

## **Lawsuit: Forest drilling will harm species**

MICHAEL TODD, NEWS-PRESS BUSINESS EDITOR

June 14, 2006 12:00 AM

Continuing their brush war against the expansion of oil drilling in remote Santa Barbara and Ventura county portions of Los Padres National Forest, a coalition of environmental groups told the Bush administration Tuesday that they intend to sue to force the feds to consider effects on species like the California condor and blunt-nosed leopard lizard.

The groups -- Los Padres ForestWatch and two national conservation organizations, Defenders of Wildlife and the Center for Biological Diversity -- charge that by authorizing new leases, the government has set into motion events that will harm endangered plants and animals in the forest.

"Our contention is that in approving this record of decision, in approving the areas for drilling, you have these species that in effect you are putting in danger," said Gina LaRocco, New-Mexico-based staff attorney for Defenders of Wildlife. The formal notice before a suit can be filed is part of the federal Endangered Species Act, which seeks compromise over court action.

"We'd really like the agency to look at the impact to wildlife before continuing with the drilling," she added, saying that consultation with experts, conducting an adequate environmental study and tossing out what it considers "outdated" data would be a start.

"We just feel that the plan right now doesn't accomplish any of these."

The U.S. Forest Service, however, disagreed strongly. Regional press officer Matt Mathes defended the leasing decision made by Los Padres Supervisor Gloria Brown, saying it was tough but appropriate, especially considering how small an area will be affected and the nation's need for new sources of oil and gas.

"When ForestWatch took the appeal to regional Forest Service," he said, "we took a close look at (ForestWatch Executive Director) Jeff Kuypers' appeal and a close look at Gloria's decision, and we decided that she had made a difficult decision but it was a correct one.

"Gloria agonized over this decision. She knew there was a lot of opposition to oil and gas drilling. But as a public lands manager it would be irresponsible for her not to make some decision on this. . . . We're disappointed at the possibility of a lawsuit, especially since we took a close look and thought if anything, she leaned toward protecting wildlife."

While they're disappointed, Mr. Mathes said the service was not surprised since many people in the area are "inflexibly" opposed to new drilling. He said Ms. Brown's decision focused on the area with the most oil and gas potential and with the smallest footprint, resulting in a "reasonable foreseeable development scenario" of 25 new wells on five wellpads, with one mile of new road and two miles of new pipeline.

The new areas open to oil and gas leasing are primarily in the Sierra Madre foothills south of Cuyama and in the foothills north of Fillmore, areas next to condor sanctuaries.

Los Padres is already home to some drilling -- about 4,900 acres is leased out, with 200 active oil wells north of Fillmore and 40 wells on forest land in the Cuyama Valley.

In a biological opinion issued by the U.S. Fish and Wildlife Service in February 2005, officials wrote that "the actual issuance of leases will not result in any physical activities on the ground that would adversely affect these species," naming the arroyo toad, blunt-nosed leopard lizard, California condor, least Bell's vireo, southwestern willow flycatcher, giant kangaroo rat, San Joaquin kit fox and California red-legged frog.

On that issue of timing, Ms. LaRocco said, "we have a difference of opinion in respect to that. Once procedural violations have happened, there isn't a riper time to bring suit."

Opponents have long argued that the data used in that consideration is both old and most likely wrong.

"The agency has relied on outdated data and unsubstantiated opinions to conclude that new oil drilling will not have any significant impacts," John Buse, an attorney with the Center for Biological Diversity, said in a statement. "Exploration alone can have serious consequences for condors and other wildlife in the Los Padres National Forest, even if it never leads to the production of a drop of oil."

Mr. Mathes, while not addressing the opponents' specific legal points, said Ms. Brown used the applicable protection measures and noted that if drilling is approved each site will require both extensive environmental assessment before work begins and restrictive wildlife protections if drilling ever starts.

The notice of intent to sue, which is required by federal law before filing legal action under the Endangered Species Act, is part of the staccato attack waged to reverse last July's opening of 52,000 acres of the forest or private lands within to drilling for oil and gas. New surface drilling, power lines and roads would be limited to 4,277 acres, and the remaining 48,000 would be open for underground slant drilling.

"We need to keep the acreage involved in perspective, said Mr. Mathes. The Forest Service anticipates actual "disturbance" of 20.5 acres out of Los Padres' nearly 1.8 million acres, with none in wilderness areas and no above-ground work in roadless areas.

The three groups and California attorney general have already appealed the leasing decision under both federal and state environmental laws -- an appeal the Forest Service rejected in April. ForestWatch has already forced at least one delay in leasing by the federal Bureau of Land Management by pointing out paperwork violations of procedures.

And earlier this month, the local group, in concert with Cuyama-area land owners whose mineral rights might be tapped by the lessors, have sought a delay in a lease sale scheduled today in Sacramento.

Receiving the notice to sue are the departments of the interior, agriculture and commerce, the Forest Service, U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration.