



WILDERNESS WATCH

Keeping Wilderness Wild

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Superintendent
Sequoia and Kings Canyon National Parks
Attn: Board Camp Restoration Project
47050 Generals Highway
Three Rivers, CA 93271

Sent VIA US Mail and the internet

These are comments from Wilderness Watch and Sequoia ForestKeeper regarding the Board Camp Grove helicopter-planting proposal in the John Krebs Wilderness. Wilderness Watch is a national nonprofit wilderness conservation organization dedicated to the protection and proper stewardship of the National Wilderness Preservation System. Sequoia ForestKeeper is a local nonprofit forest conservation organization whose mission is to protect and restore the ecosystems of the Southern Sierra Nevada. We oppose the proposal for the reasons explained below.

Introduction

*With regard to areas of wilderness we should be guardians not gardeners.
--Howard Zahniser, 1963, author of the Wilderness Act.*

Aside from the trammeling aspect of this proposal, we also object to the use of motorized equipment. We address these issues in more detail in the following sections.

It should also be brought to the attention of the National Park Service (NPS) that it is wrong to state, "The Castle Fire burned through 22 sequoia groves in 2020, including 12 on NPS property." While this is a common mistake that many of us make, the NPS or Park Service does not own property. National Parks are owned by all citizens of the United States. Such a misplaced sense of ownership may affect the way the agency approaches its obligations under the Wilderness Act.

We also question the gathering of cones/seeds from the project area prior to this scoping notice. It was a cumulative and connected action and should have been analyzed prior to doing so. As such, it has biased the NEPA analysis, which is supposed to provide for an objective analysis of alternatives. While few details are provided, the seed and cone gathering venture in Wilderness does raise another serious question: Did the collection of cones or seeds prevent greater natural seedling establishment in the area?

In addition, because the proposed action could set a precedent for future similar planting and ecological manipulation actions in Wilderness, it is significant, to comply with NEPA, the Park Service must fully analyze its proposal in an Environmental Impact Statement.

Wilderness Background

The project would allow a level of manipulation and trammeling of the John Krebs Wilderness not permitted by the 1964 Wilderness Act. Any supposed future wilderness benefits are speculative and equivocal.

Howard Zahniser, drafter of the Wilderness Act, stated that “[a] wilderness is an area where the earth and its community of life are untrammled by man. (Untrammled – not untrampled – untrammled, meaning free, unbound, unhampered, unchecked, having the freedom of the wilderness.)” While the National Park Service (NPS) is rationalizing ecological intervention based on supposedly uncharacteristic fire other human-induced changes, “[t]hese threats do not justify further interventions into the natural processes within wilderness areas. These projects, whose purposes are to restore (or redirect) natural processes through the exercise of human agency, are precisely the intrusions of human culture that the Wilderness Act meant to exclude from these special places.” See Kammer 2013.

The fundamental tenet of wilderness stewardship was reiterated in a program review initiated by the four federal agencies and conducted by the Pinchot Institute for Conservation in 2001. The purpose of the study was to examine the critical management issues facing Wilderness. One of the eight “fundamental principles” for stewardship emphasized the need to preserve the wildness in Wilderness. As the Pinchot report stated, “Protection of the natural wild, where nature is not controlled, is critical in ensuring that a place is wilderness.... Since wild is a fundamental characteristic of wilderness that is not attainable elsewhere, if there is a choice between emphasizing naturalness and wildness, stewards should err on the side of wildness.”¹

The NPS’s attempts to resist natural processes and change through active manipulation of the wilderness are not only at odds with the Wilderness Act, but the Park Service’s own management guidance. Vegetation changes, fire interval and intensity, and wildlife disturbance attributable to a changing climate cannot logically represent degradation of wilderness character. And there is nothing in the enabling legislation of Sequoia National Park that would allow the Park Service’s to override the strictures in the Wilderness Act or the act that designated the John Krebs Wilderness. And, in fact, the legislation that created the John Krebs Wilderness provides no exceptions that would allow the types of activities proposed here. See [Pub. L. 111–11, title I, § 1902\(1\)](#), Mar. 30, 2009, [123 Stat. 1068](#); 16 U.S.C. 1132 note (providing only exceptions to repair small check dams and associated helicopter use, but no exceptions for ecological manipulation through planting or helicopter use for such activities).

The terms “natural conditions” and “untrammled” are complimentary (and not to be conflated), and thus the Wilderness Act isn’t internally inconsistent, as the scoping letter seems to imply in the first sentence under Purpose and Need. The canons of statutory construction dictate that natural conditions be in harmony with wildness (untrammled). *United States v. Powell*, 6 F.3d 611, 614 (9th Cir. 1993) (“It is a basic rule of statutory construction that one provision should not be interpreted in a way which is internally contradictory or that renders other provisions of the same statute inconsistent or meaningless”); see also *Wilderness Society v. U.S. Fish Wildlife*, 353 F.3d 1051, 1060 (9th Cir. 2003) (“a fundamental canon that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme”) (internal citations omitted); *Kmart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) (“In ascertaining the plain meaning of [a] statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole.”); *United States v. Lewis*, 67 F.3d 225, 228-29 (9th Cir. 1995) (“Particular phrases must be construed in light of the overall purpose and structure of the whole statutory scheme.”). Thus, what is natural for the area necessarily flows from what is untrammled, especially since the Wilderness Act refers to natural

¹In any case, “naturalness” does not appear in the Wilderness Act. It is natural conditions.

conditions. Otherwise, the default position will always be to trammel Wilderness to comport with a land manager's notion of what is natural, even though various complicated factors—many of which we do not fully understand and cannot control—are always necessarily at play in shifting natural conditions. Wilderness is “in contrast” to areas where our actions and decisions dominate the landscape. Nature should roll the dice in Wilderness, not managers, even if the managers believe the dice are loaded.

While the Park Service may have its own subjective (and we believe inaccurate) image of what a giant sequoia grove should look like, such a view is the antithesis of the purpose of Wilderness. NPS' superficial maintenance of a static forest scene is best suited to front country locations, such as the General Sherman area (or Disneyland) where it treats those trees as if they are statues instead of living things that are part of an ecosystem. Such a view can NOT be allowed in our nation's Wildernesses.

The idea that we can manipulate Wilderness to what we think it ought to be has a relatively recent history and originates, at least in part, from efforts to establish a monitoring protocol for wilderness character. The three points below address how this protocol has been misused in some detail.

1. *The Origins and Consequences of Defining Wilderness Character through Fragmenting The Eloquent Whole of the Wilderness Act*

Landres, the lead scientist from the Aldo Leopold Institute who came up with wilderness character monitoring, and other agency wilderness employees identified what they considered the various attributes of wilderness character by dissecting the Wilderness Act. It was an exercise in reductionism. From our communications with Landres, the main purpose behind this exercise was to be able to objectively monitor changes in wilderness character in the National Wilderness Preservation System. Hence, the protocol titled *Keeping it Wild* and *Keeping it Wild 2*. While this process to define wilderness character was undoubtedly a well-intended effort, as time has passed, it is clear it has serious negative unintended consequences for Wilderness. Other wilderness specialists and researchers recognize these failings in their pointed critique (see Cole et al. 2015). A prime example of a negative consequence is the erroneous idea that managers could trade off various components of wilderness character against each other, thereby reducing the Wilderness Act into a procedural process via a Minimum Requirements Decision Guide (MRDG), rather than a substantive law. This management mindset, which effectively repeals and rewrites the Wilderness Act, is a recent development. It is doubtful even those agency wilderness specialists who defined wilderness character in a reductionist manner would concur with this approach. That leads to the second point below.

2. *The Monitoring Protocol Itself Does Not Offer Support for the Manipulation Proposed for the John Krebs Wilderness*

In *Keeping It Wild 2: An Updated Interagency Strategy to Monitor Trends in Wilderness Character Across the National Wilderness Preservation System*, Landres et al. 2015. RMRS-GTR-340² has this to say about untrammelled:

To preserve the Untrammelled Quality of wilderness, managers need to exercise restraint when authorizing actions that manipulate any aspect of the wilderness—in general actions that trammel should be avoided as an essential principle of wilderness stewardship unless it can be shown that these actions are necessary to preserve wilderness

² Again we have serious concerns with this protocol, see attached critique (Cole et al. 2015). Nonetheless, it does recognize that trammeling negatively affects Wilderness. Our comments expand upon this concern.

character as a whole (Kaye 2014).

Landres et al. 2015 at 34. It is hard to conceive of trammeling actions that would be necessary for this purpose. The Strategy cited above and its associated *Monitoring Selected Conditions Related to Wilderness Character: A National Framework*. Landres, et al. 2005. RMRS-GTR-151 cite two of the preeminent wilderness researchers from the federal agencies in describing how the untrammeled quality of Wilderness affects management. Cole (2000) in *Framework* states that untrammeled “suggests more about the *process* of management than it does about the *outcomes* of management.” (Emphasis added). The *Strategy* paper states,

Lucas (1973, p. 151) stated, “If ecological processes operate essentially uncontrolled within the Wilderness frame of reference, the results, whatever they might be, are desirable by definition. The object is not to stop change, nor to recreate conditions as of some arbitrary historical date, nor to strive for favorable change in big game populations or in scenic vistas. The object is to let nature ‘roll the dice’ and accept the results with interest and scientific curiosity.”

Landres et al. 2015 at 33. The proposed actions in the John Krebs Wilderness are not consistent with this guidance.

With that as background, we now address the issues of trammeling Wilderness via planting and of motorized use.

Trammeling Wilderness by Planting

The proposal to plant 24,000, 36,000, or 48,000 sequoia seedlings³ is trammeling at its worst, violating the idea that wilderness administrators need to be guardians not gardeners. This action strikes at the very heart of wilderness as untrammeled or self-willed.

Overt trammeling, regardless of the scale, harms wilderness character. Character includes both tangible and intangible qualities. It is more than merely the biological resources. Wilderness character is about allowing natural processes to operate. Indeed, NPS policy recognizes, “fires resulting from natural ignitions are considered a natural process that contributes to ecosystem function and is necessary to maintain wilderness in an unimpaired condition.” (NPS Directors Order 41 at 10) The question needs to be asked where in the Wilderness Act is planting or gardening valued above the untrammeled nature or process of wilderness?

To our knowledge, extensive planting in response to a natural event in the Wilderness like this has never been done before. As such, it is precedential. The obvious question is why can't this gardening be done outside of Wilderness in other groves that burned?

Further, the scoping letter indicates that nearly 100 seedlings per acre of sequoias are naturally regenerating in what was a mixed conifer stand. While it may be less than what the NPS desires, a natural process that is taking place and sequoias are coming back on their own. Natural reforestation is taking place and will continue taking place if left alone. This presents a perfect opportunity for the Park

³ The scope of the planting proposal in the scoping letter is inconsistent. The scoping letter says “[t]he purpose of this project is to attempt to establish sequoia seedlings over a 2-5 year period” on page 1, yet the plan is to “plant 12,000 sequoia seedlings annually for 1-3 years” at the top of page 2, but yet later on page 2 we are told the planting would occur over two years and result in 24,000 seedlings. Is it 48,000 (2-5 years), 36,000 (1-3 years), or 24,000 (2 years) that are proposed to be planted?

Service to study natural regeneration in an area burned by a high intensity fire.

There is no need for this project to occur in Wilderness because it is not the minimum necessary for the preservation of the area as Wilderness.

Motorized Equipment

The use of helicopters in the Wilderness to plant seedlings is a violation of the Wilderness Act. Helicopter intrusions in the Wilderness are prohibited under the Wilderness Act “except as necessary to meet minimum requirements for the administration of the area” as wilderness. 16 U.S.C. § 1133(c); *see also* 36 C.F.R. § 261.18(c) In Idaho, the Idaho Federal District Court noted “Helicopters carry ‘man and his works’ and so are antithetical to a wilderness experience. It would be a rare case where machinery as intrusive as a helicopter could pass the test of being ‘necessary to meet minimum requirements for the administration of the area.’” *Wolf Recovery Foundation v. U.S. Forest Service*, 692 F. Supp. 2d 1264, 1268 (D. Idaho 2010). The impacts in this case would be in addition to helicopter use for many reasons, and in SEKI, there are many times helicopters are deployed.⁴

The scoping letter does not provide much information about helicopter or other motorized use. There is no mention of how many helicopter landings would take place. We are told that there would be a drop zone requiring felling of snags. We assume that would be done via motorized means since the NPS routinely, in direct contradiction to the Wilderness Act, uses chainsaws to clear trails in Wilderness. Would crews be helicoptered in or would they walk? If crews would walk, why couldn't seedlings and other equipment be brought in too by foot or horseback from the South Fork campground to a drop-off point closer to the site? If the planting were necessary, which it isn't, there is no justification for helicopter use.

Compliance with the National Environmental Policy Act (NEPA)

The Park Service's Webinar made clear that this project is just step one. The full scope of its plans includes many future entries and future planting in that same grove, including the planting of other conifer species and hardwoods. Thus, the project is much larger and more invasive than the Park describes in its scoping letter.

Moreover, NPS's proposal to plant in Wilderness is unprecedented. Therefore, the action would set a

⁴ For example, *Sequoia and Kings Canyon National Parks Wilderness Stewardship Plan/FEIS* states on pages 301 and 302, “Motorized transport and mechanized equipment is used regularly by the NPS to administer the parks' wilderness. ... On average, there are 288 hours of helicopter flight time in the parks each year, including flights within and outside wilderness. Non-emergency landings of helicopters in the parks' wilderness average 140 per year.” This kind of regular use is hardly the minimum necessary. Further, page K-58 states, “Helicopter support is used to resupply crews” in certain circumstances including when stock use “would cause a greater impact to wilderness than helicopter support” causes. This neglects the fact that stock use is not prohibited in Wilderness; helicopters are. By definition, stock use does not cause more damage than helicopter use.

precedent to enter Wildernesses to “repair” what the Park Service describes as the effects from the damage from human-caused climate change. While we could find no precedent for the extensive planting proposal in a Wilderness area, which is enough to trigger a full EIS, there is also no evidence provided for the project’s justification that the wildfire exceeded the natural range of variability of such wildfires and therefore needs human intervention in a Wilderness area.

As such, the proposal would set a precedent for future actions. A consideration for measuring an action’s intensity for NEPA purposes is “[t]he degree to which the action may establish a precedent for future actions with significant effects *or represents a decision in principle about a future consideration.*” 40 C.F.R. § 1508.27(b)(6) (emphasis added). “The purpose of [40 C.F.R. § 1508.27(b)(6)] is to avoid the thoughtless setting in motion of a chain of bureaucratic commitment that will become progressively harder to undo the longer it continues.” *Presidio Golf Club v. National Park Service*, [155 F.3d 1153, 1162–63](#) (9th Cir. 1998) (citations and internal quotation marks omitted).

The project proposes not only to enter and collect cones, but also to cut trees for landings, use helicopters to fly in with crews and seedlings, stomp on fragile healing post fire soils, smash natural vegetation to dig holes to plant seedlings at high density (12 feet spacing), and even plant seedlings that are from non-native stock, possibly introducing pathogens not native to that remote site. It would also interfere with natural processes, since that grove is in a very harsh growing site and may naturally have been declining in size and vigor for centuries. And since it appears the Park has a preconceived notion of what it wants that grove to be, if too many or too few seedlings survive it may want to thin them or remove “competing vegetation” or maybe even kill rodents that munch on seedling roots.

Because these actions could set a precedent for future actions both locally and in other Wilderness areas that show possible climate change effects, if the Park Service were to proceed with it project, it would need to prepare an EIS to comply with NEPA.

Summary

We don’t see how this project can be legal in Wilderness. Rather, it seems it is being driven by well-intended interests who have a misunderstanding of Wilderness. While planting sequoias may be appropriate outside of Wilderness, it is inappropriate in Wilderness, especially with the use of helicopters. As such we suggest the project be dropped now.

Please keep us updated on this project.

Sincerely,

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