

Open Letter to Congressman Sam Farr
from the
Coast Property Owners Association
on the
Big Sur Management Unit Act
2/10/2011

Dear Congressman Farr,

CPOA's bylaws state that the organization's purpose "shall be to protect and defend the rural and residential character, and to preserve the natural and esthetic beauty of the Big Sur coast; to provide for the health, safety, and welfare of the Big Sur Community; to encourage community service and otherwise act in the interests of the residents and property owners of the community."

CPOA is committed to a collaborative approach towards responsible land stewardship. CPOA believes that an effective partnership between private and public property owners is essential for a healthy and sustainable community.

This is the Mission of CPOA.

Congressman Farr, CPOA would like to support the reintroduction of the Big Sur Management Unit Act. However, after carefully considering the bill as it read when introduced during the last session of Congress, and the proposed amended version, CPOA's board believes substantial changes are required.

CPOA is concerned about issues related to the long-term sustainability of our community. Some of these problems have been caused by previous federal legislation. For example, ongoing acquisition of land by the US Forest Service, and expansions of wilderness that have interfered with maintenance and use of firebreaks. Should the bill be written to solve these and other critical community issues, we believe it could be of great benefit to all of Big Sur.

We have prepared a list of issues and proposed solutions that we hope you will include in the bill before it is introduced in this session of Congress (attached).

We would greatly appreciate an opportunity to work with you or your office on the specific wording of the bill.

**Changes Proposed to the Big Sur Management Unit Act
by the Coast Property Owners Association (CPOA)**

1/31/11

Background for the proposed changes:

In the 1980s, the Big Sur Coast Land Use Plan (LUP) was adopted, dramatically downzoning all of Big Sur. As a result, in areas west of Highway 1 the minimum parcel size for subdivisions is 40 acres. East of Highway 1 the minimum parcel size is based on slope, with most land having a minimum parcel size of 320 acres, and the smallest parcel possible by subdivision (on essentially flat land) is 40 acres. A coastal commission staff person has estimated there is potential for about 12 new parcels to be created by subdivision in the 234 square mile Big Sur coastal planning area.

The LUP also contains a critical viewshed policy, which effectively precludes development visible from Highway 1 for most areas where the highway passes through Big Sur.

The LUP's minimum parcel sizes and critical viewshed policy were calculated so that at total buildout, with all potential subdivisions completed and every parcel using the maximum development allowed, the rural and scenic character of the Big Sur area would be retained.

These policies remain in place and continue to accomplish their intended purpose. Big Sur is not threatened with overdevelopment.

However, new threats have arisen in Big Sur since the LUP was written.

- Conservation groups have made millions of dollars by buying private land and reselling it to public agencies, including the US Forest Service. About 1/3 of the roughly 60,000 acres of private land that existed when the LUP was adopted in 1984, or about 20,000 acres, has been acquired by various agencies. Many in Big Sur are concerned about the community's long-term survival if the acquisitions continue.
- While there is money for agencies to acquire land, there seems to be little money for agencies to properly care for land once acquired. For example, some have criticized the loss of old growth Redwoods on public lands during the Basin Fire as being due to poor management of public land.
- Related to the shortage of money to maintain public lands, several years ago the Forest Service advertised commercial uses for the 1,200 acre Brazil Ranch, which it acquired in 2002. [One brochure](#) described the ranch as a place for such events as "corporate retreats, film location, weddings and family reunions." The concept was to make the ranch a commercial enterprise to make money to help pay for maintenance. Local businesses expressed concern about unfair competition by the Forest Service, funded with their tax dollars, and commercial use of the Brazil Ranch was not consistent with local planning policies. The Forest Service has apparently stopped

commercializing the ranch, but concern continues over this kind of competition with local businesses in the future.

- There is a shortage of affordable workforce housing for people who work in Big Sur. The rising cost of land has contributed to this problem. Government agencies now own about 75 percent of the land in Big Sur. If government land were made available for low cost housing the situation might improve.
- Wilderness advocates have lobbied to expand wilderness close to and over critical firebreaks, hindering them from being maintained before fires, and from being used during fires, threatening Big Sur and other communities with being burned out when wildfires inevitably start.

These are current threats to the long term well being of the Big Sur area and its communities.

CPOA requests that the Big Sur Management Unit Act be changed to address these threats by including the following provisions in the act.

Changes Proposed by CPOA:

1. Provide that existing land acquisition authority for the Forest Service is withdrawn from the Big Sur Management Unit, except for acquisition of inholdings from willing sellers within the boundary of the management unit.

While researching the significance of designation of the Monterey Ranger District as a Forest Service management unit, we came across documentation of land acquisition abuses by the Forest Service's Lake Tahoe Basin Management Unit (LTBMU).

An audit report by the USDA Inspector General states that the LTBMU acquired land that it was not authorized to acquire, did not properly manage lands after acquiring them, and paid more than market value for land. The report states that the LTBMU has acquired 3,494 parcels of land (over three times the number of parcels remaining in Big Sur). (Report attached.) You can read the report at www.usda.gov/oig/webdocs/08003-5-SF.PDF

It appears that in Big Sur the Forest Service has already abused existing authority when acquiring land outside the Los Padres National Forest.

For example, the Forest Service has established and expanded "purchase units" in Big Sur. Purchase units are a concept from the Act of March 1, 1911 (also known as the Weeks Law of 1911). Forest Service purchase unit notices [in the Federal Register](#) state, "These lands are well suited for watershed protection and meet the requirements of the Act of March 1, 1911, as amended."

However, the Act of March 1, 1911 only authorizes acquisitions in watersheds of navigable waterways (section 6 in the act, [16 USC 515](#)). The Forest Service has established purchase units in watersheds in Big Sur that do not contain navigable waterways and has acquired land in these areas, exceeding its authority to acquire land.

Without clearly stating that existing acquisition authority is withdrawn, it appears that establishment of a management unit could accelerate improper acquisitions of private land by the Forest Service in Big Sur.

Withdrawal of existing acquisition authority would not prevent Congress from authorizing appropriate acquisitions should there be a legitimate need, and should stop the Forest Service from abusing existing authority.

2. Provide that any person or entity has standing to challenge an unauthorized acquisition of land by the Big Sur Management Unit, and that the person or entity will be entitled to attorney's fees and a portion of the money being misspent if they prevail in court (similar to the awards provided in whistleblower statutes).

Given the importance of the acquisition issue to the Big Sur community, and given that the Forest Service may continue to acquire land regardless of its authority to do so, it is important that the people of Big Sur be empowered to challenge extralegal acquisitions by the Forest Service in court. Without standing and the ability to recover attorney's fees, there is no way to stop the Forest Service should it continue with unauthorized acquisitions. Awards of attorney fees and a portion of the money that was or would have been misspent, similar to the provisions of the False Claims Act ([Title 31 USC 3730\(d\)](#)), is appropriate to encourage people to take action to prevent misuse of federal funds for unauthorized acquisitions.

3. Clarify that limits in the Land and Water Conservation Fund Act on acquisitions outside national forests are not changed by the Big Sur Management Unit Act.

CPOA appreciates the boundary adjustments in the Big Sur Management Unit Act that remove private lands from within the Los Padres National Forest, and the willingness to include language in the bill that will avoid changing limits on acquisitions in the Land and Water Conservation Fund Act. The language in the amended HR 4040 (dated May 26, 2010) comes close to doing this. However, the "or" between paragraphs (1) and (2) in section 102(d) needs to be deleted to clarify that each of the boundaries apply during the time periods stated.

4. Clarify that, except for assisting with public safety measures such as reduction of wildfire fuels and flood control, land management duties of the Forest Service apply only to Forest Service land inside the boundary of the Big Sur Management Unit.

Existing copies of the bill are not clear that the Forest Service is limited to managing Forest Service lands. The introduction to the amended bill sounds as if the Forest Service's role is to manage all of Big Sur, including private land. The point is to avoid what sounds like justification for additional acquisitions of private land outside the management unit. Leaving the Forest Service free to assist with wildfire fuel reduction and flood control would benefit the community and the visiting public.

5. Provide that the benefits of the Healthy Forest Restoration Act of 2003 apply to all lands in the Big Sur Management Unit that were not included in wilderness when the Ventana Wilderness was established in 1969 (including performance of Authorized Hazardous Fuel Reduction Projects with motorized equipment to maintain fuelbreaks, reduced NEPA review for the projects, and limitations on lawsuits seeking to stop the fuel reduction work).

When the Ventana Wilderness was created its boundaries were intentionally set to avoid interfering with the use of motorized equipment to maintain and use fuelbreaks around most of the Monterey Ranger District of the Los Padres National Forest.

However, since it was established, the Ventana Wilderness has been expanded four times, from 98,000 acres in 1969 to its current 237,000 acres, and the Silver Peak Wilderness was added and expanded as well. It appears there was no concern for the ability to maintain and use firebreaks when expanding wilderness. Indeed, it appears the intent of some wilderness expansions was to block fuel reduction work on and along escape routes and firebreaks.

Depending upon topography and other conditions, fuel treatments can be needed for up to 1,000 feet from firebreaks for them to be safely defended and effective during a wildfire. In 2001, the Forest Service was preparing for a number of projects it called the Monterey Defensible Fuel Profile Zone, which was going to reduce fuel for up to 1,000 feet from both sides of escape routes and firebreaks (see the attached Monterey Defensible Fuel Profile Zone letter).

However, most of the Monterey Defensible Fuel Profile Zone projects were blocked in 2002 when legislation expanded wilderness to within 30 to 100 feet of escape routes and firebreaks. In at least one case (the Little Sur wilderness addition) wilderness was expanded over a critical firebreak.

The bill's provision for a boundary adjustment to the 2002 Little Sur wilderness addition is a move in the right direction, but not adequate. The historic firebreak is located on the ridge top, where it can be effective. However, the map referenced in the bill is not clear that the adjustment will exclude the historic firebreak from wilderness. Moreover, the size of the adjustment (14 acres) does not appear to include sufficient land to allow an adequate distance for fuel work to make the firebreak defensible or effective. There are also other areas where wilderness boundaries need to be moved to correct the problems created by prior wilderness expansions near firebreaks and escape routes.

In reality, the bill should go further than CPOA requests. A 12-mile section of the peripheral firebreak around the Los Padres in Monterey County, which has historically protected Carmel Valley and Cachagua from wildfires originating in the forest, was included in wilderness when the Ventana Wilderness was created in 1969. At the time, it was contemplated that that portion would be maintained with hand tools. However, the maintenance has apparently not happened. The benefits of the Healthy Forests Restoration Act should also be applied to the portion of the firebreak that protects Carmel Valley and Cachagua.

6. Provide that authority to use heavy equipment and other motorized equipment to open firebreaks in the event of wildfire, including in wilderness, resides with the Big Sur Management Unit, and that heavy equipment and other motorized equipment may be authorized for use anywhere within the Management Unit upon the start of wildfire in the management unit or nearby outside it.

We now know that delays obtaining permission to use heavy equipment to open firebreaks during the Basin Fire were at the Forest Supervisor level, apparently due to a belief that it was not adequate to authorize heavy equipment in wilderness merely to stop a wildfire.

Moreover, authorization of heavy equipment use was piecemealed out even after it was granted. That is, permission was only granted for heavy equipment use in certain areas of wilderness, and denied in others until the fire came closer.

These delays threatened lives and homes. Due to delays obtaining permission to use heavy equipment, the fire crossed over the historic firebreak and into the lower Little Sur River watershed, threatening to burn out the Palo Colorado, Bixby, Rocky Creek and Garrapata communities.

It appears that Forest Service officials were concerned about being criticized, or sued, for authorizing use of heavy equipment in wilderness without sufficient justification. Clear statutory authorization for use of heavy equipment without delay upon the start of a wildfire would help Forest Service officials feel more comfortable about authorizing the use, and would help avoid delays.

7. Provide authorization to the Big Sur Management Unit to sell, lease, or donate land for workforce housing sites.

Public agencies, including the Forest Service, now own about 75 percent of the land in Big Sur. The limited amount of private land in the area contributes to the high cost of land and the shortage of land for construction of workforce housing. Many who work in Big Sur travel from the Salinas Valley, Marina, or other areas. Making more land available would help in solving the problem.

8. Clarify that the Brazil Ranch will not compete with local visitor-serving businesses, and will comply with all applicable laws (not just the Coastal Zone Management Act).

The Brazil Ranch language in the amended bill is greatly improved over the bill as introduced. However, the language could still be construed as authorizing the Brazil Ranch to compete with Big Sur's visitor-serving businesses, which it could do to a limited degree under the existing coastal plan. It would help to change the language to specify the revenue-generating uses that are authorized, such as leasing the ranch for cattle grazing. The bill should also be clearer that the Forest Service will comply with all applicable laws (e.g., in section 103(a)(2) of the amended bill, "...shall comply with ~~the laws~~ all applicable ~~laws to the Los Padres National Forest~~, including but not limited to the Coastal Zone Management Act of ...")

9. CPOA requests a definition for the term "Wildland Urban Interface Special Study Area," and an opportunity to comment, before the bill is in final form for introduction in Congress.

CPOA cannot comment on this undefined term without knowing what it means. A search for the term in Google returns nothing but H.R. 4040. CPOA requests that the bill not be introduced in Congress until after the term has been defined and the public has an opportunity to propose changes.

10. Make the map referenced in section 201(b) of the amended bill available to the public before the bill is introduced in Congress, and include parcel lines on the map.

The public cannot have a meaningful opportunity to evaluate the proposed wilderness adjustments without adequate large scale maps available before the bill is introduced. Parcel lines will help those viewing the map determine where the management unit boundaries are proposed.

Other wilderness legislation for the Monterey Ranger District has provided that maps will be produced for wilderness adjustments after the legislation becomes law, yet, apparently, no official maps have been produced for any wilderness area in the Monterey Ranger District.



United States
Department of
Agriculture

Forest
Service

Los Padres
National
Forest

Monterey Ranger District
406 S. Mildred
King City, CA 93930
(831) 385-5434

File Code: 1950

Date: August 13, 2001

Dear Interested Party:

The Monterey Ranger District of the Los Padres National Forest is proposing to implement a defensible fuel profile zone (DFPZ) project (**Monterey DFPZ Project**) on National Forest system lands. Forest Service personnel are preparing to conduct an analysis of the proposed project area within the boundary of the Monterey Ranger District on selected lands outside the Ventana and Silver Peak Wilderness areas. Please see the enclosed map for a general location of the proposed project.

The purpose of this letter is to invite you to participate in the analysis process by providing your comments and any concerns you may have about this proposed project. To encourage your informed participation in this planning process, this letter includes a description of the proposed action and the purpose and need for action.

PROPOSED ACTION

Trained specialists with the Forest Service are planning to apply fuels reduction treatments to establish defensible fuel profile zones (DFPZs) within ten identified units that cover a total of approximately 18,760 acres. Primary focuses for this project are travel corridors (roads and trails), campgrounds, National Forest System Lands adjacent to private property, administrative sites, and existing firelines. Treatments used to establish DFPZs include:

- Pruning, clearing and chipping hazardous fuels;
- Burning of fuels using broadcast and spot burning methods;
- Establishment of shaded areas by planting native tree species; and
- Managing for native grasses.

Implementation would begin in the fall of 2001 and continue over the next ten years. Individual areas would be prioritized for burning to achieve desired results. Burning would be applied when moisture and air quality conditions meet prescription criteria. Prescription criteria are most likely to be met after fall season rains when moisture levels would limit fire severity and still be low enough to achieve desired levels of fuel consumption.

In general, fuel profiles would be changed to:

- Break-up horizontal and vertical continuity;
- Reduce fire prone live fuels by managing for: younger vegetation, native grasses, and trees;
- Reduce quantity of dead fuels; and
- Use Forest Service facilities (campgrounds and administrative sites) to create models of defensible space.



Defensible Space

DFPZs would be created on either side of roads, and around administrative and special use facilities to serve as safety zones, pre-attack zones, and escape routes during fire situations. A variable width buffer not to exceed 1,000 feet on each side of the road would be created by removing dead fuels, pruning live brush and trees, planting native trees, and managing for native grasses where appropriate. Treatments would vary depending on position on slope, soils conditions for plant establishment and growth, and aspect.

Fuels around campgrounds would be managed so they could serve as safety zones in the event of fire. A 1,000-foot buffer would be created by removing dead fuels, pruning live brush and trees, and managing for native grasses where appropriate. Measures would be taken to ensure that unlawful access to open areas is controlled around campgrounds.

Native grasses would be managed by burning and seeding where appropriate. This would be implemented in small (15 to 20 acre) areas over time in coordination with a qualified botanist. Natural seeding would be encouraged whenever possible. Where prescribed fire and/or reestablishment of native grasses are proposed, maintenance burning would be implemented about every seven years.

Shaded DFPZs would be established by planting native tree species. Species mix for tree planting would be based on types of trees found presently or historically in the vicinity. Species to be considered would be: ponderosa pine, incense-cedar, sugar pine, Santa Lucia fir, and madrone. Any seeding or planting that occurs would be done using locally collected seed.

The Forest Service would work with State and County Fire Departments in a cooperative effort to create safety zones around private homes and facilities.

Treatment Units

The following table describes proposed actions by treatment unit.

UNIT	ACRES	PROPOSED ACTION
Arroyo	1,630	Establish variable width DFPZs up to 1,000 feet on each side of road. Apply prescribed fire at regular intervals and reestablish native grasses around the Horse Bridge/Santa Lucia Creek area. Establish variable width DFPZs along trails outside of wilderness.
Carmel	165	Prescribed fire would be applied to provide buffering between the wilderness and private property.
Cone	2,605	Establish variable width DFPZs up to 1,000 feet on each side of road. Plant trees to develop shaded DFPZs as part of roadside corridor where appropriate.
Manuel	400	Manage dozer lines and safety zones to favor native grasses. Fuels profiles would be managed so line could be used without repeated dozer entry. At specific locations where conditions are favorable, reestablish native grasses and/or plant trees to create a shaded DFPZ over ¼ mile segments.
Park	2,630	Create and maintain 1,000-foot DFPZs around campgrounds. Use prescribed fire to discourage the spread of noxious weeds.
Piney	1,710	Burn on a regular basis in the winter after the road has been closed.

UNIT	ACRES	PROPOSED ACTION
Reliz	5,160	Continue on-going coordination with property owners to apply prescribed fire across ownership boundaries.
Ridge	1,975	Manage segments of existing dozer line for native grasses and shaded DFPZ. Establish a variable width DFPZ up to 1,000 feet on each side of road.
Skinner	700	Manage existing dozer line and safety zones as a long-term strategic facility. This would be achieved by treating small patches over time. Treatments include discouraging growth of non-native grasses through periodic burning, brush cutting, and reintroduction of native grasses.
Tassajara	1,785	Create variable width DFPZs up to 1,000 feet wide each side of road outside the wilderness area using a mix of the following methods: <ul style="list-style-type: none"> • Up to 100 acre prescribed fire projects, thinning, and brush piling; • Create a variable width road corridor with reduced amounts of large fuel by offering fuelwood sales for areas within 300 feet of the road; and • Manage for native grasses through periodic burning and seeding small areas where appropriate.

PURPOSE AND NEED FOR ACTION

The purpose of this project is to meet the following objectives:

- Protect highly valuable real estate within and adjacent to the National Forest boundary;
- Protect watershed values in the Carmel and Arroyo Seco watersheds;
- Reduce risk to private property;
- Reduce potential for damage to resources by reducing potential for high intensity fires;
- Implement small, strategically located projects that can provide anchor points, pre-attack zones, and areas of reduced intensity during unplanned fire events;
- Create corridors and safety zones around public use facilities such as roads, campgrounds, and special use permit sites;
- Provide evacuation routes to forest users and residents in the event of wildfire;
- Lower risk of fire ignition, reduce intensity once ignition occurs, and break-up continuity to inhibit and slow spread of wildfires;
- Limit the intensity of unplanned fires at strategic locations;
- Protect historic structures;
- Reduce risk of establishment and spread of noxious weeds; and
- Reduce risk of large fires by managing for younger vegetation and broken continuity.

COMMENTS

The proposed action will be fully analyzed prior to any decision on final project design. For this project to result in the best possible outcome for people and the environment please send us any issues, concerns, suggestions or information you may have relating to this proposal. Opinions and values will be noted, but the intent of the process is not to serve as a public opinion poll.

Purpose of This Letter:
To identify the range of issues and determine their significance.

An issue is:
A point of discussion, dispute or debate about the environmental effects.

Issues are Used:
To focus the analysis and determine if any alternatives to the proposed action need to be developed.

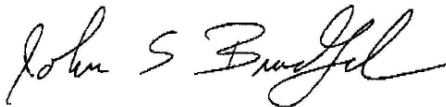
The Los Padres National Forest has hired Forest Service Environmental Assessment specialists located in Happy Camp, California to work closely with the local specialists, guiding the analysis and preparing the decision document. If you would like additional information please contact one of the following people:

Names	Address	Phone	Fax	email
Annie Buma	c/o Happy Camp Ranger District	530-493-1725	530-493-1775	abuma@fs.fed.us
Judy Hahn	P.O. Box 377	530-493-1721		jhahn@fs.fed.us
Fran Smith	Happy Camp, CA 96039	530-493-1788		fsmith@fs.fed.us

Please send any issues or written comments to one of the individuals listed above at the indicated address by August 24, 2001. Comments are a matter of public record and as such may be provided to interested parties upon request.

Thank you for your participation in this process.

Sincerely,



JOHN S. BRADFORD
Acting District Ranger

encl.