

Wilderness Acts Related to the Monterey Ranger District of the Los Padres National Forest

Approximately 86 percent of the Monterey Ranger District of the Los Padres National Forest (LPNF) is designated as wilderness, totaling about 263,000 acres or 12.5 percent of Monterey County's land area.

The wilderness is designated as two areas, (1) the Ventana Wilderness and (2) the Silver Peak Wilderness. Each wilderness area has been the subject of multiple acts of Congress. Congress has repeatedly stated its intent that exceptions are made to wilderness prohibitions so these wilderness areas can and will be managed to protect communities and watersheds from wildfire.

Wilderness Act of 1964

The Wilderness Act of 1964 (Wilderness Act) generally prohibits use of motor vehicles and motorized equipment within wilderness areas.

However, the Wilderness Act also provides a special provision for "fire, insects and diseases" as exceptions to its prohibitions, including, among others, the use of mechanized equipment within wilderness areas to plan for and combat these specific dangers.¹

The Endangered American Wilderness Act of 1978

The Endangered American Wilderness Act of 1978 (Wilderness Act of 1978) builds upon the above referenced exceptions in the Wilderness Act, applying additional exceptions for fire presuppression measures and techniques specifically to the Ventana Wilderness to guarantee the continued viability of watersheds and the continued health and safety of communities. The Wilderness Act of 1978 authorizes the US Forest Service (USFS) to take whatever appropriate actions are necessary for fire prevention, reading in pertinent part:²

In order to guarantee the continued viability of the Ventana watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Ventana area to be prepared following designation as wilderness shall authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana Wilderness area shall be incorporated in the planning for the Los Padres National Forest. ...

The legislative history of the Wilderness Act of 1978 clarifies that Congress intended the above language to allow exceptions to wilderness prohibitions due to the extreme hazard of forest fires

¹ See, 16 USC 1133(d)(1) and, *Sierra Club v. Lyng* (1987) 663 F.Supp. 556.

² See, the Endangered American Wilderness Act of 1974, section 2(d).

in the LPNF. The report on the Wilderness Act of 1978 by the Senate Committee on Energy and Natural Resources reads in pertinent part as follows:³

Due to the extreme hazard of forest fires in the Los Padres National Forest, the committee adopted the special management language for the Santa Lucia and Ventana Wilderness areas approved by the House authorizing the Forest Service "to take whatever appropriate actions are necessary for fire prevention and watershed protection included [*sic*] but not limited to acceptable fire pre-suppression and fire suppression measures and techniques."

The California Wilderness Act of 1984

The California Wilderness Act of 1984 (Wilderness Act of 1984) expanded the Ventana Wilderness, and section 103(b)(2) of this Act referenced the following exception in the Wilderness Act for the control of fire:⁴

As provided in subsection 4(d)(1) of the Wilderness Act, the Secretary concerned may take such measures as are necessary in the control of fire, insects, and diseases, subject to such conditions as he deems desirable. ...

Legislative history on the Wilderness Act of 1984 explains that the intent of Congress was to emphasize the authority of the Secretary of Agriculture to address the threat of fire in whatever manner the USFS determines to be necessary in California wilderness areas due to overgrown forests and California's arid climate. Expressing this intent, the report by the House Committee on Interior and Insular Affairs on the Wilderness Act of 1984 reads in pertinent part as follows:⁵

Fire management—Due to the arid climate, high seasonal temperatures and buildup of fuel that exists in so many California roadless areas, especially in Southern California, fire management is a key concern. ... Not only does the threat of wildfire pose a danger to public safety, but uncontrolled fires can also cause severe damage to watersheds, water quality and other beneficial wilderness values.

To address this concern in the [Wilderness Act of 1984], the Committee reiterated the fire provisions of Section 4(d)(1) of the Wilderness Act. ... As the Committee stressed ... this provision is intended to grant the Forest Service with the means of utilizing such measures or tools as it deems "necessary" and "desirable" in the control of [*sic*] presuppression of fire in wilderness areas. In some instances, the Forest Service has exercised this broad authority [for] fire roads, fuel breaks or other management. ... The major point to be made however, is that the Wilderness Act permits the Forest Service to utilize measures necessary to control wildfire, or the threat of fire, in wilderness areas. Obviously, such measures

³ See, Senate Report 95-490 on H.R. 3454 (The Endangered American Wilderness Act of 1978), 95th Congress 1st session October 11, 1977, Senate Committee on Energy and Natural Resources.

⁴ 16 USC 1133.

⁵ See, House Report 98-40 on H.R. 1437 (P.L. 98-425), 98th Congress 1st session, March 18, 1983, House Committee on Interior and Insular Affairs.

should, to the maximum extent practicable, be implemented consistent with maintaining the wilderness character of areas, while at the same time protecting the public health and safety and protecting private property located immediately adjacent to wilderness areas.

Los Padres Condor Range and River Protection Act (1992)

The Los Padres Condor Range and River Protection Act (Los Padres Act of 1992) expanded the Ventana Wilderness and created the Silver Peak Wilderness in Monterey County. In the Act, Congress again reiterated exceptions to the Wilderness Act prohibitions which allow for fire presuppression measures within wilderness in order to protect watersheds and communities. Section 3(b) of the Los Padres Act of 1992 reads as follows:

FIRE PREVENTION AND WATERSHED PROTECTION —In order to guarantee the continued viability of the watersheds of the wilderness areas designated by this Act and to ensure the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture may take such measures as are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques.

Big Sur Wilderness and Conservation Act of 2002

The Big Sur Wilderness and Conservation Act of 2002 (Wilderness Act of 2002) expanded the Ventana Wilderness and the Silver Peak Wilderness. Congress again provided exceptions to wilderness prohibitions to allow for fire presuppression measures and techniques. Section 4 of the Wilderness Act of 2002 reads as follows:

SEC. 4. WILDERNESS FIRE MANAGEMENT.

(a) REVISION OF MANAGEMENT PLANS.—The Secretary of Agriculture shall, by not later than 1 year after the date of the enactment of this Act, amend the management plans that apply to each of the Ventana Wilderness and the Silver Peak Wilderness, respectively, to authorize the Forest Supervisor of the Los Padres National Forest to take whatever appropriate actions in such wilderness areas are necessary for fire prevention and watershed protection consistent with wilderness values, including best management practices for fire presuppression and fire suppression measures and techniques.

(b) INCORPORATION INTO FOREST PLANNING.—Any special provisions contained in the management plan for the Ventana Wilderness and Silver Peak Wilderness pursuant to subsection (a) shall be incorporated into the management plan for the Los Padres National Forest.