

Help protect communities near the Los Padres National Forest



How the Big Sur Forest Service Management Unit Act could contribute to unfair competition with local business
And
How the act should be changed to help avoid this problem

The unfair competition problem

In 2003, the Forest Service acquired the 1,200 acre Brazil Ranch in Big Sur, which is currently three miles outside the boundaries of the Los Padres National Forest. You can read about possible improprieties with the purchase on [the Buyout page](#).

The Brazil Ranch has existing structures and other improvements that require maintenance. The Forest Service has said it does not have sufficient money to maintain the ranch, and in 2004 it started to commercialize the ranch to help raise money for maintenance by issuing permits for use of the ranch for such events as corporate meetings, commercial photo and film shoots and weddings.

You can see a brochure on the Forest Service's website that was prepared to promote leasing of the ranch for such purposes and other events [by clicking here](#) (2.4 MB).

Local businesses that provide similar services to the visiting public were concerned about competition from the US Forest Service using land that was acquired with tax dollars, promoted with materials and advertising paid for with tax dollars, and staffed by public employees paid with tax dollars.

Moreover, the Brazil Ranch is not zoned for the commercial uses the Forest Service was pursuing.

Ordinarily, federal agency actions on federal land do not have to conform with state and local laws. However, the federal Coastal Zone Management Act (CZMA) provides at [16 USC 1456\(c\)\(1\)\(A\)](#):

"Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to

the maximum extent practicable with the enforceable policies of approved State management programs."

The CZMA also provides at [16 USC 1456](#)(c)(2):

"Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs."

Federal regulations provide at [15 CFR 930.32](#)(a)(1) that, "The term 'consistent to the maximum extent practicable' means fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency."

California's "approved state management program" is the California Coastal Management Program (CCMP), which you can read [by clicking here](#).

The CCMP states in its introduction at section A.6:

"Once local programs are certified, State agencies are required to comply with the standards of certified [local coastal programs (LCPs)]. Similarly, the LCPs will be incorporated into the CCMP upon their certification by the Coastal Commission, and will be used in making Federal consistency determinations."

The Big Sur local coastal program (BSLCP) was certified by the Coastal Commission in 1986 and has been incorporated into the CCMP, as the CCMP provides above.

The BSLCP consists of the Big Sur Coast Land Use Plan (LUP), the Big Sur Coastal Implementation Plan (CIP), and various maps and tables, which can be found on Monterey County's website [by clicking here](#).

The California Coastal Commission has established a process for determining if the actions of federal agencies are consistent with the CCMP. You can read about the Coastal Commission's Consistency Determination process for federal projects on the Commission's website [by clicking here](#).

After complaints about commercial use of the Brazil Ranch that was not consistent with the BSLCP, the Forest Service applied to the Coastal Commission for a Consistency Determination for the commercial events it was authorizing.

The initial proposal was for up to twenty commercial events per year on the Brazil Ranch, with up to 150 people attending up to sixteen of the events, and up to 400 people attending up to four of the events. You can read the Coastal Commission's initial staff report on the Consistency Determination for the events on the Brazil Ranch [by clicking here](#). The recommendation of Coastal Commission staff was that the Coastal Commission approve the Consistency Determination on the condition that the Forest Service allow public access onto the Brazil Ranch and provide for public parking.

However, the BSLCP does not allow such uses on land zoned as Watershed and Scenic Conservation, which is the zoning for the Brazil Ranch, a policy that was not being enforced by Coastal Commission staff.

After further controversy the Forest Service and Coastal Commission staff modified the amount of commercial activity being requested by the Forest Service.

Ultimately, the Forest Service decided to not pursue much of the commercial uses it had initially proposed. You can read the last coastal staff report on the Brazil Ranch consistency determination from February, 2007, [by clicking here](#).

After continuing controversy, the Forest Service apparently stopped pursuing commercial use of the Brazil Ranch.

Commercial use of the Brazil Ranch reintroduced by the Big Sur Forest Service Management Unit Act in 2009

However, as written when first introduced in 2009, the Big Sur Forest Service Management Unit Act would have authorized the Forest Service to conduct commercial uses on the Brazil Ranch, renewing the controversy. For example, the act stated the following at section 103:

"The Secretary of Agriculture may lease or issue permits for the use of all or a part of the Big Sur coastal property known as the Brazil Ranch, which was acquired by the Secretary in 2000, to any person on such terms and conditions as the Secretary considers to be in the public interest."

The March 2011 draft of the Big Sur Management Unit Act changed the Brazil Ranch language to include that activities on the Brazil Ranch will be consistent with the federal Coastal Zone Management Act and other laws applicable to the Forest Service. However, given the lack of clarity in the bill, and lack of enforcement of consistency requirements in prior Coastal Commission staff reports, concern remains about future competition with local businesses by the Forest Service on the Brazil Ranch.

How the Big Sur Management Unit Act should be changed to avoid Forest Service competition with local businesses

To help avoid future competition by the Forest Service with local businesses, please communicate your support for the following proposed change to the bill to Congressman Farr, and email a copy to farrsbill@gmail.com so it may be provided to Congress should the need arise.

- Provide in the bill the specific commercial activity the Forest Service is authorized to conduct on the Brazil Ranch, namely, leasing the ranch for grazing cattle. This would avoid potential for other commercial uses that could compete with local businesses.