

The Watershed

Volume 2, Number 3

The newsletter of Forests Forever

Fall, 1998

Landmark, flawed Headwaters "deal" enacted

The California legislature on Sept. 1 passed an historic bill resulting in approval of \$242.5 million to preserve about 9500 acres of prime redwood forest now owned by Pacific Lumber Co. (PL) and its parent, MAXXAM Corp.

The measure provided the state's share of funding necessary for the flawed 1996 Headwaters "deal" to move forward.

In signing Assembly Bill (AB) 1986 on Sept. 19 Gov. Pete Wilson cut \$3 million from the \$245.5 million allocated by the legislature. The cut reduced assistance to Humboldt County to cover any lost timber tax revenue that might result from the purchase. Congress already had approved \$250 million for the Headwaters acquisition, bringing the combined state

and federal appropriation to almost \$500 million.

environmental safeguards in the "deal"-mandated Habitat

lands. The public comment period for the HCP has begun and will end Nov. 16. Public hearings— including one in Oakland currently set for Nov. 5— will provide an additional opportunity for citizen input. (See sidebar, p. 4)

"We expect the PL HCP will generate more public comments than any previous plan," said Mark Fletcher, Forests Forever's board president. "Wildlife biologists and watershed ecologists alike are concerned with proposed protections under PL's plan.

"Affected agencies should, if they follow protocol, take these comments into consideration when analyzing the plan."

The final AB 1986, a bitter disappointment to many Headwaters activists, added



Roughly half PL's ancient redwood acreage would be exposed to heavy logging.

Photo by Djuna Ivereigh

Environmental activists now are working to strengthen

Conservation Plan (HCP) covering PL's remaining forest

see "HCP," p. 3, col. 1

Brown's Giant sequoia bill picks up House supporters

A bill aimed at stopping the destruction of California's ancient sequoias has picked up 15 co-sponsors in recent months. The total now stands at 24 co-sponsors.

Activists are promoting U.S. Rep. George Brown, Jr.'s (D-San Bernardino) bill— The Sequoia Ecosystem and Recreation Preserve Act of 1997— to protect this threatened ecosystem.

Introduced in June, 1997, H.R. 2077 would set aside over

340,000 acres in Sequoia National Forest for restoration, recreation and preservation. Another 170,000 acres in Sequoia and Inyo National Forests would be designated Wilderness Areas, thus subject to the most protective standards available for federal wildlands. Commercial timber harvesting would be banned in the preserve.

"Most people think the

see "Sequoia," p. 3, col. 1

Activist killed at protest of illegal logging operation near Grizzly Creek

Activist David Chain, 24, on Sept. 17 was killed after being struck on the head by a falling tree while protesting an illegal Pacific Lumber Co. (PL) logging operation.

PL initially denied that its logging crew was aware the Earth First! protesters including Chain were at the Humboldt County site. But the company later rescinded this claim.

Chain and other activists were attempting to halt logging that was taking place on PL property near the Grizzly Creek parcel, one of the areas slated for acquisition under the recently enacted Headwaters measure in the California legislature (see related article, p.1).

"They (loggers) felled a

see "Chain," p. 5, col. 1

from the Executive Director...

Headwaters campaign and new preserve: Both remain part of broader context

As the campaign for protection of Headwaters Forest marches on through the current public-review process, environmental organizing on it seems somehow unchanged by recent events in Sacramento.

So it is startling to realize that— as a result of the governor's signing AB 1986— in perhaps only months you may be able to buy a road map that indicates a Headwaters Forest Preserve newly opened to the public.

Headwaters Preserve will be a place one can visit or take the kids, probably complete with self-guided nature walks, pit toilets, interpretive displays and picnic benches. And trails threading their way through lush cool thickets of salal and sword fern tucked in around the big trees.

The small sanctuary will be one that many visitors will no doubt snap a few photos of in a brief visit on their way to destinations such as Redwood National Park. In doing so these folks may be unaware of the decade-long battle in which some activists risked and others gave their lives.

Yet this seemingly neat closure will disguise the fact that the creation of Headwaters Preserve represents only another milestone on an ongoing journey: It seems likely we can count on decades more controversy at Headwaters. Controversy may arise about roads and visitor use in the new preserve, about continued illegal logging by Pacific Lumber Co. (PL), about saving still-unprotected ancient and residual groves, over safeguards for listed species, over the establishment of stream buffers, and many other issues.

But mostly there will be continued disagreement over implementation of PL's currently proposed 50-year Habitat Conservation Plan (HCP) by what is per-

haps the state's least-accountable regulatory agency, the California Department of Forestry (CDF). Under this HCP the CDF would retain its power to override federal wildlife agencies in approving all timber harvest plans.

Further, in the next half century we

The preserved groves effectively would become islands, bereft of natural buffer lands and connecting corridors.

may well see efforts to strengthen the endangered species acts, to better enforce clean water laws, to institute sustainable-forestry standards in California, and even more-visionary proposals. A lot can happen in 50 years; five decades ago virtually none of the major environmental laws existed that we take for granted today.

On the ground, meantime, the HCP in its current form would create a wasteland of scrub and pampas grass punctuated by towering redwood groves and odd-looking narrow strips of trees tracing large streams. The preserved groves effectively would become islands, bereft of their natural buffer lands and connecting corridors.

Such exposure is a serious threat to a redwood ecosystem. Winds whipping across open ground would penetrate deeper into the groves, stealing their fog-drip moisture, heating up naturally cold salmon streams and blowing down

ancient redwoods along the grove edge. Redwoods have shallow root systems and topple relatively easily.

Predators such as ravens and coyotes could more easily raid the nests of Marbled murrelets and other animals normally shielded from an abrupt forest edge.

Redwood forest species over eons have maintained strong gene pools thanks to relatively unrestricted migration and access to nearby refugia when temporary local disasters struck. In the island-ized landscape envisioned under the draft HCP, population segments may inbreed and decline in fitness or die out.

Biologists call this process "insularization." The Sunda Islands (Java, Sumatra, Borneo and Bali) were a connected peninsula 18,000 years ago during the last glacial period. Rising sea level later formed the islands. Modern studies have shown that extinction rates rose dramatically after the islands' formation— as many as 71 percent of all pre-existing land mammal species died out on Bali. Insularization is thought to have much the same detrimental effect on biodiversity on virtually any newly formed island—including an island of ancient forest surrounded by an ocean of clearcuts.

Without a doubt, a "preserve" thus saved may not stay saved for very long. With apologies to John Donne, "No forest is an island, entire of itself." This is why it is so important for us to strengthen the HCP for Headwaters now, while we have our easiest chance at doing so.

— Paul Hughes

E-mail alert list provides latest updates

Sign up for Forests Forever's e-mail alert list to receive the latest campaign updates and information. Send an e-mail to forestsforeveralerts@renaissoft.com with "subscribe" as your subject. In the past year, Forests Forever sent out 21 alerts.

Check out our website!

Campaign updates, archival articles, photos and more...
www.forestsforever.org

"Sequoia"
continued from p. 1

Giant sequoias are protected because they are on federal land," said Mark Fletcher, president of Forests Forever's board of directors. "But the (U.S.) Forest Service manages land very differently than the National Park Service. The Forest Service is an agency of the (U.S.) Department of Agriculture, and they manage the land as though the trees are a crop."

Giant sequoias, cousins of the Coast redwood, can reach 3200 years old and weights of 12 million pounds. They are only found in the southern Sierras. While many sequoia groves are located in the nearby Sequoia National Park, over one half of the world's sequoia groves are situated in Sequoia National Forest.

While Giant sequoias themselves currently are not slated to be logged, merchantable timber is harvested in and around the sequoia groves. This damages the sur-

rounding soils and subjects the big trees to unnatural levels of soil erosion and wind.

In response to public demands, the Forest Service in 1987 committed to writing a Giant Sequoia Management Plan for Sequoia National



"Grove enhancement" at Long Meadow Grove.

Photo by Charlene Little

rounding soils and subjects the big trees to unnatural levels of soil erosion and wind.

Management Plan.

Ten years later neither of these plans have been written, even though numerous activities including logging and fuel-management projects have taken place in and near sequoia groves. Moreover, there are no formal standards or guidelines of any kind setting forth agency management principles for Giant sequoia groves.

Although Sequoia National Forest planners have estimated that recreation is six times more economically valuable than timber harvesting, logging remains the Forest Service's top priority there.

The most common cause of death for ancient sequoias is blowdown, which accelerates when the trees' naturally shallow root systems are damaged by soil compaction, and when nearby wind shelter is removed.

"The damage that heavy logging inflicts on these dry, fragile ecosystems is very long lasting," said Paul Hughes, Forests Forever's Executive Director. "But what I find most disturbing is the Forest Service's will-

ingness to perpetuate this damage, especially in light of the fact that these are deficit programs."

Over the last 10 years logging programs in Sequoia National Forest have cost taxpayers more than \$45 million—the worst below-cost timber sales record of any national forest in the Sierra Nevada, according to the federal General Accounting Office

A current Forest Service logging plan— named Defensible Fuel Profile Zones (DFPZs)— essentially consists of one-quarter-mile-wide cuts along ridgetops to "correct an unhealthy forest due to past fire suppression."

The rationale offered for DFPZs is that removing "excess" fuel (i.e. trees) will lessen the frequency, intensity and duration of fires. But many environmentalists believe that removing large trees— and leaving behind small trees and sun-baked brush and slash— may cause hotter fires fanned by stronger winds blowing across cutover spaces.

The Forest Service does not have management plans in place for maintaining DFPZs. And the Congressionally mandated Sierra Nevada Ecosystem

see "Sequoia," p. 6, col. 3

"HCP"
continued from p. 1

about \$115 million to the original \$130 million state financing package. This was prompted by addition of the 925-acre virgin Owl Creek Grove and 1200-acre residual Grizzly Creek parcel to the purchase.

The 9500 acres slated for purchase— up from 7500 in earlier drafts— also includes Headwaters Grove, the largest privately held tract of ancient redwoods on the planet, and nearby Elk Head Springs Grove.

Stream protections were

somewhat improved by last-minute amendments to AB 1986, though safeguards are interim, not permanent.

Original "deal" language called for 30-foot no-cut zones on each side of Class I (fish-bearing) streams and 10-foot buffers along Class II (perennial non-fishbearing) streams.

AB 1986 establishes a five-year study period during which Class I streams will be protected from logging to 100 feet from the stream bank, and Class II streams to 30 feet. At the end of the study period federal officials may determine buffer zone widths and substantially reduce them.

The interim increases are far short of federal Forest Ecosystem Management Assessment Team (FEMAT) watercourse standards, which call for 300- to 600-foot no-cut buffer zones along fishbearing streams. Forests Forever has advocated the FEMAT standards.

Three ancient redwood groves conservationists have long sought to preserve— Allen Creek, Shaw Creek and All-Species groves— only would receive temporary protection under the 50-year HCP. When the HCP expires, these groves, along with 8700 acres of ancient Douglas fir, would

be exposed to logging. In total, roughly half— about 10,300 acres— of the ancient and residual old-growth redwood on PL property would lose its protection in 50 years.

AB 1986 in effect condemns most of PL's over 200,000 acres to eventual clearcutting and severe degradation.

"We heard recently about core samples showing redwoods can grow older than 3500 years," Fletcher said. "The short-rotation clearcuts likely under the HCP guaran-

see "HCP," p. 6, col. 1

Rider-happy Congress circles in on ESA

Environmental activists at press time were making a final push to stop Sen. Dirk Kempthorne's (R-ID) anti-Endangered Species Act (ESA) bill as Congress approached its final day of appropriations hearings in the session.

Introduced in September, 1997, S. 1180 would undermine protections for endangered species and habitat critical to their survival. The bill would delay the already-backlogged listing of candidate species and codify the "no surprises" policy, which prohibits new science concerning listed species from being considered in relation to their existing population recovery / stabilization plans.

"Kempthorne's bill undermines the needs of imperiled species," said Kristin Kirk of Forests Forever's staff. "It would create red tape, delays and expenses throughout the entire process while ignoring a primary reason for the ESA—to recover species."

Although earlier this year S. 1180 apparently had stalled, lobbyists from resource-extraction industries in recent weeks pushed senators to attach the controversial bill as a rider to the Senate's Interior Appropriations bill. The appropriations bill is a must-pass measure, as it authorizes funding for Interior Department operations.

Riders—pieces of legislation attached to unrelated bills—came into focus in the 104th Congress when it passed 30 anti-environmental riders. Currently some 70 anti-environmental riders are pending in the 105th Congress. According to the Grassroots Environmental Effectiveness Network (GREEN), 75 percent of Americans oppose the attachment of anti-environmental riders to legislation.

At press time Congress was about to wrap the Senate Interior Appropriations bill,

along with five other spending measures, into an Omnibus Appropriations bill. The omnibus bill reportedly would be negotiated behind closed doors, as a time-saving step.

Attaching S. 1180 to an appropriations bill essentially nullifies the bicameral legislative system by circumventing debate on the bill in the House of Representatives.

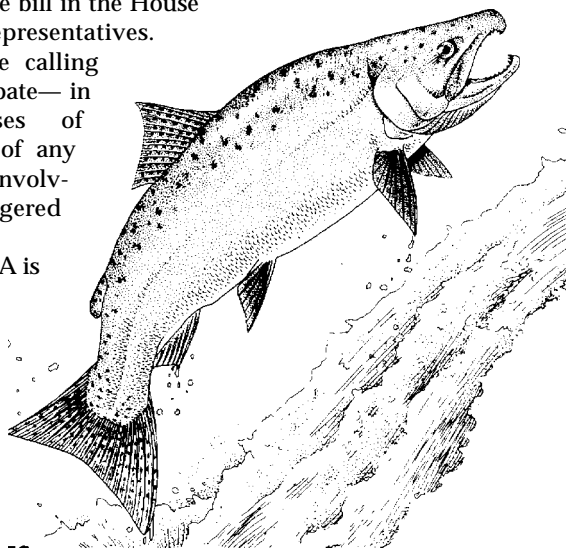
Activists are calling for a full debate—in both houses of Congress—of any legislation involving endangered species.

"The ESA is one of the most hotly debated legislative items," Kirk said. "We are dealing with a possible extinction of species.

Obviously this issue needs to be carefully scrutinized as a stand-alone piece of legislation."

Two likely scenarios are

taking shape for the Omnibus Appropriations bill. First, the House and Senate would leave all riders intact in their respective appropriations bills, perhaps adding more riders. The appropriations bills, with riders, would then be wrapped into the omnibus legislation.



Congressional attacks on the ESA would further endanger imperiled salmon.

Courtesy of U.S. Fish and Wildlife Service

The Clinton Administration has threatened to veto appropriations bills with anti-environmental riders, including S. 1180.

Vice President Al Gore on Sept. 29 called on Congress to "end its backdoor assaults and send the President clean bills, free of anti-environmental riders." The White House "will not tolerate stealth tactics that do unacceptable harm to our environment or threaten public health," Gore added.

In a second scenario the Administration could enter the Omnibus Appropriations bill negotiations immediately in an attempt to forestall a veto.

Both scenarios could play out well for environmentalists—if the Administration follows through on its earlier commitment to veto appropriations measures with riders in tow. The closed-door negotiations, however, may also prevent inclusion in the omnibus bill of some pro-environment amendments currently championed by Democratic senators.

Rep. George Miller (D-Martinez) last year introduced H.R. 2351—the Endangered Species Recovery Act (ESRA). With 105 co-sponsors at press time, ESRA enjoys the support of Forests Forever and other environmental groups as the preferred ESA-reauthorization

see "ESA," p. 5, col. 2

Public hearings set for Pacific Lumber HCP

Points to make in your comments:

- The current Habitat Conservation Plan (HCP) means extinction for the Coho salmon. Once abundant in California's rivers, coho will likely go extinct in the area if stream protections are not strengthened in the HCP.

- Agencies must rely on real science, not junk science. PL's HCP is designed to maximize profits at the expense of species protection, relying on clearcutting even on steep slopes. Sediment from weakened slopes will lead to landslides and habitat destruction.

- PL is a criminal corporation that can't be trusted. PL has had over 250 forest practice violations in the last two years, including violations in the area where activist David Chain recently

was killed.

More detailed information will be available at the public hearings, and online at www.forestsfuture.org.

Culver City / LA • Tue., Oct. 27 • Pacifica Ballroom, Radisson Hotel, 6161 W. Centinela

Sacramento • Thur., Oct. 29 • Rooms 307-308, Convention Center, 1030 15th St.

Oakland • Thur., Nov. 5 • West Hall, Marriott Convention Center, 550 10th St.

Eureka • Tue., Nov. 10 • Redwood Acres Fairground, Franceschi Hall, 3750 Harris St.

All hearings have noon-to-4pm and 5pm-to-9pm sessions. Eureka has an additional 9-to-11am session. There will be a 5pm rally at the Oakland and Sacramento hearings. Call 510/835-6303 for more rally info.

"Chain"
continued from p. 1

tree and apparently heard some yelling, and then the feller was cutting the tree into segments when the body was found under a limb," PL President John Campbell said.

But Earth First!ers later announced they had a video showing loggers shouting obscenities at the protesters and threatening to aim trees toward them. According to an

The Watershed

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**"Restore,
Reinhabit,
Re-enchant"**

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Earth First! press release, the logger who later cut the tree that killed Chain can be heard on the video threatening activists, saying, "I wish I had my f__in' pistol."

Authorities now have expanded their investigation into what they initially called an accidental death. Humboldt County Sheriff's Department investigators reportedly planned to fly over the site where Chain was killed. Their stated intention was to determine whether the pattern of the fallen trees indicated loggers had changed the direction of their cuts to aim them toward activists.

An Earth First! statement says, "Loggers were felling trees perpendicular to the hill rather than downhill in an apparent attempt to target activists."

Earth First! activists at press time were blockading the road into the scene of the incident until their demand for an independent investigation is met.

Several Earth First! activists currently are appealing a case against the Humboldt County Sheriff's Department for its officers' application of pepper spray directly onto the eyes of non-violent protesters last October. Due to that case and many other bad experiences with the Humboldt sheriff's department

over the years, Earth First! spokespersons have said, the department is incapable of conducting an impartial investigation.

Humboldt County District Attorney Terry Farmer on Sept. 23 rejected Earth First!'s request

Many activists believe Chain's death could have been prevented had the CDF followed proper procedures in monitoring and enforcing THPs.

for an outside investigation. "I believe sheriff's investigators are capable of making a thorough and impartial analysis of this event," Farmer said.

Earth First! attorney Richard Jay Moller said the logger who killed Chain "acted contrary to a proper regard for human life." Moller also said the investigation should extend to PL's procedures for dealing with non-violent protesters it encounters in the woods.

Chain was one of about a

dozen activists protesting the illegal logging by PL on unsurveyed potential habitat for the federally listed Marbled murrelet.

PL reportedly had been told by a state Department of Fish and Game (DFG) official to amend its Timber Harvest Plan (THP) to include a written request for permission to open a road into the parcel near Grizzly Creek. After the incident the California Department of Forestry and Fire Protection (CDF) visited the site where Chain was killed and found PL's logging activities were in violation of THP 1-97-172.

PL did not follow the DFG instructions with regard to the THP and instead began cutting the road prior to gaining permission. CDF has not yet ruled whether it will seek prosecution for the violation.

Moreover, many activists believe Chain's death could have been prevented had the CDF followed proper procedures in monitoring and enforcing THPs.

"The CDF is perhaps the most out-of-control agency in the state government," said Paul Hughes, Executive Director of Forests Forever. "Time and time again the CDF fails to enforce the laws it is responsible for upholding."

PL was cited for over 100

see "Chain," p. 6, col. 4

"ESA"
continued from p. 4

measure.

ESRA focuses on ensuring the recovery of listed species, not just their survival. H.R. 2351 would establish deadlines for completion of recovery plans, would provide tax incentives for private landowners who conserve proposed habitat for candidate species, and would establish scientific benchmarks for recovery.

The non-partisan

Congressional Research Service recently noted species-protection weaknesses in S. 1180. Species could wait up to six and a half years between the time they are listed and the time protective measures are implemented, the report said. S. 1180 also would eliminate the currently required designation of critical habitat concurrent with the listing of a species.

The bill would reduce government agency accountability when overseeing land-use or

fisheries management plans and would limit public participation in the recovery process. Agencies such as the U.S. Forest Service could allow flawed land-use plans to proceed without review for 15 months after an affected species has been listed.

From Jan. 1 through Aug. 31 Forests Forever had collected and mailed to key decision-makers 1425 letters in opposition to S. 1180 and in support of a strengthened ESA.

— S.W.

Action Rolodex

Headwaters HCP:

Tell federal officials the current Pacific Lumber Co. HCP would further imperil listed species and fragile old-growth habitat. For more talking points, see "Public hearings" sidebar, p. 5, or log on to the KRIS Coho web site at www.pond.net/~kris

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Cal./Nev. Operations Mgr.
U.S. Fish and Wildlife Service
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Sacramento, CA 95825
916/979-2034 phone
916/979-2056 FAX
mike_spear@r1.fws.gov

Reference the HCP as U.S. Fish and Wildlife Service permit request #PRT-828950.

Vice President Al Gore
c/o Council on Environmental Quality
Old Executive Office Building
Washington, DC 20501

Tell Gore the PL HCP would set a bad precedent for plans to restore Pacific Northwest salmon.

Dr. William Hogarth
Regional Administrator- SWR
National Marine Fisheries Service
501 West Ocean Blvd., Ste. 4200
Long Beach, CA 90802
562/980-4000 phone
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William.Hogarth@noaa.gov

Reference the HCP as National Marine Fisheries Service permit request #1157.

"Chain"
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violations of the state's Forest Practice Rules in a three-year period recently, yet the CDF still has not revoked nor suspended PL's Timber Operators License. On Dec. 30, 1997, CDF withheld PL's license renewal due to the number of violations the company had committed, but then issued PL a provisional license.

On May 22 Humboldt County Judge Marilyn Miles found PL in violation of state logging rules. Probationary terms were offered to PL, which refused and instead opted to pay the maximum allowable fine. The penalty amounted to \$13,000—a small fraction of the income PL sees from one illegally cut old-growth redwood.

"PL really has no incentive to follow state timber regulations," Hughes said. "They commit scores of violations, reap enormous profits, then get a slap on the wrist in the courts."

In recent years environmentalists repeatedly have called for reform of the state Board of Forestry, which directs CDF. The board consistently has demonstrated a pro-timber bias and ignored environmental laws, activists say.

— S.W.

"HCP"
continued from p. 3

tee these precious old-growth ecosystems will never recover on most of PL's land."

MAXXAM Corp. and its CEO Charles Hurwitz, who purchased PL and all its holdings for \$850 million in a 1986 leveraged buyout, would directly receive about \$480 million from the state and federal funds allocated, in payment for less than five percent of PL's land. Since the buyout PL has extracted an estimated \$1.5 billion from its forests.

"PL is being compensated far too generously under the 'deal,'" Fletcher said. "It sets a bad precedent for future government acquisitions, especially considering much of the land they are being paid for is already protected under the ESA."

Forests Forever currently is gathering public comments on the flawed HCP (see Action Rolodex, p. 6). In September Forests Forever gathered 1306 comment letters to wildlife officials reviewing the HCP.

— S.W.

"Sequoia"
continued from p. 3

Project study concluded, "logging increases fire severity more than any other recent human activity" in the Sierras.

From Jan. 1 through Aug. 31 Forests Forever distributed 2150 alerts on the Brown bill, asking citizens to write their members of Congress urging them to co-sponsor the measure.

— S.W.

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