

Committee Reports

102nd Congress

House Report 102-290 Part 1

102 H. Rpt. 290; Part 1

LOS PADRES CONDOR RANGE AND RIVER PROTECTION ACT

DATE: November 6, 1991. Ordered to be printed

SPONSOR: Mr. Miller of California, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

CONFERENCE REPORT

(To accompany H.R. 2556 which on June 5, 1991, was referred jointly to the Committee on Interior and Insular Affairs and the Committee in Agriculture)

(Including cost estimate of the Congressional Budget Office)

TEXT: The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2556) entitled the "Los Padres Condor Range and River Protection Act", having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

1. Page 2, line 19 substitute 219,700 for 220,500.
2. Page 2, line 21 substitute September 1991 for May 1991.
3. Page 2, line 24 substitute 29,600 for 30,000.
4. Page 3, line 2 substitute September 1991 for May 1991.
5. Page 3, line 5 substitute 46,400 for 43,000.
6. Page 3, line 8 substitute September 1991 for May 1991.
7. Page 3, line 12 substitute 14,100 for 14,600.
8. Page 3, line 15 substitute September 1991 for May 1991.

9. Page 3, line 20 and 21 substitute September 1991 for May 1991.

10. Page 3, line 24 add a period (.) following "wilderness" and delete the rest of this sentence inserting the following two sentences:

The Toad Springs road corridor delineated as potential wilderness shall remain open to off road vehicle traffic until construction of an alternate route which bypasses this area is completed. These potential wilderness lands shall be automatically incorporated in and managed as part of the Chumash wilderness upon publication of a notice in the Federal Register.

11. Page 4, line 8 substitute September 1991 for May 1991.

12. Page 4, line 15 substitute September 1991 for May 1991.

13. Page 10, line delete Section 8 in its entirety and substitute the following: SEC. 8. MINERAL WITHDRAWAL.

(a) In General. Subject to valid existing rights, Federally owned lands and interests therein are depicted on a map entitled "Mineral Withdrawal Area, California Coastal Zone, Big Sur Proposed" and dated September 1991 are withdrawn from entry, location, appropriation, leasing, sale, or disposition under the mining laws, mineral leasing and geothermal leasing laws of the United States.

(b) Mining Claims. Subject to valid existing rights, all mining claims located within the withdrawal area depicted on the map described in subsection (a) shall be subject to such regulations as the Secretary of Agriculture may prescribe to ensure that mining will, to the greatest practicable extent, be consistent with the protection of scenic, scientific, cultural and other resources of the area. The Secretary of Agriculture shall not approve any plan of operation prior to a determination that the unpatented mining claim was valid prior to the mineral withdrawal created by this Act and remains valid. A patent for land within the withdrawal area that is issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such regulations.

14. Page 2, line 22, after "Sespe Wilderness." add the following sentence:

In recognition of the significant role that Mr. Gene Marshall played in the development of this Act, the Secretary of Agriculture is authorized and directed to name the existing trail between Reyes Creek and Lion Campgrounds as the Gene Marshall-Piedra Blanca National Recreational Trail.

15. Page 4, line 16, after "Peak Wilderness." add the following two sentences:

In recognition of Mr. Nathaniel Owings efforts to preserve the Big Sur coastline, the area within the Silver Peak Wilderness area depicted as "Redwood Gulch" shall hereafter be

known as the "Nathaniel Owings Redwood Grove." The Secretary is directed to place this name on all appropriate maps depicting the Silver Peak Wilderness Area of the Los Padres National Forest.

16. At the end of the bill, add a new section, as follows: SEC 9. ADDITIONAL USES OF CERTAIN LANDS IN CALIFORNIA.

(a) Removal of Restrictions. Notwithstanding the restrictions otherwise applicable under the terms of conveyance by the United States of any of the lands described in subsection (b) to either the city of Pittsburgh, California or Merced County, California, or under any agreement concerning any part of such lands between either such city or such county and the Secretary of the Interior or any other officer or agent of the United States, the lands described in subsection (b) may be used for the purposes specified in subsection (c) of this section.

(b) Lands Affected. The lands referred to in subsection (a) of this section are

(1) Any portion not exceeding 1.5 acres of the lands described in that certain Quitclaim Deed of the United States to the city of Pittsburg, California, bearing the date of March 25, 1960, and recorded in Record of Deeds of the County of Contra Costa, State of California, as document No. 79015, in Book 3759 at page 1 of Records; and

(2) the south 15 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian in Merced County, California, conveyed to such county by deed recorded in volume 1941 at page 441 of the official records in Merced County, California.

(c) Authorized Uses. (1) The city of Pittsburg, California, may use the lands described in subsection (b)(1) of this section for a fire station or other public purpose, or may transfer such lands to another governmental entity on condition that such entity retain and use such lands for such purpose.

(2) Merced County, California, may authorize the use of the lands described in subsection 9b)(2) of this section for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California. If Merced County permits such lands to be used for such purposes, the county shall include information concerning such use in the periodic reports to the Secretary of the Interior required under the terms of the conveyance of such lands to the county by the United States. Any violation of the provisions of this paragraph shall be deemed to be a breach of the conditions and covenants under which such lands were conveyed to Merced County by the United States, and shall have the same effect as provided in the deed whereby the United States conveyed the lands to the county. Except as specified in this subsection, nothing in this Act shall increase or diminish the authority or responsibility of the county with respect to the lands.

17. On page 7, line 25, strike "These" and insert "Except for those areas designated as wilderness under section 2 of this Act, these"

18. On page 9, line 20, delete the quotation marks and the period at the end of line 20. Purpose

The purpose of H.R. 2556

1 is to designate approximately 400,000 acres of wilderness in the Los Padres National Forest in California by establishing five new wilderness areas, to designate three wild and scenic rivers, and to designate five rivers to be studied for their wild and scenic river potential. 8

1H.R. 2556 was introduced by Representative Lagomarsino on June 5, 1991. Background

The Los Padres National Forest includes large blocks of roadless lands in Southern California's coastal range. Within these roadless lands are natural, scenic, recreational and wildlife resources that give these lands high value as potential wilderness areas and wild and scenic rivers. The potential wilderness areas contain deer, mountain lion, bear, bobcat, fox and bighorn sheep. They also include habitat for the near extinct California condor. The preservation of this habitat is considered critical to condor recovery efforts. The areas also include unique geological features such as Topatopa Mountain and Sespe Hot Springs and diverse vegetation spanning an ecological range from grasslands to chaparral to conifer forests. Trees include bigcone Douglas-firs, live oaks, sycamores, and California junipers. Unlike conifers in other parts of Southern California, many of which have been damaged by air pollution, the conifers of the Los Padres are particularly healthy and vigorous because of clean air blowing into the forest from the Pacific Ocean.

These potential wilderness areas also include outstanding recreational opportunities for solitude, hiking, horseback riding, trout fishing, swimming and camping. Cultural resources include ancient Chumash Indian villages. The potential wild and scenic rivers of the Los Padres National Forest are among the only free flowing streams left in southern California. They include dramatic gorges, deep pools and small waterfalls. Some of the streams contain rainbow trout and one of them, Sespe Creek, has an anadromous population of Pacific lamprey. Furthermore, Sespe Creek is one of the few streams in southern California with the potential for the reintroduction of an anadromous steelhead population.

Section-by-Section Analysis

Section 1 lists Congressional findings on the outstanding natural characteristics that the underdeveloped lands of the Los Padres National Forest have.

Section 2 designates seven wilderness areas or additions to wilderness areas in the Los Padres National Forest:

Paragraph (1) designates approximately 219,700 acres as the Sespe Wilderness. The Committee notes that the boundaries of this wilderness were drawn to exclude existing off highway vehicle and mountain bike trails on the north and west sides of the wilderness and to exclude an area of high oil and gas potential on the south side. The paragraph also requires the Secretary of Agriculture to name a specified trail the "Gene Marshall-Piedra Blanca National Recreation Trail". The Committee understands that Gene Marshall was a noted local conservationist who was a leader in developing the boundaries of the wilderness areas in this Act.

Paragraph (2) designates approximately 29,600 acres as the Matilija Wilderness. The Committee notes that the boundaries of this wilderness are the same as recommended by the Forest Service in its land and resource management plan for the Los Padres National Forest.

Paragraph (3) designates approximately 46,400 acres to be added to the San Rafael Wilderness. The Committee notes that these lands are commonly known as the La Brea addition.

Paragraph (4) designates approximately 14,100 acres as the Garcia Wilderness.

Paragraph (5) designates approximately 38,150 acres as the Chumash Wilderness. The Committee intends that the northern boundary of this wilderness excludes the Mount Pinus to Mount Abel bike trail. The Committee notes that the boundary excludes the West Fork of Dry Canyon off highway vehicle trail near the southwest boundary. The paragraph also designates 50 acres as potential wilderness. Known as the Toad Springs road corridor, this area will remain open to off-road vehicle traffic until and alternate off-road vehicle route is constructed. When this is completed the area shall become part of the Chumash Wilderness as soon as a notice is published in the Federal Register. The Committee intends that the Forest Service provide this alternate route by connecting the Hungry Valley State Vehicular Recreation Area to Ballinger Canyon along a route outside of any designated wilderness areas.

Paragraph (6) designates approximately 38,000 acres as additions to the Ventana Wilderness. The Committee notes that these additions are commonly known as Black Butte, Bear Mountain and Serra Peak.

Paragraph (7) designates approximately 14,500 acres as the Silver Peak Wilderness. The paragraph also names a specified area within the Silver Wilderness as the Nathaniel Owings Redwood Grove. The Committee understands that Nathaniel Owings was a local conservationist who was a leader in preserving the Big Sur coastline from development.

Section 3 contains five subsections on the administration of the wilderness lands designated by this Act.

Subsection (a) contains standard language directing the Secretary of Agriculture to administer the lands in accordance with The Wilderness Act.

Subsection (b) authorizes the Secretary of Agriculture to take whatever actions are necessary for fire prevention and watershed protection in the wilderness areas designated by the Act. The Committee recognizes that the difficulties facing fire managers in the Los Padres National Forest are unique and that special language is needed because of the dry, windy conditions and the highly inflammable fuels that are in close proximity to homes, developments and population centers. Similar language pertaining to wilderness areas in the Los Padres National Forest already is included in the Endangered American Wilderness Act of 1978 (P.L. 95-237). The Committee, however, does not intend that this type of language generally be used in bills designating wilderness areas in other national forests.

Subsection (c) deals with management activities to maintain or restore fish and wildlife populations and their habitats inside the wilderness areas designated by this bill as long as such activities are consistent with wilderness management plans and appropriate policies and guidelines such as the "Policies and Guidelines for Fish and Wildlife Management in National Forests and Bureau of Land Management Wilderness", dated August 25, 1986. The Committee does not believe this language is absolutely necessary, but has included it in order to remove any doubts about the effects of wilderness designation on such wildlife management activities. Clarity of this point in connection with this legislation is important because the bill involves areas that provide habitat for the California condor, which is so near extinction that only extraordinary measures wildlife management measures will enable the species to survive again in nature. The Committee has not routinely included language of this type in other bills that designate wilderness, but has done so on occasion (such as the Arizona Desert Wilderness Act, P.L. 101-628), when such clarification seemed desirable. The Committee stresses that this part of the bill does not establish new law or policies, but merely makes clear that the bill will not adversely affect activities that are consistent with the Endangered Species Act of 1973 and other current law regarding the management of fish and wildlife on federal lands.

Subsection (d) contains language found in most wilderness bills regarding buffer zones.

Subsection (e) has four paragraphs pertaining to water rights.

Paragraph (1) reserves water sufficient for the purposes of the Act for each wilderness area designated by the Act with a priority date of the date of enactment.

Paragraph (2) directs the Secretary of Agriculture and other federal officers to protect these water rights, including filing claims at appropriate stream adjudications.

Paragraph (3) states that this Act does not imply the relinquishment or reduction of any existing federal water rights.

Paragraph (4) states that the provisions in the Act pertaining to reserved federal water rights will not be construed as establishing a precedent for future designations or constitute an interpretation of any other Act or designations made thereto.

Section 4 contains language pertaining to the filing of maps and legal descriptions.

Section 5 amends the California Wilderness Act of 1984 to release lands in the Los Padres National Forest that are not designated as wilderness to non-wilderness uses until the next forest planning cycle. The Committee notes that language accomplishing the same result is found in most wilderness bills.

Section 6 amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate three new national wild and scenic rivers in the Los Padres National Forest: 31.5 miles of Sespe Creek (4 miles as scenic and 27.5 miles as wild), 33 miles of the Sisquoc River, and 19.5 miles of the Big Sur River from the headquarters of its two forks to the boundary of the Ventana Wilderness.

Section 7 amends section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) to designate portions of five rivers in the Los Padres National Forest to be studied for their potential to be added to the wild and scenic rivers system. These are segments of Piru Creek, the Little Sur River, Matilija Creek, Lopez Creek and Sespe Creek. As part of the Little Sur River study, the Secretary of Agriculture is directed to consult with the Big Sur Multiagency Advisory Council. Pyramid Lake and Lake Piru are excluded from the Piru Creek study. The committee notes that the Upper Sespe Creek study includes on that portion of Segment II not designated as wild and scenic by this bill and none of Segments I and III. Segments I, II and III are identified in the Los Padres National Forest Land and Resource Management Plan.

Section 8 has two subsections.

Subsection (a) prohibits mining and geothermal leasing in the California Coastal Zone, except for valid existing rights.

Subsection (b) states that subject to valid existing rights all mining claims within the area identified in subsection (a) will be subject to regulations that protect the resources of the area. The Secretary of agriculture is directed not to approve a plan of operation until the Secretary determines that the claim was valid before the area was withdrawn by this Act. It further states that patents issued after enactment will only convey rights to the minerals and to use the surface of the land for mining purposes.

Section 9 would allow the city of Pittsburg and Merced County, both in California, to use for additional public purposes certain lands each received from the United States that now can be used only for park and recreational purposes.

Pittsburg would be authorized to use up to 1.5 acres for a fire station or other public purpose and Merced County would be authorized to use 15 acres for an elementary school.

The Pittsburg provisions correspond to those in H.R. 2816, sponsored by Representative George Miller, on which the Subcommittee on National Parks and Public Lands held a hearing on August 1, 1991. The provisions related to Merced County were passed by both the House and the Senate in the 101st Congress, but as parts of different bills that were not finally acted on by both Houses so that these provisions died on the sine die adjournment of that Congress. Legislative History and Committee Recommendation

H.R. 2556 was introduced on June 5, 1991. The bill was similar to H.R. 1473 which passed the House of Representatives twice in the 101st Congress, but for which action was not completed on by the Senate. The Subcommittee held a hearing on H.R. 2556 on July 25, 1991 and on September 12, 1991 favorably reported the bill with amendments, to the Full Committee. On October 2, 1991, the Committee on Interior and Insular Affairs favorably reported the bill with additional amendments, to the House by a voice vote. Inflationary Impact Statement and Budget Act Compliance

Taken in context of the overall budget, the funding involved is insignificant and the Committee believes no inflationary impact will result from the enactment of this legislation. The analysis of the Congressional Budget Office follows:

U.S. Congress,  
Congressional Budget Office,  
Washington, DC, October 10, 1991.

Hon. George Miller,  
Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 2556, the Los Padres Condor Range and River Protection Act, as ordered reported by the House Committee on Interior and Insular Affairs on October 3, 1991. Assuming appropriations of the necessary funds, CBO estimates that implementation of this bill would cost the federal government about \$4 million over the next five years. Because H.R. 2556 would not affect direct spending or receipts, there would be no pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

H.R. 2556 would designate about 400,000 acres of land in the Los Padres National Forest in California as wilderness. Certain other lands in the forest would be released to nonwilderness uses. The bill also would add four segments of river in California, totaling about 84 miles, to the Wild and Scenic River System and would add another 5 river segments in the state, totaling about 110 miles, to the list of rivers to be studied for inclusion in the system. Finally H.R. 2556 would allow two local governments in California to use certain lands they received from the United States government for additional public purposes.

Based on information from the Forest Service, CBO estimates that additional study and planning costs for both the wilderness and wild and scenic river designations would total

about \$0.6 million over the next five years. Additional costs for trail and facility construction would total about \$0.6 million over the same period. Another \$1.0 million would be necessary after 1996 to complete planning and construction activities. Annual operation and maintenance costs in the Los Padres National Forest would increase by about \$0.5 million. We expect that provisions allowing local governments to use certain lands for additional public purposes would not affect the federal budget.

Enactment of H.R. 2556 would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,  
Robert D. Reischauer, Director. Oversight Statement

The Committee intends to carefully monitor the implementation of this legislation to assure compliance with the intent of the Act. No recommendations were submitted to the Committee pursuant to rule X, clause 2(b)(2). Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman): Section 111 of the California Wilderness Act of 1984

wilderness review concerns

Sec. 111. (a) \* \* \*

\* \* \* \* \*

(e) Certain National Forest System roadless lands in the State of California as identified in Executive Document Numbered 1504 Ninety-sixth Congress (House Document Numbered 96-119) and identified by name and number at the end of this subsection, shall remain as further planning areas for purposes of this title:

\$ 4 Wild and  
Scenic Rivers  
Act

\* \* \* \* \*

Sec. 3. (a)  
The following  
rivers and  
the land  
adjacent  
thereto are

hereby  
designated as  
components of  
the national wild  
and scenic rivers  
system:

(1) \* \* \*  
\* \* \* \* \* \*

( ) Sespe  
creek,  
california.  
The 4-mile  
segment of  
the main stem  
of the creek  
from its  
confluence  
with Rock  
Creek and  
Howard Creek  
downstream to  
its  
confluence  
with Trout  
Creek, to be  
administered  
by the  
Secretary of  
Agriculture  
as a scenic  
river; and  
the 27.5-mile  
segment of  
the main stem  
of the creek  
extending  
from its  
confluence  
with Trout  
Creek  
downstream to  
where it  
leaves  
section 26,  
township 5  
north, range

20 west, to  
be  
administered  
by the  
Secretary of  
Agriculture  
as a wild  
river.

( ) Sisquoc  
river,  
california.

The 33-mile  
segment of  
the main stem  
of the river  
extending  
from its  
origin  
downstream to  
the Los  
Padres Forest  
boundary, to  
be  
administered  
by the  
Secretary of  
Agriculture  
as a wild  
river.

( ) Big sur  
river,  
california.

The main  
stems of the  
South Fork  
and North  
Fork of the  
Big Sur River  
from their  
headwaters to  
their  
confluence  
and the main  
stem of the  
river from  
the

confluence  
of the South and  
North Forks  
downstream to  
the boundary  
of the  
Ventana  
Wilderness in  
Los Padres  
National  
Forest, for a  
total  
distance of  
approximately  
19.5 miles,  
to be  
administered  
by the  
Secretary of  
Agriculture  
as a wild  
river.

\* \* \* \* \*

Sec. 5. (a)  
The following  
rivers are  
hereby  
designated  
for potential  
addition to  
the national  
wild and  
scenic rivers  
system:

(1) \* \* \*

\* \* \* \* \*

( ) Piru  
creek,  
california.  
The segment  
of the main  
stem of the  
creek from  
its source  
downstream to  
the maximum

pool of  
Pyramid Lake  
and the  
segment of  
the main stem  
of the creek  
beginning 300  
feet below  
the dam at  
Pyramid Lake  
downstream to  
the maximum pool  
at Lake Piru, for a  
total  
distance of  
approximately  
49 miles.

( ) Little  
sur river,  
california.

The segment  
of the main  
stem of the  
river from  
its  
headwaters  
downstream to  
the Pacific  
Ocean, a  
distance of  
approximately  
23 miles. The  
Secretary of  
Agriculture  
shall consult  
with the Big Sur  
Multiagency  
Advisory  
Council  
during the  
study of the  
river.

( ) Matilija  
creek,  
california.

The segment

from its  
headwaters to  
its junction  
with Murietta  
Canyon, a  
distance of  
approximately  
16 miles.

( ) Lopez  
creek,  
california.

The segments  
from its  
headwaters to  
Lopez  
Reservoir, a  
distance of  
approximately  
11 miles.

( ) Sespe  
creek,  
california.

The segment  
from Chorro  
Grande Canyon  
downstream to  
its  
confluence  
with Rock  
Creek and  
Howard Creek,  
a distance  
of about 10.5  
miles.

\* \* \* \* \*