



The Watershed

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Fall, 1997

Miller introduces pacesetting ESA-overhaul bill

The Endangered Species Recovery Act (ESRA) was introduced July 31 by U.S. Rep. George Miller (D-Martinez), ranking Democrat on the House Resources Committee.

Encompassing virtually all the elements of the Endangered Natural Heritage Act, for which Forests Forever campaigned for seven months, ESRA had 55 original House co-sponsors at press time.

ESRA would greatly strengthen the Endangered Species Act (ESA). ESRA emphasizes recovery of listed species, rather than merely their survival.

"We are pleased that Congressman Miller has taken the lead in restoring the Endangered Species Act to its

intended function, which is not just protection, but recovery of America's disappearing wildlife," said Mark Fletcher, president of Forests Forever's board of directors. "ESRA represents a giant step toward bringing about the original vision of the ESA."

A major area of concern with the existing ESA has been the Habitat Conservation Plan (HCP) process, through which a landowner arranges to alter or

destroy one critical habitat area in exchange for preserving another. HCPs have been increasingly easily obtained in recent years and have caused accelerated loss of habitat and a resulting decline in species.

ESRA would mandate that HCPs be consistent with the

recovery of the species at risk. HCP applicants also would submit an annual report on the status of the covered species. The report would indicate whether the goals for recovery were being met. If recovery was failing, the cabinet secretary with jurisdiction could step in to continue conservation efforts specified by the plan.

ESRA also would establish an HCP Trust Fund. This fund would provide monies to carry out recovery steps if "reasonably unforeseeable" events outside the HCP permit holder's control should arise. It also would provide funds in emergencies— such as natural disas-

see "ESRA," p. 3 col. 2



Headwaters rally set for Sept. 14

Thousands of activists are expected to participate in the noon Rally and March to Save Headwaters Forest on Sun., Sept. 14, in Carlotta, Calif.

The day promises to be filled with exciting speakers and entertainers, including Bob Weir, former Grateful Dead guitarist, and blues singer and longtime Headwaters defender Bonnie Raitt.

Sept. 15 marks the end of

see "Rally," p. 2, col. 4

OTS restitution hearing scheduled for Sept. 22 in MAXXAM, Hurwitz S&L mismanagement scam

The federal Office of Thrift Supervision (OTS) will hold a hearing on Sept. 22 aimed at obtaining restitution from MAXXAM Group, MAXXAM CEO Charles Hurwitz and other individuals for losses resulting from the failure of the United Savings Association of Texas (USAT) in 1988.

Forests Forever and other groups fighting to save Headwaters have encouraged both the OTS and the FDIC to settle all or part of their claims with MAXXAM and Hurwitz by means of an exchange for the 60,000-acre Forest (a.k.a. "Debt- for- Nature").

On Dec. 26, 1995, OTS had issued a Notice of Charges against MAXXAM et al to obtain unspecified restitution for over \$500 million in losses caused by their alleged violations of federal law in connection with the USAT bankruptcy. In addition, OTS is seeking \$889,000 in civil penalties in the matter.

OTS has the power to issue cease-and-desist orders, which temporarily freeze a company's assets while the case awaits a formal hearing. Following the Notice of Charges filed against MAXXAM and Hurwitz, the Oakland-based Rose

Foundation for Communities and the Environment and a coalition of Headwaters advocates pushed the OTS to exercise its right to issue a cease-and-desist order.

The push for a temporary freeze of MAXXAM's assets stemmed from MAXXAM's presumed intention to liquidate its assets, including the ancient groves in Headwaters Forest.

"We believe Pacific Lumber's threat to log represents a risk such that they will dissipate the assets of the company before they can meet their

see "OTS," p. 4, col. 4

MAXXAM investors bail out, push for Headwaters sale

Shareholders in the tenth-largest institutional investor in MAXXAM Group on May 22 approved a resolution that asked MAXXAM to willingly sell or trade all its properties within the 60,000-acre Headwaters Forest and to explore a Debt-for-Nature swap.

The California State Teachers Retirement System (STRS) cast its vote at MAXXAM's annual shareholder meeting in Houston, then promptly sold all of its 71,400 MAXXAM shares, worth about

\$3.3 million.

"To our knowledge, this is the first time that MAXXAM has ever faced any kind of concerted shareholder rebellion," said Jill Ratner, President of the Rose Foundation for Communities and the Environment. Rose Foundation has been the group foremost in pushing the shareholder resolution and is a leading advocate of Debt-for-Nature.

At the meeting, the California Public Employees' Retirement System (CalPERS)

abstained on the resolution. Overall, six percent of MAXXAM stockholders supported the resolution.

In the weeks leading up to the vote Forests Forever canvassers generated almost 800 commitments from citizens to call targeted CalPERS officials on the resolution.

STRS CEO James Mosman called the divestment an "optimizing" of STRS' investment portfolio and said STRS' decision to sell the stock was due primarily to MAXXAM's declining investment status.

"The teachers' retirement system tried to maintain its investment while responding to its beneficiaries' concerns," said Beverly Carlson, chair of the

California Teachers Association Retirement Committee. "But the time came when its only choice was to get out of MAXXAM."

In explaining its abstention CalPERS expressed concern that a vote for the resolution

"To our knowledge this is the first time that MAXXAM has faced any kind of shareholder rebellion."

— Jill Ratner

could hinder the current government deal to buy two of the six ancient groves in Headwaters. CalPERS has gone on record saying the threat of Pacific Lumber's (PL's) cutting ancient redwoods hurts MAXXAM stock value. CalPERS wrote a letter to Charles Hurwitz, MAXXAM CEO, suggesting he protect old-growth parcels within the Forest.

Since 1988, 14 state and federal lawsuits have been filed challenging PL's logging plans, costing the company millions of dollars.

On a broader scale, the resolution vote prompted public employee pension funds across the U. S., such as the New York State Common Retirement Fund, to consider policies on investments affecting environmental issues.

— Liz Wagner

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the nesting season for the Marbled murrelet, an endangered seabird. Living in the isolated old-growth tree tops, the murrelet makes its home on Pacific Lumber (PL) logging lands. During the nesting sea-

see "Rally," p. 4, col. 2

New legislation would slash publicly subsidized logging in national forests

Public pressure to reduce taxpayer-subsidized road building on national forest lands has culminated in two appropriations amendments in Congress.

Introduced by Reps. Joe Kennedy (D-MA) and John Porter (R-IL) on July 10, the Porter / Kennedy amendment would have cut the U.S.

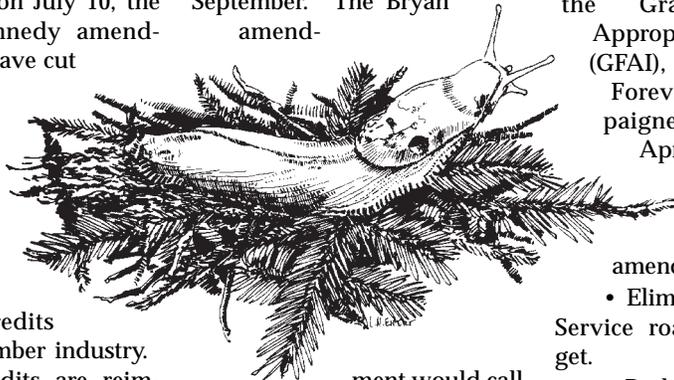
Forest Service roads budget by \$42 million and ended \$50 million in

purchaser credits paid to the timber industry. Purchaser credits are reimbursements for companies who build logging roads with their own funds.

Slated to pass by a landslide, Porter / Kennedy lost to a last-minute compromise amendment introduced by Rep. Norm Dicks (D-WA). The Dicks amendment, which would cut only \$5.6 million from the roads budget and restore \$25 million

in purchaser credits, passed 211 to 209.

Sen. Richard Bryan (D-NV) is slated to introduce an amendment to the Interior Appropriations bill when it comes to the Senate floor, most likely in the first week of September. The Bryan amend-



ment would call for the elimination of federal funding for all logging roads.

Currently 378,000 miles of roads slice through our national forests-- more mileage than that of the entire U.S. interstate highway system-- or enough to go around the planet eight times. Between 1992 and 1994 the Forest Service spent \$245 million building logging roads for private timber companies

within the national forests. Yet during this same period \$995 million was lost in publicly funded logging programs.

Both the Porter / Kennedy and Bryan amendments address elements of the Grassroots Forest Appropriations Initiative (GFAI), on which Forests Forever has campaigned since early April.

GFAI calls for four basic appropriations amendments:

- Eliminating the Forest Service road-building budget.
- Prohibiting logging on steep and unstable terrain.
- Abolishing Forest Service slush funds.
- Ending money-losing timber sales.

To date, Forests Forever has obtained about 2500 letters or commitments from concerned citizens on GFAI.

— Kristen Sykes

Fight to save Headwaters, dependant species continues on several fronts

As the chainsaws continue roaring in northern California, activists have mounted a variety of campaigns to fight for the last unprotected large ancient redwood groves.

Forests Forever has pressed forward steadily with the campaign for Headwaters, collecting and mailing in June

and July 2233 letters from citizens demanding that Headwaters be saved. Forests Forever organizers garnered 7380 additional commitments to write or call.

On July 18 the U.S. Senate Interior Appropriations Committee approved funds for the proposed deal to purchase 7500 of the 60,000 acres in the Forest. The proposed \$250 million outlay now must pass the Senate Energy Committee and the full Senate, then undergo reconciliation with a House-passed version. The House bill contains no funds for the purchase.

In late April the Clinton administration listed the Coho salmon as threatened from southern Oregon south to Fort Bragg, Calif. The listing protects designated riparian areas— including parts of Headwaters Forest— from logging, grazing, farming and further development. The once-thriving wild Coho population has dwindled to about one percent of its historical size, due in

large part to habitat destruction. Over the next two years the federal government has committed \$30 million for Coho habitat restoration projects in the designated region.

Former Pacific Lumber (PL) employee Stan Chandler filed suit against the company and its parent corporation, MAXXAM Group, on June 19 in the San Francisco U.S. District Court. Chandler claims PL management put profits ahead of worker safety, exposing employees to dangerous working conditions. Chandler charges he was later fired from PL for speaking out against these unsafe practices.

Chandler also alleges PL engaged in unfair business practices by violating state and federal laws regarding the harvesting of old-growth timber. He said employees were directed to cut down ancient trees that were designated as

Marbled murrelet and Spotted owl habitat. At press time no hearing date had been set.

An ordinance introduced on July 14 by San Francisco Supervisor Leslie Katz proposed a ban on the use of “clear-heart” grade redwood in city-owned parks buildings and construction projects.

Used by the city for paneling, rails and decorative purposes, clear-heart is the highest grade redwood, and generally comes from old-growth trees. The current bid on 31,000 board feet— which lasts until 1999— would still be honored. If the ordinance is adopted, San Francisco would

be the first city to ban the use of ancient redwood.

Further protection for salmon is coming from a Portland, Ore.-based group, Pacific Rivers Council (PRC).

PRC has begun certifying wines, dairy products and fruit juices as “Salmon Safe.” The campaign focuses on educating

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The Watershed

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**“Restore,
Reinhabit,
Re-enchant”**

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“ESRA”
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ters— that could imperil covered species. The trust fund would be paid for through donations, appropriations, permit fees and fines for natural resource damages.

Under ESRA, independent scientists would assess what measures are necessary for species recovery. Currently assessments are done by agency personnel and may be based on politics rather than science. Recovery standards would be based on recommendations of the National Academy of Sciences.

In an effort to encourage private landowners to engage in species recovery, ESRA would create an Endangered

Species Conservation Agreement (ESCA), which would offer estate tax deferrals

“ESRA represents a giant step toward bringing about the original vision of the ESA.”

— Mark Fletcher

for protected land. By enrolling in the program, landowners would agree to take pro-active measures, such as tree planting, to safeguard habitat and would

receive tax credits for the cost of doing so.

ESRA also would address the notorious “no surprises” policy. It states that once an HCP is approved it may not be modified, even if a new species is found on the land or an already-listed species is reclassified from threatened to endangered.

“The Endangered Species Act is our most important environmental law,” said Tara Mueller, director of the Biodiversity Law Program of the Environmental Law Foundation. “When everything else fails, ESA kicks in. Getting ESRA passed will be almost as historic as the original act itself.”

— Kristin Kirk

Action Rolodex

Headwaters:

Contact President Bill Clinton, Sen. Dianne Feinstein and California Secretary of Resources Douglas Wheeler. Tell them you support Headwaters preservation efforts that would save all 60,000 acres and six ancient groves of the Forest. Tell them no ancient forests should be sacrificed through land trades or other measures.

President Bill Clinton
The White House
Washington, DC 20500
202/456-1111 phone
202/456-2461 FAX

Sen. Dianne Feinstein
U.S. Senate
Washington, DC 20510
202/224-3841 phone
202/228-3954 FAX
senator@feinstein.senate.gov

Douglas Wheeler
California Secretary of
Resources
1416 Ninth St. #1311
Sacramento, CA 95814
916/653-5656 phone
916/653-8102 FAX

ESRA campaign:

Contact your Congressperson and urge him / her to sign on to Rep. Miller's ESRA bill as a co-sponsor.

To get the name of your representative, call the Capitol switchboard at:
202/225-3121

Or access one of the following web sites:

<http://thomas.loc.gov>
or
<http://www.voxpop.org:80/zipper/>

"OTS"
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claim," said Jill Ratner, president of the Rose Foundation.

Pacific Lumber is a wholly owned subsidiary of MAXXAM.

Despite activists' efforts no cease-and desist order has been filed against MAXXAM.

In the charges filed, the OTS claims MAXXAM and Hurwitz violated federal statutory and contractual obligations to maintain the net worth of USAT. The OTS asserts that MAXXAM and Hurwitz also engaged in unsound banking practices by using USAT's assets to speculate in mortgage-backed securities, and that the respondents made false statements to federal regulators to conceal their activities.

OTS also alleges the respondents engaged in illegal transactions when USAT purchased junk bonds from convicted junk-bond peddler Michael Milken's New York investment brokerage Drexel Burnham Lambert.

In addition to the OTS charges, Hurwitz faces a civil claim by the FDIC for his portion of the \$1.6 billion USAT collapse.

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consumers about the connection between agricultural practices in watershed areas, and the ensuing impact on fish populations. PRC looks at how farms control erosion, their use of harmful chemicals and designation of buffer strips. PRC is scheduled to begin certifying California products as "Salmon Safe" in early 1998.

— S.W.

"Rally"
continued from p. 2

son, PL is prohibited from logging in areas designated as murrelet habitat under the Endangered Species Act.

But at the close of the nesting season, PL is free to enter the ancient groves and begin "salvage logging." In years past, strong displays of public support for the preservation of Headwaters has helped stop the chainsaws.

Although activists have

won temporary protection for the Forest in the past, an inadequate "deal" was orchestrated last fall by Sen. Dianne Feinstein and federal negotiators. This September, it is especially important to send a strong message to state and federal decisionmakers.

For more information on the rally, contact the Bay Area Coalition for Headwaters Hotline at 510/835-6303.

— Sara Goltz

— Kristen Sykes

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