forest System Lands) Camp Hutchins area will be managed under Prescription 9.4. The management objective for the 9.4 prescription is to study resource and ecological values and the area's potential for timber production.
- B. Wildlife openings inside the two designated 100-acre core areas will be abandoned. Openings outside the core areas will be maintained using burning or mowing.
- C. The 9.4 management area will be removed from the landbase considered suitable for timber production.
- D. Standards and guidelines for the 9.4 management prescription will be developed during the analysis for amending the Forest Plan. Riparian area standards and guidelines will apply. Standards and guidelines will include provisions for an annual review of research and monitoring results. The guiding force in developing standards and guidelines will be to maintain the ecological integrity of the area.

Wilderness Study recommendations were addressed as:

The Forest Service and all Appellants agree to support the study of nine areas for Wilderness. The Forest Service will amend the Forest Plan to include Ripple Hollow and Burke Branch as 9.3 management areas. The nine areas to be recommended for Wilderness study in the Forest Plan are: Lusk Creek, Burke Branch, Bald Knob, Panther Den, Garden of the Gods, Ripple Hollow, Murray Bluff, Burden Falls, and Clear Springs.

Illinois Wilderness Act of 1990

The next push for Wilderness resulted in the Illinois Wilderness Act of 1990 which was introduced by Representative Glenn Poshard and co-sponsored by the entire Illinois Delegation on August 1, 1990 and signed into law on November 28, 1990. This set the record for the shortest time from introduction to signing into law for any Wilderness Bill.

Activists sought Wilderness Designation for all 9 RARE II areas and for Camp Hutchins. A slide show and other promotional materials were developed for the ten areas. The Illinois Wilderness Action Network (IWAN) was formed to work for Wilderness protection for these ten areas. The Forest Service prepared maps of all ten areas.

Three areas, Camp Hutchins, Ripple Hollow, and Burke Branch were not included in the bill. This was due to Representative Poshard only wanting to include the seven areas that the Forest Service had recommended for Wilderness Study Areas. However, the Act did not contain release language for these areas preserving the battle for another day.

Prior to introduction, the boundaries of the areas were changed to exclude most of the private land. The only major boundary change was for Murray Bluff (which was renamed Burden Falls). Murray Bluff had a large inholding of private land that separated it from the rest of the RARE II Area. As a result, the land around Murray Bluff was removed from the RARE II Area.

Prior to introduction two areas had their name changed. Burden Falls RARE II Area was renamed Bay Creek Proposed Wilderness. Murray Bluff RARE II Area was renamed Burden Falls Proposed Wilderness. (Burden Falls was in the Murray Bluff RARE II Area and Murray Bluff was removed from the area.)

Prior to introduction, Congressman Poshard decided to reduce the size of Lusk Creek and Garden of the Gods due to their mineral potential. Activists, however, were able to convince Representative Poshard to include the deleted areas as Special Management Areas. The Act provided:

SEC. 10. DESIGNATION OF SPECIAL MANAGEMENT AREAS.

(a) AREA DESIGNATIONS.-(1) Mining and prospecting for fluorspar and associated minerals shall be permitted in the lands in the Shawnee National Forest described in paragraph (2) in accordance with this section and other applicable law. These lands shall also be managed, to the extent practicable, to preserve their potential for future inclusion in the National Wilderness Preservation System.. (2) The lands described in this paragraph are (A) certain lands comprising approximately 2,042 acres as generally depicted on a map entitled "East Fork Area-Proposed", dated July 1990, and which shall be known as the East Fork Area; and (B) certain lands comprising approximately 722 acres as generally depicted on a map entitled "Eagle Creek Area-Proposed", dated July 1990, and which shall be known as the Eagle Creek Area.

(b) TIME LIMITATION. -Prospecting for fluorspar and associated minerals in the lands described in subsection (a)(2) may be allowed for a period of not more than 8 years beginning on the date of enactment of this Act. If significant deposits of fluorspar and associated minerals are found to exist in parts or all of such lands, then mining for those minerals may be allowed for a 20-year period beginning on the date of enactment of this Act.

* * *

(d) CESSATION OF CERTAIN USES.-Twenty years following the date of enactment of this Act (or 8 years following enactment if no prospecting for fluorspar and associated minerals has been done, as determined by the Secretary), such lands described in subsection (a)(2) shall be designated as

wilderness and components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.).

The Bill provided for the Designation of the following Wilderness Areas:

- Bald Knob Wilderness; 5,918 acres
- Bay Creek Wilderness, 2,866 acres
- Burden Falls Wilderness, 3,723 acres
- Clear Springs Wilderness, 4,730 acres
- Garden of the Gods Wilderness, 3,293 acres
- Lusk Creek Wilderness, 4,796 acres
- Panther Den Wilderness, 940 acres

This amounted to 26,266 acres.

On November 28, 1990, President Bush, signed the Illinois Wilderness Act of 1990 into law.

On November 28, 1998, the two special management areas consisting of 2,764 acres became Wilderness. The addition of the East Fork's area of 2,042 acres increase the total acreage of the Lusk Creek Wilderness Area to 7,168 acres. The Eagle Creek area of 722 acres will increase the Garden of the Gods Wilderness to 4,040 acres. This amounts to 29,030 acres of designated Wilderness in Shawnee National Forest.

1992 Amended Forest Plan

With the passage of the Illinois Wilderness Act of 1990, only three areas were at issue: Camp Hutchins, Burke Branch, and Ripple Hollow. The Draft Amended Plan recommended Burke Branch and Ripple Hollow for Wilderness Study. (Ripple Hollow's recommendation was conditional based on mineral concerns.) The Wilderness Recommendations did not address Camp Hutchins. Camp Hutchins, however, was to be managed to protect its wilderness and roadless character.

The final Amended Plan recommended Ripple Hollow for Wilderness Study "under the condition that conflicts with privately owned minerals can be successfully resolved." Forest Plan at III-6. Burke Branch was not recommended for Wilderness Study because:

This area has a dense system of improved and unimproved roads that make the area more suitable for motorized recreation use than Wilderness. The need for vegetative management within Research Natural Areas and other natural areas at Burke Branch conflict with Wilderness management. Although the Illinois Wilderness Act includes provision for managing natural ecosystems, the extent of the vegetative management desired at Burke Branch exceeds a level that would be compatible with the objectives for Wilderness. Over 23% of the Burke Branch area is nonnative pine plantations. This pine and the extensive road system is not consistent with the natural appearance desired within Wilderness. Burke Branch also has high potential for lead, zinc and copper, oil and gas, and the mineral Fluorspar. Fluorspar is classified as being of compelling domestic significances by the U.S. Bureau of Mines and production of fluorspar is of great importance to the local economy. Forest Plan at III-6.

Camp Hutchins was placed in a management prescription that protected the roadless and Wilderness character of the area. The FEIS stated:

Many commenters suggested that Camp Hutchins should be designated wilderness or wilderness study, noting that by combining the Camp Hutchins Area with the Bald Knob-Clear Springs Wilderness and the LaRue Pine Hills Ecological Area, an area of mostly unfragmented forest covering more than 20,000 acres could be protected. Some stated that Camp Hutchins is a beautiful Ozark Hill habitat, comprised of narrow ridgetops and narrow ravines, that the Ozark Hills are found in Illinois in this vicinity only, and that there is no question of the area's quality.

Response A recommendation for wilderness study at Camp Hutchins is outside the scope of the analysis documented in this FSEIS; neither our Notice of Intent nor the Draft SEIS informed the public that recommendation would be under consideration.

However: The protection offered by the standards and guidelines for 9.4 management essentially equals that offered by 9.3 [areas recommended for Wilderness Study] and, therefore, will not allow activities that could adversely affect the area's potential for wilderness study. Also, under this prescription we intend to study the resource and ecological values of the area. Because Camp Hutchins was not evaluated under RARE II, this study, under 9.4 management, can be the basis for evaluating the area's potential for future wilderness study and designation.
FSEIS at I-101-102.

Appeals were filed challenging the Forest Service's failure to recommend Burke Branch for Wilderness Study. The Chief upheld the Forest Plan.

The Sierra Club and RACE filed a lawsuit challenging the Amended Forest Plan and FSEIS including the non-wilderness designation for Burke Branch. The lawsuit argued that not recommending Burke Branch for Wilderness Study and placing it in management prescription 9.3 violated this provision of the settlement of the forest plan appeal:

The Forest Service and all Appellants agree to support the study of nine areas for Wilderness. The Forest Service will amend the Forest Plan to include Ripple Hollow and Burke Branch as 9.3 management areas. The nine areas to be recommended for Wilderness study in the Forest Plan are: Lusk Creek, Burke Branch, Bald Knob, Panther Den, Garden of the Gods, Ripple Hollow, Murray Bluff, Burden Falls, and Clear Springs.

The court, however, ruled the Forest Service not doing what they specifically agreed to do was not a violation of the agreement. *Sierra Club v. U.S.D.A.*, 1997 WL 295308 * 30-1 (S. D. Ill. March 20, 1996).*aff'd by order adopting opinion* 116 F.3d 1482 (C.A. 7 (Ill) 1997).

The lawsuit also argued that the non-wilderness recommendation was illegal. The court ruled:

The plaintiffs argue that many of the perceived obstacles to wilderness designation can be overcome or overlooked. For example, they argue that Burke Branch has no more pines or road systems than other areas in the Shawnee that Congress has already designated as wilderness. They also argue that any bill designating the area as wilderness could have provisions that would allow the Forest Service to conduct restoration activities in the unique natural areas within Burke Branch and allow limited fluor spar mining, as prior bills have allowed with other wilderness areas. (FSEIS App. at C-11.) However, as the FSEIS points out, the prior wilderness designation bills have allowed for limited activities such as prescribed fire and herbicides. Restoration of the unique barrens natural areas within Burke Branch, on the other hand, will require intensive use of heavy equipment. (FSEIS App.

at C-11.) Moreover, even assuming that any one of these impediments could be overcome or overlooked, the Forest Service was within its discretion to conclude that the combination of impediments made the area as a whole unsuitable for wilderness.
Id.

The court, however, ruled the Forest Plan and FSEIS were illegal and vacated both. Id.

Since the Forest Plan and FSEIS were vacated and the Forest Service was ordered to prepare a new plan, the Sierra Club and RACE did not appeal the wilderness issues. The Forest Service appealed to the 7th Circuit. The Forest Service lost the appeal and the 7th Circuit Court of Appeals upheld the vacation of the Forest Plan and FSEIS. *Sierra Club v. U.S.D.A.*, 116 F.3d 1482 (C.A. 7 (Ill) 1997) *table*.

Next Forest Plan

In 1999, the Forest Service began the public participation for the next Forest Plan. At least 75% of the comments on the need for change asked for Wilderness protection for Camp Hutchins, Ripple Hollow, Burke Branch and Murray Bluff (the area that was excluded from the Burden Falls Wilderness).

Illinois Wilderness Part II

On November 14, 1999, activists from various groups gathered in Carbondale for an organization meeting to obtain Wilderness Designation for the remaining areas. The Illinois Wilderness Action Network was reactivated.