



# The Watershed

VOLUME 8, NUMBER 2

THE NEWSLETTER OF FORESTS FOREVER

FALL, 2004

## Victory for Oak Woodlands Protection Act! *Jackson Forest and Heritage Tree bills killed*

The native oak woodlands that cover about one-third of California gained increased protection on Sept. 24 when Gov. Arnold Schwarzenegger signed Senate Bill 1334 into law.

The Oak Woodlands Protection Act cleared the Assembly floor Aug. 23 on a vote of 41 to 34. The bill had been Forests Forever's primary campaign since November 2003.

Two other forestry measures did not fare as well in this

year's legislative session.

The State Forest System Reform Act, SB 1648, authored by Sen. Wesley Chesbro (D-Arcata), passed the Assembly on Aug. 27 by a vote of 43 to 34, then the Senate, 22 to 13. But on Sept. 16 Schwarzenegger returned it to the legislature unsigned.

And the Heritage Tree Preservation Act (SB 754), introduced by Sen. Don Perata (D-Oakland), expired with the legislative session.

### *The Oak Woodlands Protection Act*

The oak woodlands bill, authored by Sen. Sheila Kuehl (D-Santa Monica), requires counties to consider possible adverse impacts to oak woodlands in planning development projects covered by the California Environmental Quality Act.

The new law also requires mitigation measures if a project will have a significant impact on oak woodlands.

These mitigations include purchase of conservation easements to preserve oak woodlands, replanting or restoring former oak woodlands, and contributing to the Oak Woodlands Conservation Fund. Discretion is given to counties to develop a wide range of alternatives.

"We were thrilled to see the governor sign this bill to improve protection for our oak woodlands," said Paul Hughes, *See "Oaks bill," p. 12*

## *Administration throws out roadless rule*

The U.S. Forest Service on July 12 issued a proposed rule that, if adopted, would eliminate the Roadless Area Conservation Rule.

The roadless rule was written during the Clinton administration and put in place in January 2001. It was developed in 600 public meetings, and received 2.2 million supportive public comments.

It protects 58.5 million roadless acres of national forest from development, helping to ensure clean water, wilderness recreation, and habitat protection.

Last year, the administration announced it was going to allow

Photo courtesy USDA Forest Service



*Bell Mountain Roadless Area in Eldorado National Forest*

governors to exempt their states from the rule if public health and safety were at issue.

The proposed new regulations, however, turn this promise on its head. Under the new rule, governors would be required to petition the Secretary of Agriculture to protect roadless areas in their states.

The secretary would have final say on such proposals. For example, if California Gov. Arnold Schwarzenegger wanted to protect the roadless areas in Los Padres National Forest from oil and gas exploration (potential drilling sites

*See "Roadless rule," p. 10*

### Inside The Watershed

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*from the Executive Director*

## Despite welcome newly enacted protections, California's oaks not yet out of the woods

Beneath the strong and sheltering limbs of a large coast live oak tree on a summer afternoon in 1842, Francisco Lopez awoke hungry from a nap.

Gathering nearby wild onion for his meal, the story goes, he noticed gold flecks on the plants' roots. His find led to the state's first gold strike, pre-dating the big one in '48.

What came next, history tells us, was a radical transformation of California's oak woodlands and its entire natural environment.

As Forests Forever supporters celebrate the enactment of the Oak Woodlands Protection Act (see story, page 1), we should also consider the unfinished agenda.

The bill signed by Gov. Arnold Schwarzenegger on Sept. 24 makes important improvements in the regulation of oak woodland "conversions" (i.e., destruction).

The new statute requires that adverse impacts to oaks be formally considered in planning many development projects. Developers now will have to apply specified mitigations to offset damage done to oak habitat.

The net effect should be to reduce the rate and intensity of oak woodlands destruction and provide citizen activists with more tools, legal and regulatory, to safeguard oaks.

We need these tools. Oak woodlands have been disappearing at a staggering rate—estimated at one to two million acres since World War II—mostly to make way for agriculture, subdivisions, shopping centers and roads. While these rates have slowed somewhat in recent years, another quarter million oak-covered acres could be destroyed or degraded by 2010.

Oak woodlands are among the most productive forest ecosystems in the state, housing more species of wildlife—331 vertebrates, including 32 types of birds and 39 kinds of mammals—than any other vegetation type.

Oaks were a mainstay for Native

Americans before European settlement. Five mature black oaks could provide enough easily stored, high-carb acorns to produce enough meal to feed a typical family for a year.

Oaks provide wildlife with a unique array of goods and services, including temperature-moderating canopy, nesting

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***"Developers will have to apply specified mitigations to offset damage done to oak habitat."***

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locations and materials, trunk cavities, understory shrubs, litter and moisture at ground level, and below-ground habitat for burrowing rodents, spiders, and invertebrates. And of course food in every form, from acorns and leaves to twigs, sap, roots, pollen and catkins.

But the chief threats to these beautiful and rich ecosystems are not fully addressed in the bill just signed into law.

The greatest threat is the conversion of oaks for agriculture. The state's muscular agribusiness lobby got its backers exempted from the oaks bill just enacted. Yet ranching gobbled up about 32,000 acres of oaks a year between 1945 and 1973. Many thousands of acres a year still are bulldozed for grazing, as well as for row crops, orchards and vineyards.

An array of factors keeps oaks from regenerating. These include soil compaction by livestock (preventing acorn penetration), and fire suppression—wildfire historically swept the seedbed clear of duff and debris, leaving usable nutrients behind in the ash.

Predator control has led to increases in the number of acorn- and seedling-munching deer and rodents. Levees and dams eliminated natural flood cycles, starving riparian forests of their regular delivery of nutrient-laden silt.

All these problems facing oaks, and others too numerous to list here, have solutions.

More-compact urban development is one. Greater reliance on mass transportation instead of land-gobbling freeways will go a long way too.

And greater emphasis must be placed on preserving undisturbed oak woodlands, restoring damaged areas by planting oaks and native grasses, controlled burning, and removing exotics; and increasing sustainable economic uses of oaks.

Oak woodlands can be parks, natural laboratories and classrooms, and a limited source of firewood. We can even develop markets for wood products from downed oak. We can improve grazing practices.

Many of these solutions are underway; now we must accelerate them.

The oak under which Francisco Lopez napped is still standing, in Placerita Canyon in Los Angeles County. Like many of California's legendary oaks it has a name: People call it the Oak of the Golden Dream.

Today many of us would define a "golden dream" a little differently than they did in 1842. One would hope it will not, like the dreams of Mr. Lopez, foretell the destruction of our most-iconic California landscape. We'd rather it be a dream of the future—of the oaks' salvation.

—Paul Hughes



# Forests in the Voting Booth

As the election draws near, *The Watershed* takes a look at the positions and public statements of the presidential candidates on America's forests.

Amid the white noise often generated by the presidential campaigns, it can be hard to get a fix on the issues you care about.

And even when the candidates speak clearly about where they stand, the environment generally gets little air time.

*The Watershed* has gone to the candidates' websites, speeches, and public statements, hoping to shed some light on their ideas about forest protection. Here, in alphabetical order by party, are a sampling of the candidates' positions:

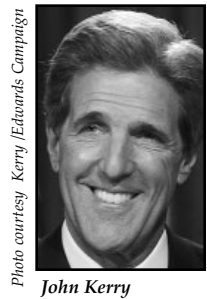


Photo courtesy Kerry/Edwards Campaign

## Democratic Party

John Kerry/John Edwards

The Kerry/Edwards campaign promises to redress changes made by the Bush administration to the National Environmental Policy Act, and to increase funding for fire protection in Wildland-Urban

Interface zones from the 50 percent of funds granted under the Healthy Forests Restoration Act to "a minimum of 70 percent."

They promise to restore "meaningful public participation" and provide for greater local input into fuels-reduction projects.

The campaign ties the creation of jobs to restoration forestry and fire prevention. They would transfer \$100 million "from government subsidies to the timber industry" and create a Forest Restoration Corps.

This would create jobs by restoring forests, streams and rangelands that have suffered fire damage or poor management.

The campaign promises loans and government partnerships for businesses that create sustainable forest products and biomass energy.

They promise support for firefighters and grants for small businesses that fireproof homes or provide fuels treatment in low-income communities.

More broadly, Kerry/Edwards promises to keep old growth off limits to logging in national forests.

Kerry is a co-sponsor of a bill authored by Sen. Maria Cantwell (D-OR) that would preserve as wilderness the roadless areas that until recently were protected under the Clinton-era Roadless Area Conservation Rule. (See story on page 1.)

The national League of Conservation

Voters gave Kerry a lifetime grade of 96 percent for his voting record on environmental issues.

**Quote:** "Where we see a pristine old-growth forest, George Bush sees toothpicks."—John Kerry, in a speech at the University of New Hampshire on Oct. 20, 2003.

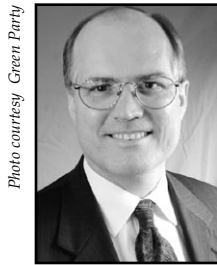


Photo courtesy Green Party

## Green Party

David Cobb/  
Pat LaMarche

The Green Party offers the most detail on forest issues.

Their environmental platform cites stewardship, sustainability, and balance in land use.

The Greens want to eliminate policies that lead to destruction of forest ecosystems around the world. They support paper-recycling laws and sustainable forestry practices. They want to protect old growth, and call for a "zero-cut" policy forbidding industrial timber harvesting on public forestlands.

They want to stop all clearcutting, and reduce roadbuilding on public lands, and support hand-thinning and weeding of forests to replace use of chemical herbicides.

They call for increased public involvement in the management of public lands through community management districts and councils.

More broadly, the Greens favor preserving complete ecosystems and oppose privatizing public lands.

**Quote:** "We feel that, just as the planetary ecology consists of nested systems at various scales, so must our programs and institutions of ecological stewardship be scaled appropriately."—Green Party platform statement on Land Use.

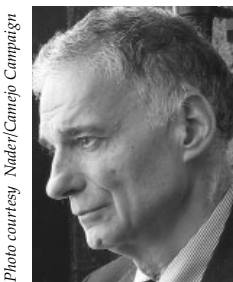


Photo courtesy Nader/Camejo Campaign

## Nader Campaign

Ralph Nader/  
Peter Camejo

Ralph Nader's campaign literature makes little mention of forests. Nader's position on energy, like Kerry's, ties environmental protections to the creation of new technologies and

jobs. Forest issues are included by inference

in the citing of biomass as an energy technology worth supporting.

Nader's critique of corporations lambastes the corporate approach to forestry. And Nader has spoken out against the Bush administration's practice of appointing former industry executives to important posts in government agencies that regulate those industries.

In recent speeches Nader has called for an end to commercial logging on national forests, and pointed out that the economic benefits of recreational use outweigh those of logging.

**Quote:** "It gradually became clear there was a common link between unsafe cars, contaminated drinking water, destruction of rain forests, and collapsing job opportunities . . . and that link was runaway unaccountable corporate power."—Ralph Nader, in a speech to student voters.

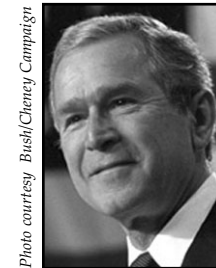


Photo courtesy Bush/Cheney Campaign

## Republican Party

George W. Bush/  
Dick Cheney

The Healthy Forests Initiative is the Bush campaign's flagship for forest policy.

According to the campaign website, the Healthy Forests Restoration Act

reduces the complexity of environmental analysis, encourages early public participation in project planning, and issues clear guidance to the courts in trying cases against "forest health projects."

The campaign's presentation of the act focuses on the benefits of reducing catastrophic wildfire and reducing insect infestation.

Bush was given an "F" on the environment by the national League of Conservation Voters.

**Quote:** "The President's [Healthy Forests] initiative is helping restore the health and vitality of forests and rangelands, and helping reduce the threat of catastrophic wildfires."

—M.L.

### Campaign websites

Bush/Cheney: <http://www.georgewbush.com/>

Green Party: <http://www.gp.org/>

Kerry/Edwards: <http://www.johnkerry.com>

Nader Campaign: <http://www.votenader.org/>

# Spraying the life out of forests

## Logging for profit and poisonous chemicals go hand in glove in California's forests

Atrazine, an herbicide shown to change the gender of frogs and suspected of increasing cancer risk in humans, has been banned in several European countries.

Yet in 2002, timber companies sprayed over 32,000 pounds of the stuff in California forests.

Atrazine is only one of the herbicides widely used in the state's forests that are suspected of causing serious health problems in humans and animals.

Pesticides are poisons such as rodenticides, fungicides and insecticides, targeted to harm specific groups of living things. Federal agencies and private timber companies together sprayed 264,539 pounds of pesticides in California's forests in 2002.

Herbicides are a type of pesticide used to kill vegetation. The U.S. Forest Service and the timber industry use them most often to prepare clearcut or

burned-over areas for replanting; they are sometimes used to prepare sites for harvesting, and to clear brush from roadsides.

The agency and private companies also use some pesticides to kill insects and rodents that harm trees, but most of the pesticides they apply are herbicides used to kill plants that compete with replanted trees for sunlight and nutrients.

Herbicides' potential for ecological damage is worsened by ingredients called surfactants. Surfactants are added to the active ingredients of pesticides to improve their effectiveness, enhancing penetration and coverage, for instance.

Glyphosate (better known by its brand name "Roundup") is the most heavily used herbicide in California forests. "In the case of glyphosate," says Vivian Parker, a biologist with the California Indian Basketweavers Association (CIBA), "the surfactants used most commonly by the timber companies and the Forest Service make the product significantly more toxic. Many surfactants are also known endocrine disruptors."

Parker says that the figures for annual pesticide use published by state agencies include only active ingredients, not surfactants.

### "Bad Actors"

Three herbicides commonly used in California forests—hexazinone, atrazine and 2,4-D—are considered highly toxic "bad actors" by the San Francisco-based Pesticide Action Network. "Bad actors" have at least one of the following characteristics:

1) Are known or probable carcinogens;



Photo courtesy James H. Miller, USDA Forest Service

Spraying pesticides by helicopter

2) Are known to cause birth defects or interfere with normal development;

3) Are cholinesterase inhibitors (the enzyme cholinesterase is essential for transmission of nerve impulses);

4) Are known groundwater contaminants;

5) Are highly toxic, meaning they can cause extreme illness or death within seven days of exposure.

A chemical is only deemed a bad actor by PAN if it has undergone a "weight of the evidence" evaluation, in which a panel of experts examines all available studies to determine the risk. Because of the expense and time involved, not all chemicals are evaluated in this manner.

Chemicals shown to be harmful in preliminary studies should be given highest priority for evaluation, says Susan Kegley, senior scientist with PAN. But some toxic chemicals remain unevaluated because of industry efforts to prevent their listing by the U.S. Environmental Protection Agency.

"When there's a lot of money to be made, the company will try very hard to keep its product from getting a negative listing," she said.

And that, according to Kegley, is exactly

what happened in the case of atrazine.

In a 2003 study, U.C. Berkeley scientist Tyrone Hayes found that atrazine caused hermaphroditism in frogs at less than 0.1 parts per billion, an extremely low amount easily found in run-off from sprayed areas.

An August 2003 report by the EPA's independent scientific advisory panel

concluded that atrazine could not be ruled out as the cause of cancers observed in studies of the chemical.

Yet in October the agency decided not to restrict atrazine use, saying it found the chemical is not likely to cause cancer in humans. This was a direct result of the industry pressuring the EPA not to list atrazine as a carcinogen, Kegley said.

The National Resources Defense Council has filed a lawsuit charging the EPA with failing to protect endangered species from atrazine.

Typically, such suits are the only way harmful chemicals are taken off the market, conservation groups say. Even then, Kegley says, it is difficult to convince courts of a chemical's threat.

### Poisoning wild plants and animals

On July 27 the Center for Biological Diversity released a report—*Silent Spring Revisited: Pesticide Use and Endangered Species*—detailing the failure of the EPA to regulate pesticides that harm endangered species. The report identifies over 375 species listed under the Endangered Species Act that are harmed by pesticides.

"The EPA is definitely subservient to the pesticide industry," said Jeff Miller of the group's Oakland office. "In the face of overwhelming scientific evidence of pesticides' dangers, they're reluctant to put restrictions on them."

One of the species cited in the report is the California red-legged frog, listed as threatened by the EPA and found in forest streams throughout the state. According to the U.S. Fish and Wildlife Service (FWS), pesticides can cause deformities, immune system dysfunction, diseases, injuries and death in the frogs.

The FWS says that tadpoles are likely to be killed by chemicals such as triclopyr, an herbicide commonly used in the state's forests. (17,699 pounds of two types of triclopyr were sprayed in California forests in 2002, for example. See chart on page 11.)

Triclopyr is one of 25 chemicals the FWS identifies as particularly dangerous to the frogs; the list also includes the frequently used glyphosate.

Two of the other threatened or endangered species named in the report are the Coho salmon and steelhead trout, both found in California forest watersheds.

Photo © 2003 William Flaxington



Red-legged frog (*Rana aurora*)

The Center's report cites the EPA's own pesticide registration documents as acknowledging the danger pesticides pose to salmonid species. According to the EPA documents, at least 36 pesticides used in the Pacific Northwest are expected to have a negative impact on salmonids.

The private timber industry sprayed over 23,000 pounds of the compound 2,4-D, which has been shown to impair trout swimming ability, in California forests in 2002.

Environmental, commercial fishing and private angler groups recently obtained a court order preventing the use of more than 30 pesticides near salmon streams in California, Oregon and Washington.

"It's a start," Miller said. "It's an acknowledgement that the worst chemicals shouldn't be sprayed right by the stream."

#### How much is enough?

Over objections from environmental and Native American organizations, the Forest Service in July approved a plan to spray almost 5,000 acres of Stanislaus National Forest near Yosemite National Park. Known as the Larson area, it burned in 1987, then was salvage-logged.

The Forest Service said the spraying is necessary to clear brush in order to return the area to its "natural" state.

But John Buckley of the Central Sierra

Environmental Resource Center (CSERC) said the agency's true aim is to turn the area into a pine plantation that eventually can be logged for profit. The "brush" the Forest Service refers to in its reports includes thousands of native oak trees, maples, dogwoods and alders, many between 10 and 20 feet high, he says. The agency's planned spraying will kill the majority of the oaks in the area, destroying habitat for species such as songbirds.

Buckley said the spraying will also destroy habitat for the mountain yellow-legged frog— an endangered species named in the *Silent Spring Revisited* report as especially vulnerable to pesticides. Buckley said the narrow 20-foot vegetative buffer the Forest Service plans to leave along streams in the Larson area will severely restrict the frogs' habitat range.

"Not having additional vegetative cover upslope from the streams means the forest becomes almost a desert in many of these treated areas."

Buckley said the herbicides sprayed aerially can be far more damaging than hand-application because of the method's inaccuracy.

"From the air it is very difficult to see the target area," he said. "The spray could go way outside the range."

Buckley said CSERC tried to compromise with the Forest Service, asking that the agency use hand-application in the Larson area instead of aerial spraying. But Forest Service officials said spraying the area manually would be too hazardous for workers.

#### Not the worst

Forest Service pesticide-use specialist David Bakke defends his agency's use of herbicides in California, saying it is relatively limited. Data confirm that the private timber industry is by far the bigger user of herbicides in California. Figures are not available for individual companies' herbicide use.

However, in 2002— the most recent year for which data were available— private industry accounted for almost 90 percent of herbicides applied in California's forests. (About 42 percent of California's 39.6 million acres of forestland are privately owned; public forests— federal, state and municipal— cover about 23 million acres, or 58 percent.)

The Forest Service in California has

almost entirely eliminated use of herbicides such as atrazine that are considered to be most toxic, Bakke says. The agency primarily uses glyphosate, which accounted for roughly 19,000 of the 22,000 pounds of herbicides it used in the state in 2002. It uses other chemicals such as triclopyr and clopyralid, but in minimal amounts.

"All of these herbicides have gone through a fairly detailed look-at by the Forest Service," Bakke said. "Although we would never claim that any pesticide is safe, for all of these we've determined that the directed use is acceptably safe."

#### Native plants, native crafts

Vivian Parker acknowledges that the Forest Service has greatly reduced its use of herbicides. But, she said, "that's directly the result of people working to get the worst chemicals off public land."

And the agency's continued use of herbicides, particularly in Stanislaus National Forest, still has serious effects on native plants and the people who use them, Parker says. Herbicide use in Stanislaus accounted for 50 percent of all herbicides used in California national forests in 2003.

Parker said herbicides contaminate and kill native plants that are used in Native American basketweaving and in ceremonies. These plants include oak, elderberry, sourberry, hazel, chaparral plants including deer brush and redbud, wild plums and wild cherries.

"When foresters spray herbicides in forests they're killing exactly those plants," Parker said.

Photo courtesy James H. Miller, USDA Forest Service



Meter-Jet handgun for spot application of herbicides

Basketweavers depend on materials found on public forests for their supplies, she says. "Basketweavers report greater and greater difficulty all the time in finding the materials they need."

In addition to the destruction of materials used for baskets and ceremonies, CIBA is concerned about the hazards herbicides pose to people handling sprayed plants.

See "Spraying forests," p. 11

# Changing the rules: Federal forests get burned

*The Bush administration has taken a real issue—wildfire danger in our national forests— and turned it into an excuse to reward Big Timber*

Bush administration forest policies have increased the amount of logging on federal lands while reducing public input, limiting legal recourse, and overriding protections for wilderness, endangered species, water quality, and old growth.

The administration has implemented its forest policies through rule changes that can be put in place without consulting Congress. Another strategy is “sue and settle,” wherein the Justice Department refuses to defend against anti-environmental lawsuits, “settling” them in favor of industry and allowing adverse rulings to go unchallenged.

These tactics have been used to undermine 30 years of federal forestry law.

## *The National Environmental Policy Act*

Finding ways around the National Environmental Policy Act has been central to the administration’s attack on forest regulations.

The NEPA is the keystone of federal environmental policy. The act requires federal agencies and federally funded developers to consider the environmental impacts of their proposed actions, assess alternatives, and solicit public comment.

Based on this evaluation, a project may be modified to protect environmental values or (rarely) stopped altogether.

The ability of environmental groups (such as Forests Forever) to influence land-use decisions in favor of conservation rests largely on NEPA.

An important provision of NEPA is the

environmental impact statement, which is required when a project will have a significant effect on its surroundings.

Many of the Bush administration’s rule changes are exemptions from NEPA that seek to get around these requirements.

## *Categorical Exclusions*

The administration has used categorical exclusions to exempt fuels-reduction projects from the reporting requirements of NEPA. In the past, categorical exclusions typically have been used to exempt small projects that have no significant environmental consequences, such as clearing brush around ranger housing. Yet the administration would exempt large projects with clear negative effects on the environment:

- “Fuels-reduction projects” of up to 1,000 acres would be exempted. These projects can involve logging of large trees, and could have the same environmental impact as a timber harvest.
- The administration has tried to claim

tracting.” “Goods for services” contracts are awarded to private timber companies, letting them keep larger trees in payment for clearing the brush and smaller trees that increase the likelihood of destructive wildfire. (Larger trees are less flammable, and reduce wildfire hazard by providing shade and retaining moisture.)

These contracts last for 10 years— with no limits on the size of trees that can be cut or the acreage that can be logged.

## *National Forest Management Act*

The National Forest Management Act requires each national forest to develop a management plan. This plan is meant to ensure the protection of wildlife habitat and watersheds, as well as sustained timber production. The Forest Service must develop the plans in consultation with scientists and agency personnel. It must hold public meetings to present the plan and must solicit public comment.

The Bush administration proposed rule changes in 2002 that would weaken NFMA-mandated environmental review and scientific assessment.

The planned revisions would severely restrict the input of scientists and the public. They would make forest management plans virtually meaningless by allowing easy exemption of individual projects—including timber harvests. The new rules also would enable regional foresters to issue, without public review, interim amendments that would last up to four years. The proposed regulations ignore recommendations by the federal Committee of Scientists, which was formed specifically to review Forest Service decisions.

The new rules would restrict public comment in several ways, including the elimination of postcards and form letters as a means of voicing objections to management plans.

The Forest Service received 195,787 comments on its proposed rule revisions, and has not yet released its final decision.

On Sept. 29 the administration published an “interpretive rule” in the Federal



*Clearcut on Shasta National Forest*

Photo courtesy G. Donald Bain, Geolimages Project, UC Berkeley

whole forest management plans as “categorical exclusions”— in spite of the scale and environmental impacts of such plans.

## *Stewardship contracts*

Another way around NEPA the administration has exploited is “stewardship con-



Register announcing that forest managers will no longer have to abide by a 1982 rule requiring that managers maintain viable wildlife populations on national forests. Instead, managers now need only ensure that “the best science available” has been used.

### Healthy Forests Restoration Act

The Healthy Forests Restoration Act is the centerpiece of Bush administration forest policy. As in other administration initiatives, the HFRA uses the threat of wildfire to trump environmental concerns and public review. The act is riddled with loopholes for logging.

Enacted in 2003 over the strong objections of environmental groups, the HFRA allows the Forest Service to mount “fuels-reduction projects” without having to consider their environmental impact, and without having to consider alternatives as mandated by NEPA.

The act severely limits opportunities for public comment, and limits appeals to those who have made “substantive” comments during public comment periods. Little advance notice is given and the length of the comment period is not defined.

The act also makes judicial review more difficult, limiting court injunctions against fuels-reduction projects to 60 days, and restricting where cases can be heard.

The best way to prevent wildfires from damaging communities, according to the Forest Service’s own experts, is brush-clearing in 200-foot-wide zones around structures.

But the HFRA concentrates logging up to a mile and a half away from settled areas. The timber harvest it mandates as a means of paying for “fuels reduction” would level many flame-resistant mature trees, not just flammable brush. It also would allow “temporary” roads to be built— at taxpayer expense— into currently roadless areas.

The administration justifies these evasions of environmental laws by claiming that appeals and lawsuits by environmentalists have kept the Forest Service from preventing wildfires.

But the U.S. General Accounting Office reported that, out of 1,671 fuels-reduction projects prepared by the Forest Service in the first six months of 2001, only 20 were appealed, and none were litigated.

### The Roadless Area Conservation Rule

On July 16 the Forest Service published a proposed rule in the Federal Register that would replace the Clinton-era

Roadless Area Conservation Rule. This proposed rule would force state governors to petition the Secretary of Agriculture if they wanted to stop roadbuilding, logging, or mining on inventoried roadless areas in their states.

for endangered wildlife, and cut back the amount of fire prevention work close to communities.

The Forest Service says these changes are needed to help prevent catastrophic wildfire. The revised Framework, however, would



If a petition is not filed, guidance on roadbuilding would default to existing forest management plans, 59 percent of which, according to the Forest Service, allow road building in roadless areas. (For more on the roadless rule, see story on page 1.)

Even if a governor petitions to protect roadless lands in his or her state, however, the secretary still could reject the petition and allow roadbuilding to go forward.

And when a petition is accepted, this merely begins a new rulemaking process—which would not necessarily incorporate the protections requested in the petition.

The Forest Service recently extended the public comment period on the proposed rule change until Nov. 15.

### The Sierra Nevada Framework

The Sierra Nevada Forest Plan (the Framework) was designed to manage and protect the 11.5 million acres of federal forest in the Sierra. It was developed over 10 years, incorporating input from scientists, forest managers, and the general public.

The Forest Service’s rewriting of the Framework, unveiled in January 2004, would triple the amount of logging allowed in the Sierra, increase the size of the trees that can be cut, loosen protections

reduce the amount of resources devoted to fuels reduction near communities, in the wildland-urban interface zone (WUI), the very place where forestry scientists say brush removal and thinning will do the most to protect homes.

The original plan had allocated 75 percent of its fuels-reduction work to the WUI; the rewrite reduces this to 50 percent. And, like the HFRA, the revised plan calls for thinning as much as a mile and a half away from structures.

The revised Framework would permit trees up to 30 inches in diameter to be cut, rather than keeping the 20-inch-diameter limit of the original Framework. Old-forest areas, critical to listed species such as the Pacific fisher and the California spotted owl, were previously off-limits to logging.

Under the revised Framework they would be subject to “fuels-reduction” projects. The plan would allow canopy reductions to 50 percent in old-forest areas, in spite of the potential impact on listed species.

The Forest Service revisions to the Sierra Nevada Framework are currently being appealed by several conservation groups, among them the Center for

See “Federal forests,” p. 12

# Standing up for the oldest trees:

*From mounting a hunger strike to campaigning for the Heritage Tree Act, Susan Moloney has worked hard to save old-growth forests in California.*

Susan Moloney has spent most of the past eight years fighting to keep California's ancient forests from being cut down and sold for lumber.

"These trees have been there for so long," Moloney says. "They're some of the largest, tallest, oldest living things on the planet. It's incredible. They still exist here in California. Who the heck are we to destroy them?"

For three years, Moloney has worked for the Campaign for Old Growth (CFOG) in Oakland, a non-profit group founded to foster legislation to preserve old-growth forests.

In 2001 the group attempted to place a voter initiative on the ballot, but later threw its support behind Sen. Don Perata's Heritage Tree Preservation Act (later SB 754) when that bill was introduced in the legislature. (The bill died in committee in the state Assembly in August.) But what first drew her to the political work she's doing now were the ancient trees themselves.

## *Impressed and alarmed*

Born in upstate New York, Moloney spent her first 30 years on the East Coast, and didn't move to California until 1996.

She came to the West Coast the long way—by circumnavigating the globe.

"My partner and I at the time went on a big trip around the world," she said. "We traveled for 20 months outside the country. We visited 17 or 18 different countries."

Soon after she returned to the United States she came out to California. There she found a landscape that moved her like nothing else she had seen in her travels. She also found an issue that would come to absorb her.

"I'd been to some incredible, amazing places around the world," Moloney said. "I'd seen the Great Barrier Reef and the Pyramids and the Red Sea. And yet the redwoods and the forests here were the most incredible things for me."

But while she was deeply impressed by the beauty of the redwoods she was horrified to find out that the magnificent trees were being cut down at a rapid pace.

"When I first got here and learned that we were still cutting down old-growth trees it was just mind-boggling," she said.

Moloney became determined to do something about the destruction of California's old growth. Since that first

activism, and she became interested in past struggles for societal change—anti-nuclear protests, the civil rights campaigns, the right to vote for women—"all the way back to slavery," she said.

"You realize that none of these changes are made quickly or easily. And I realized that people have been engaging in these issues for years and for centuries, and sometimes their lives are literally on the line. That gave me a lot of hope, and I still try to maintain that."

## *Starving for old growth*

Moloney put her own life on the line in 2002 when she staged a 52-day hunger strike on the Capitol steps in Sacramento to draw attention to the logging of old-growth in California.

Then-governor Gray Davis had promised in a campaign speech to "save all the old-growth trees from the lumberjack's axe." Moloney decided that Davis had to be held to his promise.

"It was not a secret that I had been holding him to those words. We had a petition that was signed by tens of thousands of people, if not more, that I personally delivered. And people said to him, 'You made this promise, gosh darn it, not only should you keep your word no matter what it is, but this is a very vital issue that people around the state, around the country and around the world believe in.'"

Moloney had friends who were engaged in treesits. (She had been a substitute treesitter herself, and had assisted Julia Butterfly Hill in her two-year vigil in the ancient redwood Luna, working on her support team.)

Moloney felt that the destruction of the state's old growth was reaching crisis proportions, and wanted to bring more pressure to bear on Davis to do something about it.

"I had been seeing a lot of big, old trees on the backs of trucks, and I just was thinking, 'What can I do, what can I do, what can I do?'" That's when the idea of holding a hunger strike popped into her head.

"I thought about it and thought about it for a week or two, and decided this is what I needed to do."

Moloney set up in front of the Capitol in a canvas chair. At first most people—

Photo © 2004 Jenn Heritage



Susan Moloney

emotional encounter with ancient trees, she has worked with forest activists "to see what I could best do to make a change in this issue and stop all this logging."

She began working at the Environmental Protection Information Center (EPIC) in Garberville, doing administrative work for them for two years. Impressed by the forest activists she met through EPIC, she began to work as a nonviolence trainer, preparing people for the kinds of situations they would face in logging protests.

"I realized all these incredible young people were coming here and getting arrested for this issue," she said. "I wanted to be helpful."

Coming into contact with people so devoted to an issue that they would put all their time behind it and their own bodies on the line made Moloney curious about



ing the legislators— simply ignored her.

"I think that the reason for that is because I wasn't relating to them on the level that they're normally used to relating to people on at the Capitol," Moloney said. "They don't relate to people there that could be characterized as 'the crazy lady sitting in the canvas chair, that has a sign out there, and she's fasting.'"

Davis never spoke with her during her hunger strike but Moloney thinks that she had an effect nonetheless.

"I know there's a lot of people that, even though they didn't stop and they didn't show their support, now that I go into their offices many of them say, 'Oh, oh yeah, I saw you all the time, I passed you every day.' I didn't know who they were. Now I know a lot of them."

The old-growth issue was discussed at a January 2003 hearing of the Senate Committee on Natural Resources and Wildlife, a direct result of Moloney's vigil.

Much of Moloney's time for the past two years has been spent in campaigning for the Heritage Tree Act, a bill that would have protected old-growth California trees.

Under the Heritage Tree Act, all trees in the state 150 years old or older, and meeting certain species-specific diameter requirements, would have been protected from logging—even on private timber land. It was an ambitious attempt to preserve the last remnants of old growth in the state.

Some of the obstacles Moloney encountered while working on the Heritage Tree Act in Sacramento made her 52-day hunger strike seem like the easy part.

"It really became apparent, the influence of money in politics," she said. "The mis-truths and the downright lies that people are willing to say."

But in spite of the difficulties, "there are some heroes," Moloney added. "There are some wonderful people I've met that came forward to help our campaign. That's encouraging. That's what keeps you willing to carry on."

Among the people who pitched in were celebrity endorsers such as Pierce Brosnan, Jewel, Ralph Nader, Randy Newman,

Bonnie Rait, and Martin Sheen.

Twenty-five environmental groups also endorsed the measure, including Audubon

"We believe it would have had about 39 votes for sure. We were very close."

Moloney has by no means given up on passing legislation to protect old growth. She thinks her organization will be more likely to introduce another bill in the legislature, rather than pursue CFOG's original plan of putting a voter initiative on the ballot.

"The bottom line on the initiative is that you need a million dollars to get on the

ballot, and we don't have that right now," she says.

"I think that we got to a point which was much, much farther than many people thought we would ever get," Moloney said.

By getting as far as they did with the bill, Moloney said, her organization was able to put it on the radar screen in the legislature and gain the issue some credibility. Most importantly, she says, they managed to educate people about it.

"Now we know that the Speaker of the Assembly knows about old-growth issues. And you can't say enough about that."

Moloney hopes that the lessons her organization has learned from the attempt to get the bill through the legislature will help them succeed next time around.

"We don't have the luxury of time on this either. Every session that goes by, every voting day that goes by, we have less and less old growth."

#### *The importance of ancient trees*

At the most basic level, it's the trees themselves that keep Moloney working to save them.

"There's so much on this planet now that's paved, and it's malled, and it's blacktop and it looks like so many other places in the state, and so many other places in the world. But these forests are unique. And they've been living for hundreds and thousands of years. They're relics of time and the distant past. There are fewer and fewer places on the planet that are like that.

"It's not necessary to know the 'use' they have for humans, but the fact that they were put here on this planet. They deserve to be here and have the right to exist. It's not acceptable and it's not appropriate for us to be destroying the habitat."

—M.L.

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*"Every session that goes by, every voting day that goes by, we have less and less old growth."*

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California, Earth Island Institute and the Sierra Club.

Forests Forever endorsed the bill, and actively campaigned for it. Kent Stromsmoe, who sits on the Forests Forever board of directors, wrote most of the initial draft.

Photo © 2004 San Francisco Chronicle



*Crazy lady in a canvas chair: Susan Moloney during her hunger strike in Sacramento, November 2002.*

Considering its sweeping nature the bill did quite well in the legislature, passing the Senate by a vote of 23 to 14. In the Assembly the bill got by the Natural Resources and Appropriations committees but never made it to a floor vote.

are being studied by the Forest Service) he would have to petition the secretary. No matter how compelling his arguments, however, the secretary could reject the proposal.

"The likelihood of governors filing these requests is greatly reduced by the fact that

that it was up to Congress to designate federal wilderness areas, not the Forest Service.

Wyoming thus is the only state where the rule is completely invalid. In California (along with 48 other states), the original, strong Clinton-era rule still applies and can be

defended in court by concerned citizens or the government.

Californians also will be able to defend the rule regardless of the 10th Circuit's decision (as would Washington, Oregon, Nevada, Idaho, and Arizona).

reintroduced in the House in June 2003 by Jay Inslee (I-WA) and the Senate by Maria Cantwell (D-WA), still is pending in both houses of Congress. The act would designate all inventoried roadless areas under the rule as Wilderness Areas, and would supersede any court order on the roadless rule.

Senators Barbara Boxer (D-CA) and John Kerry (D-MA) both have cosponsored this bill in the Senate.

But until such legislation is passed, the roadless rule's fate remains in the hands of the 10th Circuit Court. The court's decision is expected as soon as mid-fall, or more likely by early next year. But if the administration gets rid of the roadless rule, its decision may be meaningless.

"Roadless areas are a fast-disappearing resource that is virtually irreplaceable once altered," Fletcher said. "The public wants these areas set aside for watershed, wildlife, and recreational use, not just for short-term exploitation."

(For more information on the roadless rule and other Bush anti-forest policies, see "Changing the rules: Federal forests get burned" on page 6.)

—Keith Sendziak

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the states would have to foot the bill on preparing these petitions," said Mark Fletcher, president of the board of directors of Forests Forever. "Shepherding them through a long and contentious process would be costly too."

Without a governor's intervention each national forest's management plan would determine how roadless areas are treated. Unfortunately, 59 percent of forest plans, according to the Forest Service, provide for exploitation of roadless areas.

"Of course, the states that have the most roadless acreage also tend to be the states where extractive industries have the most clout with the governor," Fletcher said.

The Forest Service has cited legal challenges to the Roadless Area Conservation Rule as the primary reason for proposing the new rules. But the legal status of the roadless rule is still in play.

Three days after the rule's adoption on Jan. 5, 2001, a lawsuit was filed by the timber industry and the state of Idaho claiming the roadless rule was illegal. Initially struck down in an Idaho district court, the rule was reinstated by the 9th Circuit Court of Appeals on Dec. 12, 2002.

However, the state of Wyoming brought a new case in May 2003 in Wyoming district court seeking to invalidate the rule. A sympathetic judge, Clarence A. Brimmer, stated

Nevertheless, an unfavorable ruling by the 10th Circuit does have national significance.

All eyes now are turned to the 10th Circuit to see whether it upholds Brimmer's decision or reverses it and issues a ruling consistent with the 9th Circuit ruling. If Brimmer's decision is upheld, the states under the 10th Circuit's jurisdiction (Oklahoma, Kansas, New Mexico, Colorado, Wyoming, and Utah) will see the roadless rule invalidated.

Such a decision likely would be appealed to the U.S. Supreme Court. On the other hand, a decision backing the 9th Circuit would severely weaken the Forest Service's rationale for proposing new regulations.

Despite these recent setbacks, there has been some good news for roadless areas. In early June an amendment to the Interior Appropriations bill prohibiting government funds from being used for road-building in Alaska's vast roadless areas in Chugach and Tongass national forests was introduced by Rep. Steve Chabot (R-OH). (These forests were exempted from the roadless rule by the Bush administration in December 2003.) The measure passed the House of Representatives on a 222-205 vote (with 173 Democrats, 48 Republicans and one Independent voting for it), and goes next to the Senate.

The Roadless Area Conservation Act,

## TAKE ACTION:

The Forest Service has extended the comment period for the proposed rule changes to **Nov. 15**.

The proposed rule is available at:  
[http://roadless.fs.fed.us/documents/id\\_07/2004\\_07\\_12\\_state\\_petition\\_proposed\\_rule.html](http://roadless.fs.fed.us/documents/id_07/2004_07_12_state_petition_proposed_rule.html)

Send your comments to:  
Content Analysis Team  
ATTN: Roadless State Petitions  
USDA Forest Service  
P.O. Box 221090  
Salt Lake City, UT 84122  
Fax: (801) 517-1014  
E-mail: [statepetitionroadless@fs.fed.us](mailto:statepetitionroadless@fs.fed.us).

Comments also may be submitted from:  
<http://www.regulations.gov>

Write to your congressional representatives and ask them to support the Roadless Area Conservation Act, H.R. 2369/S. 1200, sponsored by Rep. Jay Inslee (I-WA) and Sen. Maria Cantwell (D-WA). You can locate your representative's address online at <http://thomas.loc.gov/>

## The Watershed

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50 First St., Suite 401  
San Francisco, CA 94105  
phone (415) 974-3636  
fax (415) 974-3664  
mail@forestsforever.org  
www.forestsforever.org

Paul Hughes  
Executive Editor

Marc Lecard  
Editor

Gary Bentrup  
Flag Artwork

### The Watershed

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"Spraying forests"  
continued from p. 5

## Herbicides commonly used in California Forests

Source: California Department of Pesticide Regulation

Chemical	Pounds used in CA forests in 2002	Pesticide Action Network "Bad Actor"	Health/environmental hazards
Glyphosate	52,689	No	Potential groundwater contaminant
Hexazinone	40,851	Yes	Acute toxicity, groundwater contaminant
Atrazine	32,764	Yes	Known carcinogen, groundwater contaminant, suspected endocrine disruptor
2,4-D	23,226	Yes	Possible carcinogen, potential groundwater contaminant, known developmental or reproductive toxin
Triclopyr (BEE, TEA)	17,699	No	Potential groundwater contaminant
Imazapyr	14,278	No	Not enough information to determine toxicity
Sulfometuron methyl	595	No	Potential groundwater contaminant

While forest workers wear gear to protect themselves from the chemicals, basketweavers may be unwittingly exposed to treated plants.

The number of people gathering plants in California's national forests is too small to do a statistically accurate study of herbicides' impacts to their health, Parker said. However, she says, studies have linked certain herbicides with human health problems. Swedish studies, for example, have linked glyphosate to non-Hodgkins lymphoma and other studies show a link to hyperactivity in children.

### Why use herbicides at all?

Bakke said the Forest Service uses alternatives to herbicides when possible, primarily machine mulching or brush cutting, but also prescribed burning and animal grazing. Of the 53,200 acres in California national forests where weeds were eradicated in 2002 and 2003, only 21 percent were treated with herbicides, he said.

("This is a smokescreen," said Vivian Parker. According to Parker, the agency lumps native plants and non-native invasives together as "weeds," but most herbicide use is directed at native plants. "Less than one percent of the agency's total use of herbicides state-wide were used to kill non-native weeds in 2002 and 2003," she said.)

The timber industry continues to rely exclusively on herbicides, environmental groups say. Sierra Pacific Industries, for example, coats all of its harvested lands with chemicals, Buckley of CSERC said.

"They use them to kill off everything but a crop of pine trees," he said.

Sierra Pacific declined to comment for this article.

The Forest Service no longer clearcuts as freely as it used to. But Buckley said its herbicide use (following fires and to restore past clearcuts) has the same goal as the forest industry: to farm trees that can be logged for profit.

"They are committed to the concept that they cannot plant an acre of pine trees without the use of chemicals," Buckley said. "I can point to hillsides that have never been treated with herbicides and have trees growing all over them."

Logging methods are a primary culprit in pesticide use. Harvesting methods such as selective cutting where only target trees are logged do not require replanting, and herbicide use could be reduced or eliminated entirely.

"If they were not trying to grow tree plantations," Buckley said, "I can't even think of why they'd need to use herbicides."

— Andria Strickley

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*"Federal forests"*  
continued from p. 7

Biological Diversity, the Sierra Club, and The Wilderness Society. State Attorney General Bill Lockyer also has filed an appeal with the Forest Service.

#### ***The Northwest Forest Plan***

On Mar. 23 the Forest Service and the federal Bureau of Land Management announced amendments to the 1994 Northwest Forest Plan. The changes would eliminate the Survey and Manage guidelines and the Aquatic Conservation Strategy.

The Survey and Manage guidelines required surveys of wildlife and plant species before logging could proceed. The Aquatic Conservation Strategy required

protection of salmon habitat and drinking-water quality.

The proposed changes by the Forest Service and BLM would reduce protection for salmon habitat and water quality and allow more logging in old-growth reserves. The changes would also eliminate requirements to gather biological and ecological data to support habitat protection.

The Northwest Forest Plan covers 24.5 million acres of national forests in Oregon, Washington, and Northern California. The Klamath, Mendocino, Shasta-Trinity and Six Rivers and parts of Modoc and Lassen national forests fall under the 1994 plan's provisions. Together the forests cover more than 4.5 million acres in California.

The Northwest Forest Plan never estab-

lished upper limits on the size of tree that could be cut. Without these limits, and with the Survey and Manage protections for wildlife eliminated, there would be no standards to prevent old-growth forests from being logged. There are 150 timber sales drawn up for the forests covered by the plan.

The Bush administration is nothing if not consistent. In each case where it has weakened or eliminated protections for forests and wildlife, it has claimed wildfire danger as the reason.

Yet the administration's policies may cause more long-term damage to the federal forests and their wildlife habitats than forest fires ever have.

—M.L., with research assistance from  
Keith Sendziak

*"Oaks bill"*  
continued from p. 1

executive director of Forests Forever. "While it doesn't by any means halt the destruction of oaks, it does strengthen the regulatory framework protecting them and provides oaks defenders with new legal tools."

The measure that emerged from months of struggle and amendment was not the same bill that began its journey through the legislature two years ago, but it managed to retain some important provisions.

Probably the most significant weakening of the original bill was the exemption of farmland and rangeland. Real estate development, an important factor in the destruction of oak woodlands, has not been exempted, however.

"Building environmental safeguards is usually an incremental process that takes

many years," Hughes said. "By strengthening the regulatory framework protecting oak woodlands, this new statute moves us a big step closer to our goal."

#### ***The Heritage Tree Preservation Act***

The Heritage Tree Preservation Act would have protected selected species of old-growth trees (coast redwood, giant sequoia, Port Orford cedar, douglas-fir and hardwoods) on non-federal forestland, including land owned by timber companies.

The ban would have applied to trees that met species-specific minimum diameters and were alive in 1850, California's first year of statehood. (For an account of the bill's passage through the legislature, see "Standing up for the oldest trees" on page 8.)

#### ***The State Forest System Reform Act***

Chesbro's bill would have changed the

purpose of the state forests from "maximum sustainable timber production" to a mix of uses including restoration, education, and recreation, as well as timber harvesting. It would have protected old-growth groves in Jackson Demonstration State Forest from logging, and limited the use of clearcutting.

"This is a sad day for the forest, the people of California, and the Mendocino community," said Vince Taylor of the Campaign to Save Jackson State Redwood Forest in a post-veto statement.

Forests Forever campaigned intensively for passage of SB 1334, the oak woodlands bill, from November 2003. Forests Forever supporters wrote or called state senators 1,967 times, assemblymembers 4,918 times, and Schwarzenegger 2,090 times about the bill.

—M.L.

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