

# Committee on Resources

## Subcommittee on Forests & Forest Health

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### Witness Testimony

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Statement of  
**DENNIS SERPA**  
Back Country Horsemen

Before the  
Committee on Resources  
Subcommittee on Forest and Forest Health  
Hearing on

### **H.R. 359 - The Emigrant Wilderness Protection Act of 1999**

February 23, 1999

My name is Dennis Serpa. I am a farmer from Turlock, CA, a Back Country Horseman, and I serve as Chairman of the State Public Lands Committee. I'm here today representing Back Country Horsemen of California with the support of our national organization, the Back Country Horseman of America. Our organization represents 4000 men and women who are dedicated to preserving America's backcountry. The Back Country Horsemen of California's mission is to perpetuate the common sense use and enjoyment of horses in America's back country and wilderness areas. We educate, encourage, and solicit active participation in the wise use of the backcountry resources by horsemen and the general public. To accomplish this, we volunteer for work projects in our National Parks, Forests, BLM lands, and State Parks. In 1997, this amounted to over \$850,000.

In addition to these work projects, a major function of Back Country Horsemen is education. We are perpetually educating our membership and the general public about "Gentle Use," and "Leave No Trace" camping skills in the wilderness. A recently initiated program is called the California Wilderness Riders, which is a joint venture with the Forest Service, National Parks Service, and the BLM. In this program we send fully trained riders into the wilderness areas to educate horsemen, backpackers, and campers in "Gentle Use," and "Leave No Trace" program. We are also very active in working with various governmental management plans.

We are here today to support HR 359. This bill will clarify the intent of Congress to maintain 18 dams and weirs in the Emigrant Wilderness. When Congress was debating the Emigrant Wilderness Act of 1974, there was extensive dialog concerning these structures. It is clear by reading the following passages that it was the intent of Congress to maintain these structures.

From the Committee on Interior and Insular Affairs Report:

1. "...There are a number of small, inconspicuous flow-maintenance dams and weirs made of natural rock and covered with moss and lichens. They are substantially unnoticeable."

It is important to note that they chose the phrase "substantially unnoticeable." This phrase is repeated in the original 1964 Wilderness Act:

1. "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has

outstanding opportunities for solitude or a primitive and unconfirmed type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practical its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value."

It is clear that it was Congress' intent to maintain these dams and weirs as they were "substantially unnoticeable" and were consistent with the 1964 Wilderness Act.

From the hearing before the Subcommittee on Public Lands of the Committee on the Interior and Insular Affairs  
United States Senate:

1. "Also within this area are several grazing permits and 40 mining permits, as well as some inconspicuous flow maintenance dams made of natural rock and covered with moss and lichens. These are substantially unnoticeable, and like the snow cabins and snow courses in the area, do not detract from the wilderness quality of Emigrant Basin."

Again the term "substantially unnoticeable" is used to describe these dams and weirs.

From the statement of Thomas Nelson, Deputy Chief of the National Forest System:

1. "We think the existing weirs and flow maintenance dams are inconspicuous, and their maintenance will be permitted."

From the Statement of Harry B. Crandall, Director of the Wilderness Society:

1. "...The word is 'untrammled,' not 'untrampled.' So, therefore, the works of men can remain if they are substantially unobtrusive and do not interfere."

This statement clarifies the intent of Congress that the wilderness areas are not to be untrampled by man, but the works of men should be substantially unobtrusive, or unnoticeable.

The Forest Service, understanding Congress' intent to maintain these dams, did just that for fifteen years until the California Wilderness Coalition, an organization that disagrees with Congress' intent, filed suit against the National Forest Service to stop this maintenance.

The history of these dams is long and storied. Fred Leighton as a young boy in 1895 first entered the area now called the Emigrant Wilderness. He started in 1920 building a dam at Yellowhammer Lake and then continued upstream to maintain water flow during the summer. He had a great vision and accomplished a true monument in making the Emigrant Basin a truly great place for wildlife as well as human visitors.

In my many visits to the Emigrant Wilderness, which cover over thirty years, I have yet to see all the dams and weirs. Most of these structures go unnoticed by the public unless you know exactly where to look for them. They are built out of the natural rock found in the area. They are insignificant in size, varying from 3 feet to 10 feet in height. What they accomplish is incomparable in terms of maintaining the uniqueness of the area and the fisheries.

These dams and weirs now contribute considerably to the beauty and ecological balance in the Emigrant Wilderness. They have increased the size of meadows, deepened lakes, and have allowed continuous water flow in many streams. It is clear that these dams and weirs are important for the fish, as the California Department of Fish and Game has filed an appeal to the Forest Service's Land and Resource Plan. In this appeal, the Department states "Survey results on file with the Forest Service attest to the fisheries' benefits from the dams, including increased volume of water with acceptable levels of dissolved oxygen and temperatures that support trout populations. In addition, the downstream release of water during dry years has significant benefits to aquatic life and the streams' fisheries."

If these dams and weirs were left to deteriorate completely, we will lose irreplaceable fish habitat, as well as a complete ecosystem. There are many species of wildlife, including bald eagles and other endangered species, which rely on a constant water supply. Also, we must consider the impact on human visitors. These visitors naturally like to camp near a water supply.. If these water supplies are limited to just a few lakes, the concentration of visitors will rise

to a level that may damage the wilderness. This would force limits on the amount of people who will be able to enjoy the Emigrant Wilderness.

The Intent of Congress is clear. These substantially unnoticeable dams and weirs are consistent with the 1964 Wilderness Act, and should be maintained. By the debate that took place regarding the Emigrant Wilderness, it is easy to conclude that these structures were to be kept and maintained. It is our hope that we can clarify Congress' intent with this legislation, and therefore save these dams for us, for future generations, as well as the wildlife which call the Emigrant Wilderness Home.

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