

The Watershed

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Spring, 1998

Senate bill threatens endangered species

Sen. Dirk Kempthorne (R-ID) on Sept. 16, 1997, introduced S. 1180, an Endangered Species Act reauthorization bill that would subsidize habitat destruction, weaken species protection standards in the current law and provide preferential treatment for extractive industries.

Dubbed "ES Ain't" by opponents, including Forests Forever and many other organizations, the Kempthorne bill in November, 1997, was headed

to a full-Senate floor vote prior to the mid-session break. A legislator then anonymously placed a hold on the bill, stalling a vote until Congress resumed on Jan. 26.

Conservationists say the current process by which imperiled species are listed is too slow and lacks protection for candidate species.

"The U.S. Fish and Wildlife Service's (FWS's) systematic failure to promptly list candidate species is one of the greatest abuses of the ESA," said Kieran Suckling, Director of the

Tucson, Ariz.-based Southwest Center for Biodiversity.

While almost 4000 species await listing under the ESA many species are becoming extinct before preventative measures can be taken. On Sept. 19, 1997, five species were deleted as candidates for listing by the FWS because they had become extinct. The High Rock Spring tui chub, Marianas euploea butterfly, and three species of Hawaiian pomace flies joined a lengthening list of vanished species.

"The ESA forces us to look at the impact of losing even the smallest species," said Mark Fletcher, president of Forests Forever's board of directors. "And in the battle to save Headwaters (Forest) the ESA

see "S. 1180," p. 3, col. 2



Bald eagle

by Gerry Biron

Record rally at Stafford landslide site boosts momentum for Headwaters

Following a record turnout at the Sept. 13, 1997, *Rally and March to Save Headwaters*, forestry-reform activists witnessed several victories in the battle to save the old-growth redwood forest.

An estimated 8000 persons attended the Stafford, Calif., rally to demand protection of Headwaters Forest in Humboldt County.

The California Department of Forestry (CDF) informed Pacific Lumber Co. (PL) on Dec. 18 that the company would not be issued a standard *Timber Operator's License* in 1998

because of PL's repeated failure to comply with the state's Forest Practices Act. CDF cited 103 violations of the Forestry Practice Rules by PL over the past three years.

As the situation developed, a "provisional" license on Dec. 30 was issued to PL. Under this license, as long as PL commits no violations until January, 1999, the company may continue logging.

President Bill Clinton on Nov. 14 signed the *Interior Appropriations Bill*, H.R. 2107, which approved \$250 million for the purchase of

7500 acres (13 percent) of Headwaters Forest.

The State of California, under the terms of last fall's much-publicized "deal," now must commit an additional \$130 million for the acquisition to go through. California Gov. Pete Wilson is expected to ask the legislature to place an \$800 million parks bond measure on the ballot, possibly as early as June. The measure would include \$130 million for Headwaters.

Environmentalists

see "Headwaters," p. 2, col. 1

Black Point Forest at stake in election

Black Point Forest and its adjacent diked baylands are under threat from bulldozer and chainsaw to make way for a luxury home and golf course development. But a citizens referendum headed for the February ballot could halt this proposed destruction of one of the largest remaining undeveloped stands of oak woodland in Marin County.

Citizens for the Right to Vote, a coalition of local residents and environmental groups, organized a signature-gathering campaign to qualify a referendum on the development project for a Feb. 24 special election.

Eight Forests Forever members and two of its staff volunteered in the signature-gathering campaign last fall.

Prior to qualification of the referendum (Measure B), the developer had qualified an initiative (Measure A) on the project. Voters who want to save Black Point, the recent site of the annual Renaissance Pleasure Faire, should vote "No" on both measures A and B.

"This is something we have been working on for years and this is basically the last straw," said Fred

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opposed a June date for the ballot measure because the "deal"-mandated *Habitat Conservation Plan (HCP)*, to cover PL's entire holdings, would not be ready for review by state legislators. Key state legislators said they would reject the measure unless the HCP provided sufficient protection for endangered species and ancient redwoods.

The nation watched in horror as *pepper spray* was applied directly to the eyes of non-violent Headwaters protesters locked down in the office of Rep. Frank Riggs (R-Windsor) on Oct. 16, 1997. Caught on videotape and broadcast nationwide, the incident drew a storm of criticism from across the country and focused publicity on Humboldt County and Headwaters.

As a result nine of the demonstrators on Oct. 30, 1997, filed suit against the Humboldt County Sheriff's Department and the Eureka Police Department for violations of their civil rights. The protesters say that authorities unlawfully applied the pepper spray on them on three occasions. The protesters' case is currently in the discovery stage and is expected to be heard sometime in March in the San Francisco District Court.

Northern California citizens filed *two lawsuits against the MAXXAM Corp.*, parent company of PL, on Dec. 2, 1997, in Humboldt County Superior Court. In one suit 38 residents of Stafford are suing for damages resulting from poor logging practices that allegedly caused landslides that destroyed or damaged 10 Stafford homes last winter. The complaint says MAXXAM knew of the inherent dangers associated with logging on steep slopes but concealed this knowledge from state officials who approved the Timber Harvest Plan (THP). Despite this knowledge, the suit claims, MAXXAM did nothing to miti-

gate the damages. The residents are seeking an injunction to prohibit PL from logging in and around Stafford, as well as unspecified general and compensatory damages.

Another suit filed by two families who live on the banks of the Elk River southeast of

MAXXAM knew logging in the watershed would cause stream-bank erosion and thus degrade the Elk River. The stream had been home to a thriving salmon population.

The California Public Employees' Retirement System (CalPERS) on Nov. 26, 1997,



Stafford home wrecked by mudslide

by Timothy Parker

Eureka alleges that logging by PL has damaged the river, which no longer runs clear. The suit holds that MAXXAM is in violation of the federal Racketeering Influenced and Corrupt Organizations (RICO) Act by concealing from state and local officials evidence that

signed on as a co-sponsor to the Oakland-based Rose Foundation's MAXXAM *shareholder resolution*. The measure calls on MAXXAM to elect all its directors annually. The current system, in which one-third of the board comes up for election every three years, prevents

shareholders from annually registering their views on the board's performance, both collectively and individually.

The San Francisco Board of Supervisors on Oct. 27, 1997, passed legislation that will *prohibit the City and County of San Francisco from using old-growth redwood products*. San Francisco now has joined a coalition of businesses, building professionals and citizens that have pledged not to use old-growth redwood.

"The ancient redwoods are synonymous with California itself," said Supervisor Leslie Katz, who on July 14, 1997, introduced the bill. "We can all agree that there is no need to cut the last of the remaining ancient forests to make products for which we now have alternatives. Only four percent of California's ancient redwood forests are still standing, and this may be our last chance to preserve these treasures."

In 1997 Forests Forever collected 11,585 letters concerning the "deal" and other Headwaters issues, as well as garnering over 38,000 commitments to write or call.

— S.W.

Proposed Giant sequoia preserve would protect world's largest trees

Giant sequoias, the largest living things on the planet, are dying as a result of destructive logging practices in Sequoia National Forest in the southern Sierras.

Many people believe that these trees, some of which have attained weights of 12 million pounds and lived up to 3200 years, grow in protected areas. This is largely untrue.

Currently many stands of Giant sequoia are threatened by a logging scheme disguised as fire protection. So-called Defensible Fuel Profile Zones (DFPZs)—essentially quarter-mile-wide ridgetop clearcuts—are proposed for several roadless areas and sequoia groves in the national forest. A recent U.S. Forest Service proposal calls for 15.7 miles of intensively logged ridges, for a timber volume total of over 12 million board feet.

Sequoia National Park, established in

1890, is mandated to protect its ecosystems and natural values. Giant sequoias located in national parks are thus protected fairly well.

The majority of Giant sequoia groves, however, lie inside Sequoia National Forest. National forests are administered by the Forest Service under a multiple-use doctrine that has resulted in an overwhelming emphasis on timber production.

For many years the Forest Service had logged in Sequoia National Forest but avoided cutting within the Giant sequoia groves. But in 1986 activists discovered that the Forest Service apparently had abandoned its previous "hands off" policy and had begun to log in the ancient groves.

According to Sequoia-preservation

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

activist Martin Litton, the Forest Service has gone into the groves because the rest of the forest is so overlogged it can no longer meet the agency's demand for timber. The Forest Service, on the other hand, points to falling board-foot yields from Sequoia National Forest and claims the agency is harvesting more conservatively.

The Watershed

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

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"They (the Forest Service) aren't being more careful," says Litton. "They just can't find (enough) trees."

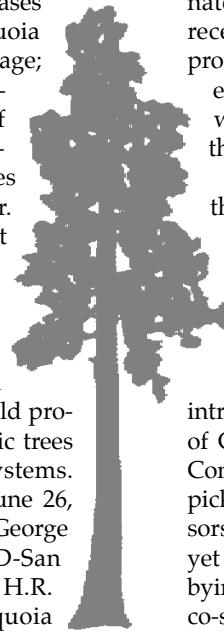
The groves always had been a part of the designated timber base, but until 1986 the Forest Service stayed out of them. The agency then began logging inside the groves without first conducting scientific studies, telling the public, nor opening the logging projects to public comment. The Forest Service has cut everything except the largest "museum trees" from inside more than 10 ancient groves in recent years.

Although Giant sequoias are massive fire-resistant trees, they have a very shallow root system. As areas surrounding these giants are logged they are left standing in unnatural isolation. Their roots are damaged by the weight of heavy logging machinery. The unnaturally barren areas surrounding the giants subject them to

harsh winds and soil erosion.

Litton said there are no known cases of a Giant sequoia dying from old-age; the most common cause of death is "blow-down"—the trees simply fall over. The Forest Service logging adds greatly to this mortality.

Fortunately a bill in Congress would protect these majestic trees and their ecosystems. Introduced on June 26, 1997, by Rep. George Brown, Jr. (D-San Bernardino), H.R. 2077—the Sequoia Ecosystem and Recreation Preserve Act of 1997—would set aside more than 400,000 acres for restoration, recreation and wilderness.



Under the bill nearly 170,000 acres would be designated as Wilderness Areas, receiving the strongest land protection available under federal law. H.R. 2077 also would limit road-building in the preserve.

"Unless legislation such as the Sequoia bill is passed," said Carla Cloer, chair of the Sierra Club's Sequoia Task Force, "Sequoia National Forest will be lost."

A similar bill had been introduced in previous sessions of Congress, notably the 103rd Congress, in which the measure picked up nearly 60 co-sponsors. The Brown bill, which has yet to benefit from a strong lobbying effort this session, has 15 co-sponsors.

In 1997 Forests Forever distributed about 2600 action alerts on the Sequoia bill.

—S.W.

"S. 1180"
continued from p. 1

has been the legal tool most consistently and successfully used to protect habitat."

Many environmentalists see S. 1180's Habitat Conservation Plan (HCP) provisions as the measure's worst problem. HCPs allow for the destruction of a listed species' critical habitat in one location in exchange for saving it in another. S. 1180's notorious "no surprises" proposal would prevent any modification of HCPs— even in light of changed circumstances, such as new science concerning species or habitat in the covered area.

Support for S. 1180 from the Clinton administration, which was strong at the bill's introduction, is weakening as controversy swells around the measure.

"The Administration needs to get off the fence and take a stand on endangered species protection," Fletcher said. "They claim to have

endangered species high on their list, yet they endorse a bill which clearly would pose negative consequences to the entire process of species protection."

Despite public criticism of the bill Kempthorne has vowed to push it when Congress resumes, while he also campaigns for election as governor of Idaho.

"Kempthorne sees this as

***"The ESA forces us
to look at the
impact of losing
even the smallest
species."***

— Mark Fletcher

his final act of environmental devastation before going into the gubernatorial race," said Eric Wingerter, an activist with the Washington D.C.-based Grassroots Environmental

Effectiveness Network (GREEN). "Stopping S. 1180 is of major concern to all parties committed to protecting our natural heritage."

While campaigning against S. 1180, many activists back Rep. George Miller's (D-Martinez) Endangered Species Recovery Act (ESRA) as a bill that would help realize the intended vision of the ESA. H.R. 2351 calls for full protection of habitat as soon as a species is listed.

ESRA would shift the focus from merely survival of species to recovery and would establish scientific benchmarks for recovery instead of relying on government opinions.

Miller's introduction of ESRA, which had 90 co-sponsors at press time, culminated a seven-month campaign by Forests Forever. In 1997 Forests Forever generated 17,513 letters and commitments to write in favor of ESRA and opposed to S. 1180.

— S.W.

Action Rolodex

S. 1180:

Urge Sen. Dianne Feinstein to join Sen. Barbara Boxer in opposing the Kempthorne bill. Tell her S. 1180 would subsidize habitat destruction and slow down the listing process. *Let her know the "no surprises" policy must be removed from any acceptable ESA-reauthorization bill.* This policy prevents modification of HCPs even in light of new scientific information.

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

The Honorable _____
California State Senate
P.O. Box 942848
Sacramento, CA 94248

Headwaters:

Contact your state senator and urge him/her to oppose the \$130 million bond vote prior to the approval of an acceptable HCP for PL's timberlands. The HCP must protect all six ancient groves and critical habitat for all listed species in the area.

To find out the name of your state senator, check the California Government section in your phone book.

tat for waterfowl and aquatic life, as well as baylands diked by farmers over 100 years ago.

The developer has promised to replace the forest by planting new trees on the filled areas. According to the U. S. Fish and Wildlife Service (FWS), the newly planted trees probably would die in a few years as the tree roots penetrate into the saline ground. The FWS said it would take almost a century to restore the old-growth ecosystem lost to the development.

Black Point Partnership claims it will mitigate the damage to wetland habitat by restoring other wetlands. But with over 95 percent of the Bay Area's original wetlands lost, a wetlands-replacement scheme only represents an additional hurdle for wildlife struggling to survive.

"The developers claim they will be planting thousands of trees and restoring wetlands," said Ken Smith, a member of Forests Forever's board of directors. "But the fact of the matter is one cannot re-create an old-growth forest with seedlings or restore a wetland overnight. These are fragile ecosystems that would be lost with the approval of this plan."

To get involved contact *Citizens for the Right to Vote* at 415/897-2575.

— Kristin Kirk

"Black Point"
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Beddall of the Sierra Club's San Francisco Bay Chapter. "This is the last chance to save Black Point Forest."

The Novato City Council on Sept. 24, 1997, approved the development plan to build 53 luxury homes and an 18-hole golf course. The stipulation, made solely between the council and the developer, denied the public its constitutional right to referend the development. In response, environmentalists successfully sued the city, claiming these closed-door agreements were uncon-

stitutional because they eliminated the rights of initiative and referendum as means by which citizens can challenge unpopular political decisions.

The Black Point Partnership then launched a public relations campaign to drum up public support for the project. The partnership, which is paying over \$100,000 to finance the February election, then was able to gather enough signatures to place Measure A on the ballot.

The project encompasses Black Point Forest, a 238-acre oak woodland situated just east of Novato, and over 100 acres of wetlands on the Pacific

Flyway, a route preferred by native and migratory waterfowl. The area provides a significant habitat and resting place for these species, some of which are endangered.

Construction of the proposed project would sacrifice at least 7000 oak trees, including 4300 heritage oaks. Heritage oaks are old-growth trees that have lived longer than Novato has been a city.

While one hill at the site would be bulldozed for landfill, 20,000 truckloads containing an additional 200,000 cubic yards of dirt would be brought in to fill the wetlands and valleys. This would destroy habi-

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