

# The Watershed

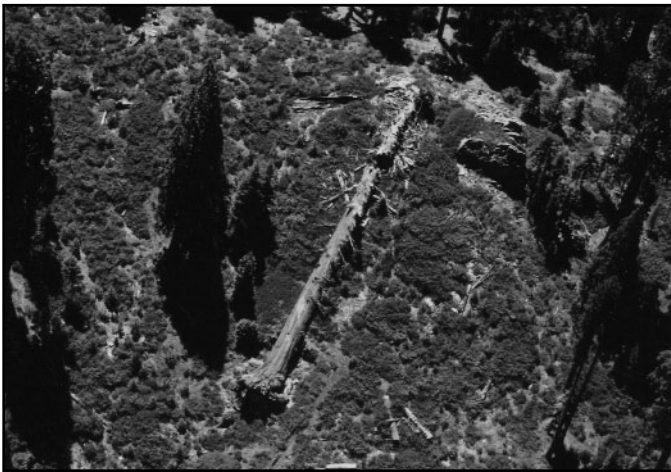
VOLUME 9, NUMBER 2

THE NEWSLETTER OF FORESTS FOREVER

FALL, 2005

## Logging in sequoia preserve halted for now

Photo courtesy Martin Litton



Blowdown in the monument. Removing the forest from around giant sequoias leaves the big trees more vulnerable to the wind.

*"No portion of the monument shall be considered to be suited for timber production. . . ."*

*—Presidential Proclamation, 2000*

Logging where no logging is allowed just became a lot harder for the U.S. Forest Service, thanks to three recent court decisions that affect the Giant Sequoia National Monument.

And a new proposed law would take the southern Sierra wilderness jewel out of the hands of the timber-obsessed Forest Service altogether.

### *The courts weigh in*

On July 7 a judge in the U.S. District Court in Anchorage, Alaska, ruled that the Forest Service cannot disguise logging projects as "categorical exclusions" in an effort to exempt them from environmental assessment and public scrutiny. The ruling also makes such projects subject to appeal.

Later the same month, in a suit brought by California attorney general Bill Lockyer, a federal judge found that the Forest Service's fire plan for

*See "Monument," p. 9*

## *Forests Forever joins suit to save roadless rule*

Forests Forever Foundation and 19 other conservation groups on Oct. 6 filed suit against the U.S. Forest Service, demanding revocation of the Bush administration's roadless rule repeal and reinstatement of the original Roadless Area Conservation Rule.

The administration's repeal in May of the roadless rule provoked lawsuits and new legislation to restore the former regulation that kept logging and development out of the roadless areas of national forests.

"The Bush repeal places the last remaining large, untouched and unprotected tracts of our national forests squarely at risk from fragmentation and develop-

ment," said Forests Forever Foundation board president Mark Fletcher.

On Aug. 30, the attorneys general of California and New Mexico, together with the governor of Oregon, had filed a similar lawsuit in federal district court in San Francisco against the Bush administration over its repeal of the 2001 roadless rule.

And in the California Assembly, A.B. 715, a bill that would deny state funds to assist federal agencies with actions inconsistent with the original, protective Roadless Area Conservation Rule, was introduced by Assemblyman Lloyd Levine (D-Van Nuys). It passed both

houses of the legislature before hitting a timber industry and motorized-recreation lobbying roadblock on Sept. 8. Levine plans to move forward with A.B. 715 when the legislature reconvenes in January.

### *Three-pronged complaint*

There are three legal claims in the Earthjustice-led lawsuit filed by Forests Forever Foundation and others in federal district court in San Francisco:

- The Forest Service violated the National Environmental Policy Act (NEPA)

*See "Roadless," p. 12*

### Inside The Watershed

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*from the Executive Director*

## Mysterious miracle of living things: Taking the measure of giant sequoias

*"What's the use of somebody that doesn't wonder? It's the hallmark of our species. . . ."*  
—Astronomer John Dobson

Of all the things that make human life most sweet, wonder may well top the list.

Wondrous are things mysterious . . . the vast, the beautiful, the terrible, the incomprehensible.

Giant sequoias are surely among the living things that impart the most wonder to humans that experience them.

Coming upon a giant sequoia in a southern Sierra forest, one first becomes aware of a golden-orange light flooding through the trees. Are we approaching the ridge crest at sunset? A few steps closer, we see that the light is reflected Alpenglow off a colossal tree trunk— on a scale completely beyond that of the surrounding big trees.

In one way, sequoias convey a sense of awe more akin to what we might experience from *architectural* wonders than natural ones.

The fabled Seven Wonders of the Ancient World were all architectural and engineering marvels that a Mediterranean traveler might have been able to visit in a single journey in the first millennium B.C. Five of them, including the Colossus of Rhodes, were probably dwarves in comparison to the tallest sequoias, which can attain about 310 feet.

Of the Seven Ancient Wonders only the Great Pyramid and the Lighthouse at Alexandria were taller than the biggest sequoias— and only the pyramid is older. Sequoias have been known to live well past 3,000 years.

The sequoias' size and age elicit marvel, but there are other reasons they amaze us. The world's most massive organisms spring from seeds about the size of a grain of salt and 1/58-billionth their full-grown weight. Giant sequoias

can have bark up to three feet thick (one reason fire rarely hurts them) and add 40 cubic feet of wood to their girth each year.

Yet the Forest Service is destroying the sequoias, using archaic clearcut logging practices that denude the giants of the sheltering, anchoring forest with which they have evolved, and on which

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*"Of the Seven Ancient Wonders only the Great Pyramid and the Lighthouse at Alexandria were taller than the biggest sequoias."*

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their survival depends.

S. 1897, just introduced in Congress, would hand the sequoias' management over to the federal agency that best understands the importance to Americans of natural beauty and awe—the National Park Service.

The scarcity theory of value holds that the rarer a commodity becomes— in this case the aged and behemoth *Sequoiadendron giganteum*— the more economically valuable it becomes. It appears we are entering an age in which rare and natural wonders are, increasingly, economic assets.

When the ivory-billed woodpecker, thought to be extinct since 1951, turned up in the swampy bottomlands of Arkansas in 2004, it set off a surge of interest worldwide. The excitement prompted one writer in the San Francisco *Chronicle* to speculate, perhaps a little too giddily, on what might hap-

pen if California condors were spotted nesting on Angel Island, in the bay:

*"Camera crews would be stumbling over one another trying to rent boats to get out to Angel Island . . . The bay's fishing fleet . . . would suddenly be booked solid with bird-watchers . . . Walkers along the bay's shore would have an exciting new subject of conversation and wonder. Bay Area tourism would jump with bird-watchers coming from all over the world . . ."*

Traditional lists of the Seven Natural Wonders of the World vary as to which items are included but, astonishingly, list no organisms. There are volcanoes and canyons and waterfalls, but no elephant bird or snow leopard or golden poison frog.

People all over the world would say the sequoias are an international treasure, and would scarcely believe that they are being destroyed by a U.S. government agency.

In our increasingly built-out world there are many rightful wonders of human origin. From skyscrapers and suspension bridges to miracle drugs and microchips, we can marvel at many things wrought by human hands.

But the wonders of Nature have been created by the unseen and non-human processes of evolution, in numberless random events through time and space. Intelligent design indeed.

Humans can't make a sequoia, and as yet little understand one, but can easily destroy one and all its kind.

Let this article serve, then, as a plea for adding the giant sequoias to a list of the world's living— and surviving— wonders!

—Paul Hughes



# Task Force Follies

## NEPA, the keystone of environmental laws, is under attack

If the Bush administration and its allies in Congress have their way, a keystone of environmental law that has played a critical role in forest conservation for 35 years may be hit with a wrecker's ball.

The administration has been chipping away at the National Environmental Policy Act (NEPA) with rule changes designed to slip timber sales past the law's provisions by disguising them as categorical exclusions. (See related story on page 1, "Logging in sequoia preserve halted for now.") Now Republicans in Congress are looking for a way to rewrite the law entirely.

"NEPA is the window, the information source about potential impacts which then triggers review under other laws," said Scott Greacen, public lands coordinator for the Environmental Protection Information Center (EPIC). "This is totally critical. Without NEPA, we may not know about Clean Water Act violations, or Endangered Species Act violations, or if a timber sale might lead to a violation of the National Forest Management Act."

### Taking NEPA to task

Leading the assault on NEPA is the NEPA Task Force, chaired by Rep. Cathy McMorris (R-WA). The Task Force is working under the House Resources Committee, chaired by Rep. Richard Pombo (R-CA).

Between April and September, the Task Force held five regional hearings in various locations across the country. The purpose, according to the Task Force website, was to gather testimony about "where NEPA is working and where it can be improved." The goal was to determine "how to provide the best solution for both the environment and the economy."

But as the meetings got under way, a different agenda soon emerged: to limit testimony as much as possible to complaints about NEPA, and use that information to build a case for gutting this critical piece of legislation.

### Let's play "Hide the hearing!"

Congressman Jay Inslee (D-WA), one of eight Democrats on the NEPA Task Force, co-chaired the first hearing in Spokane, Wash. Many of the 175 people who attended wore stickers that read, "I Support

In addition, only invited speakers were allowed to testify. Some environmentalists were not invited until a few days in advance, had only one day to prepare their testimony and rearrange their schedules, and thus could not attend.

### If it ain't broke, don't fix it

Since 1970, when President Nixon signed NEPA into law, it has offered citizens a way to influence how the federal government treats public lands.

Under NEPA, federal actions that significantly affect the environment—such as logging in national forests, oil drilling, and highway construction—are subject to scrutiny, scientific review, and public comment.

Not surprisingly, forest activists have come to rely on NEPA, first to learn of potentially damaging projects, and then to limit the damage. For example:

- In September, staff scientists at the Central Sierra Environmental Resource Center (CSERC) found cows grazing in a research area that a NEPA decision had protected from livestock. The Center notified the U.S. Forest Service but two weeks later the cows were still there. "Now, we can contact the Forest Service and say, 'Look, you're violating your requirement to keep livestock out of there because it's a research area,'" said John Buckley, CSERC executive director. "We'll go to the media, if we have to. If that doesn't work, we'll file a lawsuit to get them to comply with their own requirements."

- In October 2004 a federal district court ruled in favor of a lawsuit against the Forest Service. The judge found that Klamath National Forest repeatedly violated NEPA in its preparation of a proposed timber sale that included large areas where all the trees were to be removed. The Forest Service proposal had described the plan to log 975 acres of old-growth forest in critical habitat for salmon as "watershed restoration."

- In 1993, conservation groups sued the Forest Service under NEPA for failing to use competent scientists to analyze projects involving clearcutting. The Forest Service responded by assembling scientists, who found that clearcutting was eliminating critical habitat for the spotted owl and

Photo courtesy U.S. House of Representatives



Resources Committee chairman Richard Pombo

NEPA: Democracy in Action."

But the four remaining hearings were very different. In the wake of a high turnout by NEPA supporters, Republicans re-scheduled from easily accessible locations to obscure ones, including Nacogdoches, Tex. (instead of Houston) and Rio Rancho, N.M. (instead of Albuquerque).

See "Follies," p. 11

# Junked Science:

*If you don't like the facts, the White House says, just change 'em*

*"To justify its agenda, the Bush White House is suppressing studies, purging scientists, and doctoring data to bamboozle the public and the press. It is a campaign to suppress science arguably unmatched in the western world since the Inquisition."—Robert F. Kennedy, Jr., in Crimes Against Nature*

• Edits made to a federal Bureau of Land Management report on grazing in June 2005 turned its findings upside-down and eliminated any suggestion that grazing might alter landscapes for the worse. The original report's conclusion that the proposed grazing rule changes might harm

blatant that Rep. Henry Waxman (D-CA) commissioned a report.

"Politics and Science in the Bush Administration" appeared in 2003. The report identified three main tactics the administration uses to distort or suppress science to suit its policy goals:

a) Manipulating scientific advisory committees by appointing members without scientific credentials but who represented industry or had a right-wing agenda.

b) Distorting or suppressing scientific information.

c) Interfering with scientific research by blocking it, eliminating programs, and preventing publication of results.

"Most of these issues have one of two features," the report said. "(1) They are issues that have active right-wing constituencies . . . that support the President; or (2) they are issues . . . with significant economic consequences for large corporate supporters of the President."

"Many generally held scientific conclusions are ignored or suppressed by the Bush administration," said James Newman, a geologist and member of Forests Forever's board of directors. "It seems that the only acceptable data to this administration are the ones that support their religious-right agenda or enrich their corporate contributors."

## Smashing the Framework

The Sierra Nevada Forest Plan (the Framework) was a blueprint for managing

Our understanding of forest science has increased dramatically over the last 100 years, and forest management now embraces the work of botanists, wildlife biologists, hydrologists, and fisheries scientists as well as foresters.

So it is reasonable to assume that when there are differing opinions on forest policy and management, science would be relied on to settle the issue.

Guess again.

The full roster of Bush administration attempts to distort, suppress or rewrite the conclusions of

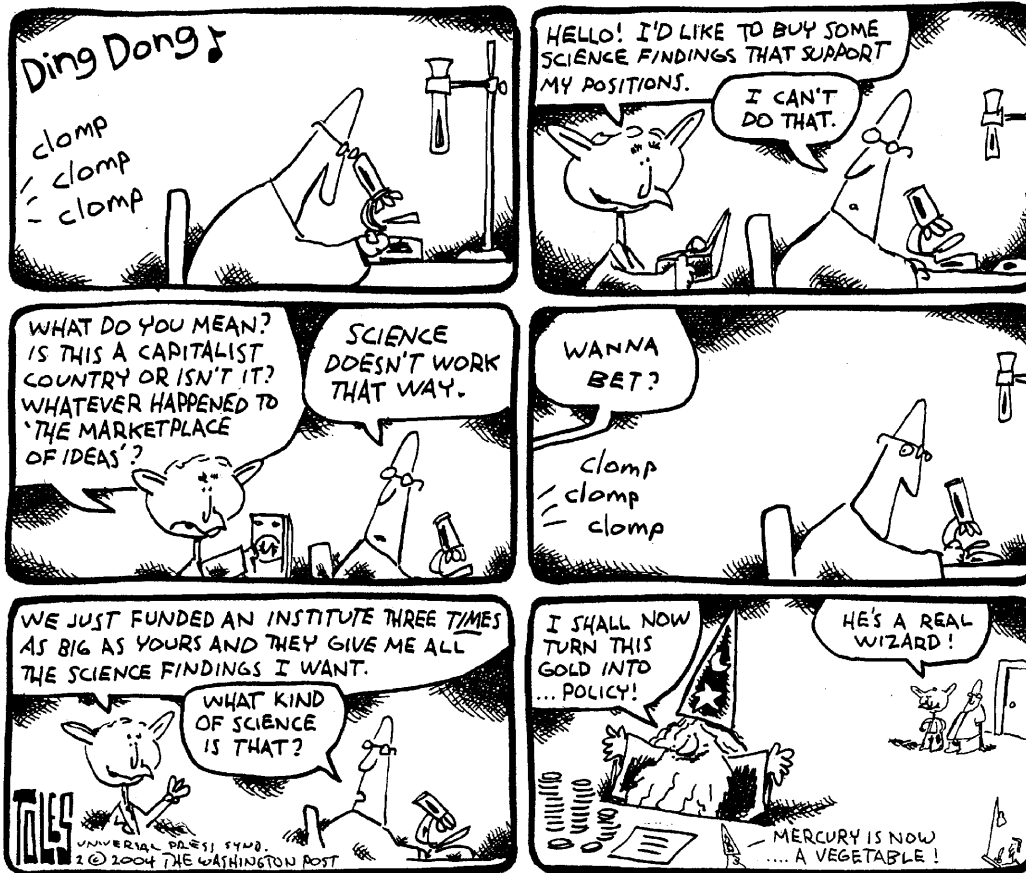
scientists to fit its policy goals is too long to discuss here.

In this article we'll concentrate instead on some of the most blatant attempts to stifle independent forestry science. (A list on page 10 provides readings with many more examples from other fields.)

But first, here's a quick tour of a few of the more alarming low points:

• In June 2003 a Bush appointee blue-penciled a section on global warming in an EPA report. The resulting distortions and misstatements of the scientific evidence were so great that the EPA chose to delete the section in question entirely.

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wildlife and lower water quality was replaced by a statement that grazing was "beneficial to animals."

• In 2005 the U.S. Fish and Wildlife Service instructed its employees not to fill out a survey from the Union of Concerned Scientists and Public Employees for Environmental Responsibility (PEER) about scientific integrity in the agency. Thirty percent did anyway; their responses told of widespread suppression of scientific findings, threats of retaliation, and political interference.

## How they do it

The administration's misuse and suppression of scientific evidence became so

the forests of the Sierra, signed by President Bill Clinton in 2001. The Framework was developed over 10 years, with input from forestry professionals, citizens, and more than 100 scientists, including scientists working for the U.S. Forest Service.

The Bush administration, however, had other plans for Sierra forests. Committed to increasing resource extraction on public lands, the Forest Service had the plan reviewed by its own team of "experts," most of them non-scientists. Within a year the recommendations of this team were being crafted into a revised plan that tripled the amount of logging and weakened protections for old growth and the animal and plant species dependent on it.

"The Framework was the result of many years of work by fire and fuels scientists and Forest Service researchers," said John Buckley, director of the Central Sierra Environmental Resource Center and a former Forest Service firefighter, quoted in the Fall 2003 issue of *The Watershed*.

"It was based in part on the \$7 million congressionally funded Sierra Nevada Ecosystem Project Report—the most thorough scientific analysis ever done for the Sierra Nevada region."

The original Framework covered 11 national forests in California, from Modoc National Forest in the north to Sequoia National Forest in the south. By January 2001 the plan had received more than 47,000 public comments and peer reviews by independent scientists.

According to Robert F. Kennedy, Jr., in *Crimes Against Nature* (HarperCollins, 2004), the administration of California Gov. Arnold Schwarzenegger, which had made support of the original Sierra Nevada Framework a plank in its campaign platform, was blindsided by Bush's log-happy revision of the plan.

They tried to open a discussion with the Bush administration, but CalEPA chief Terry Tamminen's phone calls to the White House went unanswered, and the revised plan rolled forward in spite of the governor's objections.

The Bush administration claimed that the increased logging was necessary to prevent forest fires. There is ample evidence that logging is a primary cause and intensifier of forest fires, however, including reports by the Forest Service's own scientists.

The plan was honest about one aspect, at least. Cutting trees up to 30 inches in diameter would be done to "pay for" the thinning projects.

#### *Attorney General v. the Forest Service*

California attorney general Bill Lockyer filed suit against the U.S. Department of Agriculture and the Forest Service in February 2005, charging that the new Sierra Framework revision "ignores science, flouts the law."

In approving the 2004 Framework, Lockyer's complaint says, the Forest

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***"It seems that the only acceptable data to this administration are the ones that support their religious-right agenda or enrich their corporate contributors."***

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Service violated the National Environmental Policy Act (NEPA) and the federal Administrative Procedure Act (APA), which governs regulatory decision-making.

The agency acted in an "arbitrary and capricious" manner to reach a "predetermined" outcome. Specifically, the agency's 2004 plan has no foundation in new science, new facts or changed circumstances, according to the complaint.

agency. In one instance, a specialist found himself blackballed from obtaining employment as a private consultant."

#### *Changing spotted owl data*

"There should be a special circle in hell for people who mess with scientific data."—Rick Piltz, quoted by Chris Mooney in *The Republican War on Science* (Basic Books, 2005)

The Forest Service's rationale for increasing timber cutting in the Sierra was that it needed to preserve the forests from fire and keep the old-growth habitat of the California spotted owl from being burned.

To demonstrate this, the agency presented data showing that the owls had been burned out of 18 owl habitat sites by forest fire over the past four years.

The only problem with these data is that they weren't true.

In an Associated Press article on Aug. 6, 2004, wildlife biologists said that seven of the 18 "destroyed" sites the Forest Service cited were in fact green, growing, and occupied by the birds in question.

The article added that a Forest Service wildlife biologist had been removed from the team that rewrote the Framework after he had complained about the agency's distortion of the spotted-owl data. A statement by this scientist to the effect that wildfire was beneficial to the forest and did no harm to the owls was struck from the report.

#### *"Ranting" on the Roadless Rule*

According to the Natural Resources Defense Council (NRDC), the EPA deleted comments critical of Bush's proposed rollback of the roadless rule from an official letter sent to the Forest Service on Nov. 26, 2004.

The original Roadless Area Conservation Rule was put in place by President Bill Clinton just before he left office in 2001. The rule banned roadbuilding, logging, mining and other development in inventoried roadless areas in the national forests. (See "Forests Forever joins suit . . ." on page 1.)

The original EPA letter noted the

See "Science," p. 10



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Public Employees for Environmental Responsibility intervened in the suit. The group maintained that the Forest Service, "drove its scientists who disagreed with the increased logging targets out of the

# Petroleum vs. Los Padres

## Conservation groups appeal oil-drilling plan for national forest

Forest conservation groups fighting to keep oil and gas drilling out of Los Padres National Forest in September joined the California attorney general in appealing a recent decision to open up 52,000 acres of the forest.

Los Padres Forest Watch, Defenders of Wildlife, and the Center for Biological Diversity on Sept. 16 appealed the U.S. Forest Service decision.

Earlier, on Sept. 13, California attorney general Bill Lockyer filed his own appeal.

"The agency's plan requires a vast network of roads, pipelines, and transmission wires that will cut through the heart of some of the most sensitive areas of the forest, including key habitat for the critically endangered California condor," said Kim Delfino, California

Program Director for Defenders of Wildlife, in a press release.

Los Padres National Forest is located on California's central coast, stretching from Monterey County's Big Sur region to Ventura County and the western edge of Los Angeles County. It is the third-largest national forest in California, covering about 1.75 million acres.

The Forest Service wants to increase the acreage on Los Padres open to oil and gas drilling. Some 14,000 acres already are leased to oil companies.

On July 15 the Forest Service released the Final Environmental Impact Statement

for its study of oil and gas leasing in the Los Padres.

The study recommended opening 52,000 additional acres to oil and gas drilling. Within this acreage, designated wilderness and inventoried roadless areas would not be entered for new surface exploration and drilling.

Surface drilling— with its drill rigs, stor-

The footprint left by oil development could have a big impact on the whole forest, even those areas that are ostensibly protected.

In addition to the oil wells and associated development, vehicle traffic in the forest would increase to service the wells. Oil spills almost certainly would occur, both at the drilling sites and on the roads.

Lockyer's appeal points out that the Forest Service decision fails to take adequate account of the possibility of "ruptures, spills, and leaks from the oil and gas pipelines."

Spills would threaten wildlife in the forest, especially the Los Padres' most iconic creature, the California condor.

Two areas identified as potential surface-drilling sites border on the Sespe Condor Sanctuary and the Hopper Mountain National Wildlife Refuge. Every area under consideration for oil leasing is within the condor's historical range.

The appeals also point out that the Forest Service is allocating specific areas to oil drilling before a forest plan is completed and agreed upon.

Lockyer's appeal asserts that this contradicts the purpose of the National Forest Management Act (NFMA), which requires national forests to draw up forest management plans that determine how the land will be used.

Deciding which lands should be devoted to oil and gas leasing before the management plan is completed, Lockyer says, violates the requirement of NFMA.

Moreover, the natural beauty of the forest would be seriously affected by oil and gas development.

"The impact of oil and gas drilling on the edges of the forest [affects] the wildlife that lives within it as well as the ability to enjoy the quietude of its lands," the appeal says.

As with the controversial proposal to open Alaska's Arctic National Wildlife Refuge to oil and gas drilling, increasing the drilling in the Los Padres would disrupt wildlife habitat and recreational use of the forest to recover an insignificant amount of oil.

"Our communities should not have to sacrifice even more of our clean water, scenic vistas, and recreation opportunities for less than a day's supply of oil," said Jeff Kuyper, executive director of Los Padres ForestWatch.

—M.L.

Photo courtesy U.S. Fish and Wildlife Service



Condors soar above the mountains of Los Padres National Forest.

age tanks, and service roads— would be limited to 4,000 acres. The remaining 48,000 acres would be opened to a technique called "slant drilling," which involves drilling under protected areas from just outside their boundaries.

Slant drilling facilities, however, have a range of one-half mile, so slant drilling wells and their associated roads, pipelines and powerlines would need to be within 2,600 feet of the affected wilderness or roadless forest.

"The impacts . . . of this oil and gas drilling equipment so near the [Sespe] condor sanctuary must be analyzed in depth," says the attorney general's appeal.

## Activist profile

# It takes a community to save a forest

## *Linda Perkins and Bill Heil watch over Mendocino's redwoods*

On Superbowl Sunday, you won't find many Americans in the woods documenting ecological crimes.

But in 1997 Linda Perkins and Bill Heil, two forest activists from the coastal Mendocino County town of Albion, found it hard to ignore a group of locals chopping up a huge redwood that had fallen into Big River. They were removing the logs with bulldozers, a practice known as "sinker logging."

Perkins grabbed her camera and began photographing the logging, sparking one of the most significant lawsuits of the couples' 13-year-long career of keeping watch over Mendocino's forests.

"I realized this was sort of a community practice," she said, adding that the people mining the logs ranged from folks needing extra cash to marijuana growers looking for a cover operation to well-respected, established local families.

"Not only did they take logs that were floating," Perkins said, "but they also took logs up from the bottom-old-growth logs— and of course, we don't have old-growth trees to fell into the rivers any more."

The sunken logs provided important habitat for the endangered coho salmon, and removing them stirred up silt and severely degraded fishery habitat.

With the help of their lawyer, Paul Carroll of Menlo Park ("probably the best forestry lawyer there is," claims Heil), Perkins and Heil brought suit against the state Department of Fish and Game (DFG). The agency is responsible for conducting environmental review of streambed and streambank alterations and water diversions— something it had regularly failed to do. And they won.

Their victory had repercussions statewide. The sinker logging issue was merely "a springboard," Perkins said, "that affected not only forestry, but PG&E and CalTrans and anybody who does any work on a river or stream and now undergoes an environmental review that they had not in the past."

Neither Perkins nor Heil, both 65, moved to Albion with the intention of becoming a forest activist. He arrived from

the Bay Area in 1969 to join a commune, and she came, nine years later, to teach.

But within a couple of decades, as the intentional community disbanded and the surrounding forest disappeared, their energies were redirected into fighting industrial timber corporations.

And for Perkins, growing up Bogalusa,

Redwood Summer— a season of civil disobedience and public demonstrations to focus awareness on the timber companies' destruction of the redwoods— had kicked off direct action in Northern California's forests.

An Albion resident living near the proposed cut enlisted Earth Firsters to help

put up a fight. The resulting six weeks of demonstrations ("day and night," said Perkins) became known as the "Albion Uprising."

Heil recalled, "We ended up spending the night and helping put up a treesit for the first time. We'd heard about treesits but no one (in the area) had participated in one."

Perkins and Heil were among hundreds of people protesting at rallies and in the woods, a collective effort involving everything from raising money and talking on radio shows to picking up

people from the Ukiah jail and supporting up to 13 treesitters.

L-P eventually withdrew its THPs, though not without suing about 80 protesters for "interfering with economic relations."

The case dragged on for a year. Most of the protesters "settled" with L-P— the settlement consisted of L-P dropping the lawsuit and the protesters agreeing not to trespass again.

Two of the protesters refused to settle, however. They countersued, and forced L-P to transfer 60 acres of its holdings, including Enchanted Meadow, to the protesters.

"When L-P sued us, it was a real mistake, because it was like trying to herd cats," Perkins laughed. "But the result of it was we had to stay together. I was really grateful to L-P. Had it not been for that we would have simply said, 'Okay, we won,'

See "Community," p. 8

Photo courtesy Bill Heil and Linda Perkins



Bill Heil and Linda Perkins, activists in Albion

La., a turn-of-the-century mill town (home of what was then the world's biggest sawmill) prepared her for future battles in Northern California.

"When I moved up to Albion I had that background in knowing that my native longleaf pine forests in Louisiana had been devastated," she said.

Timberlands in the Albion watershed had been owned by the Masonite Corp. since 1950. But in the late 1980s, Louisiana-Pacific (L-P) bought out Masonite, whose logging practices, said Heil, had been relatively benign.

"(The lands) were really well-timbered, so L-P just started to liquidate 'em," Heil remembers.

In 1992 L-P proposed two timber harvesting plans (THPs), using clearcutting, near a section of the Albion River named Enchanted Meadow. It was two years after



and everyone would have gone home."

And from that point the couple was embedded in forest activism. Heil counts "probably 10" lawsuits to their credit since 1993. Their first legal victory centered on Georgia-Pacific's (G-P's) helicopter logging on Salmon Creek, which forms a natural border for Albion. Perkins had only recently started reviewing THPs. "I was a total novice reading this gosh-awful, bureaucratic jargon."

Heeding a recommendation from the Mendocino Environmental Center, she called Paul Carroll, asking first if he'd file a suit, and second, if he'd do it for free.

His answer— "Uh, sure," according to Perkins— initiated the lawsuit and led to an unprecedented verdict in favor of the Albion River Watershed Protection Association, the unincorporated neighborhood association in whose name Carroll filed the suit.

"It just astounded G-P," Heil said. "Nobody had successfully challenged them in court before out here."

The late 1990s were devoted to reviewing THPs and protesting cuts, including L-P's attempts to log on the lower Albion. The company suffered numerous setbacks—undriveable roads, fallers reluctant to work among protesters (the two camps would, Heil said, end up sitting and talking together till noon), and termite-infested logs.

This botched harvest turned out to be the "last gasp" for L-P. They soon sold their property, totaling about half of the 30-square-mile watershed, to Mendocino Redwood Co.

Although the couple scrutinizes its THPs just as closely as ever, Mendocino Redwood is not the entity that really gets Heil going.

Rather, it's the California Department of Forestry, the agency controlling Jackson State Forest, that earns Heil's ire.

"Jackson State Forest has probably the nicest forests left in Mendocino County that are actually being logged," he said.

In 1998 Heil was included in a Citizens Advisory Committee charged with crafting recommendations for the six-year-overdue management plan for the forest.

"There's probably one million acres of redwood forest in Mendocino County: 500,000 is

in the hands of industrial loggers, and then this 50,000 (acres) actually belongs to us.

"I was part of what we called the Jackson State Owners Association— me and you. The CDF thinks it belongs to them."

Heil said the CDF is still, seven years later, without an update of its 23-year-old management plan for Jackson Forest.

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***"Jackson State Forest has probably the nicest forests left in Mendocino County that are actually being logged."***

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After ignoring the recommendations of the advisory committee, the agency lagged on writing a plan, let alone creating the habitat conservation plan activists wanted. Yet all the while the agency continued submitting THPs.

Carroll and Vince Taylor,

executive director of the Campaign to Restore Jackson State Redwood Forest, took the CDF to court in 2000, charging that the agency was logging in Jackson without a current management plan.

They won, and all logging has stopped until the CDF generates a new plan.

"They logged a few acres," Heil said. "Besides that, they haven't had any timber harvest there in four years now because of our lawsuits."

As Perkins put it, "We win repeatedly in court, but it's THP by THP."

(In 2003 Forests Forever and Taylor's group took CDF to court over the environmental impact statement for the agency's then-proposed Jackson Forest management plan. The suit was decided in Forests Forever's favor, and no logging can proceed at Jackson until the plan is rewritten. As this newsletter went to press, CDF had still not unveiled a new management plan, though it is expected soon.)

On June 4, 2004, at the urging of Perkins, Forests Forever called its supporters' attention to a 317-acre THP on Big Salmon Creek by the Hawthorne-Campbell Group. The company planned to clearcut 177 acres, with 163 acres tractor-yarded; local residents felt that this high-impact logging violated earlier commitments made by the company.

Largely as a result of the Forests Forever alert, DFG sent two inspectors to the site. They asked that 161 acres be with-

drawn from the plan, called for protection of all old-growth trees, and for road treatments to reduce sediment discharge to streams. And Hawthorne-Campbell began talks with local residents.

"The two events transpired only because of all the phone calls that were made and emails and letters that were sent," Perkins later wrote.

Today Heil and Perkins continue to be involved in lawsuits but their vision is far grander than litigation.

"We want to buy the forest," Heil said.

This isn't such a far-out strategy, and has been in the works for nearly eight years of monthly meetings. The organization put together to buy the forest is the Redwood Forest Foundation (RFF).

"Charles Peterson, who was our 5th District county supervisor, had this idea that he should get a cross-section of citizens together— a representative group across the spectrum— and attempt to buy and manage this land for the public benefit," Perkins said.

Specifically, RFF is eyeing property owned by Hawthorne-Campbell, which bought G-P's leftovers.

"When G-P sold, they split. They closed the mill and sold the land," Heil said. "(Hawthorne-Campbell) doesn't really care if it's timber land or if they subdivide it or whatever. They're doing a pretty predacious job."

Perkins said prospects for reversing this profiteering recently took an unexpected turn. After negotiating for a year with the company, Hawthorne-Campbell decided it was willing to sell not only its hold-

ings on Salmon Creek, which the community of Albion had partnered with RFF to acquire, but also the rest of its land on Big River— about 16,000 total acres.

And the Conservation Fund, a national organization that helps buy land, protect it through conservation easement, and then

turn the management over to the interested stewards, teamed up with RFF.

Lawsuits are temporary victories at best, Heil said.

"When we actually end up having some of this land managed non-profit for public benefit . . ." He paused mid-vision. "That's our goal, and that would be our biggest victory."

—Katie Renz

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***"We win repeatedly in court, but it's THP by THP."***

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Sequoia National Forest was illegal. The Sequoia National Forest entirely encompasses the monument, where logging had been going forward under this plan.

Then in September a federal judge granted a preliminary injunction against the 2,000-acre Saddle Project, a timber sale in the monument packaged as a "fuels-reduction" project. This project would have cut five million board feet, from trees up to 30 inches in diameter.

**Let the Park Service do it**

While the recent court rulings may keep the Forest Service from logging in the 328,000-acre monument for the time being, it is just a matter of time before they try again.

"It's like a hydra," said long-time sequoia defender and Forests Forever advisory council member Martin Litton of the Forest Service's logging projects. "Stop one and three or four new ones take its place."

For this reason the Act to Save America's Forests, a bill recently re-introduced in the Senate as S. 1897 by Sens. Jon Corzine (D-NJ) and Christopher Dodd (D-CT), would take the monument away from the Forest Service and place it under the National Park Service.

"The monument should have been with the Park Service from the beginning," Litton said. "The Forest Service's business is getting rid of forests. They've never been good at restoring them."

The Park Service manages adjacent Sequoia National Park, using mostly prescribed burning to prevent damaging wildfire and restore ecosystems harmed by decades of fire-suppression efforts. The sequoias in the park are flourishing.

The bill also would ban clearcutting on the national forests and stop logging and roadbuilding in their roadless areas. The measure would require federal agencies to restore the native biological diversity of national forests, rather than manage them as timber farms for private industry.

The bill will soon be re-introduced in the House by California Rep. Anna Eshoo (D-Atherton).

**Categorical deceptions**

Categorical exclusions (CEs) are used to waive small projects (such as brush clearing around a ranger cabin) from the environmental assessment requirements of the National Environmental Policy Act (NEPA).

In recent years, however, the Forest Service has been casting larger projects as CEs, often claiming that they are for "hazard tree removal" or "fuels reduction."

In 2003 the U.S. Department of the Interior pushed through a new set of rules that allow CEs for 250-acre "salvage logging" projects and "fuels reduction" projects

ities as mushroom-gathering and Christmas-tree cutting), claiming it had to open all projects to public comment and appeal.

According to some observers this over-interpretation was an attempt to force Congress to step in and change the law.

Finally, on Oct. 20, the judge in the case issued another clarification, saying that only large-scale projects such as timber sales or off-road vehicle trail building would be subject to public comment and appeals, not the small, low-impact undertakings that had previously been excluded as CEs.

To counter these court decisions, Reps.

Richard Pombo (D-CA) and Bob Goodlatte (R-VA) on Oct. 24 introduced a bill (H.R. 4091) that would limit public comment and appeals for CEs. The bill would be retroactive to July 7, 2005, the date of the court decision. No hearings have yet been scheduled for the measure.

The suit was brought by Earth Island Institute, Sequoia ForestKeeper, Heartwood, the Center for Biological Diversity, and Sierra Club.

**Fire plan illegal**

The legal victory by California attorney general Lockyer stymies the Forest Service's latest attempt to get around the provisions of NEPA. The agency had been operating under a fire plan drawn up without public input or possibility of appeal, arguing that the plan was not subject to NEPA because it contained no new agency decisions.

This plan would have suppressed natural wildfire entirely in part of the monument and limited use of prescribed burning as a management tool in favor of mechanical thinning.

Critics of the plan accused the Forest Service of subsidizing sawmills, and pointed out the success of prescribed burning in managing adjacent Sequoia National Park.

**Logging halted**

The ill-fated Saddle Project was in place when President Bill Clinton established the Giant Sequoia National Monument by proclamation in 2000. The Bush administration claimed that the project was "grandfa-

See "Monument," p. 10

Photo courtesy Martin Litton



A lone giant sequoia surrounded by a clearcut.

of up to 1,000 acres each. Forest activists say that these projects are thinly disguised timber sales.

Several environmental groups took the Forest Service to court over misuse of CEs.

The judge in a July 7 ruling agreed with the groups that brought the suit, and further said (when the Forest Service assumed that the decision only applied in the Eastern District of California, where the case was tried) that the ruling was in effect nationwide.

The Forest Service then over-interpreted this ruling to mean that no CEs of any kind were permitted, and refused to implement any project (including such small-scale activ-

thered in," and thus not subject to the proclamation's ban on timber harvesting.

When in July 2005 the Forest Service announced that logging would begin, the Sierra Club and other environmental groups sued, saying that the Forest Service had not complied with NEPA requirements to review new scientific evidence about the status of the Pacific fisher.

The fisher is mentioned as a species in need of protection in the original proclamation. After the logging project was underway, new evidence came to light that made the fisher eligible for listing as an endangered species.

Yet the Forest Service did not halt the logging, nor undertake any studies on the project's effect on fisher habitat.

On Sept 9 Judge Charles Breyer found for the Sierra Club and issued a preliminary injunction halting the logging. Breyer pointed out that, although the Forest Service claimed the project was to remove built-up fuel and prevent fires, the agency and the timber company had waited five years, until timber prices rose, before beginning to cut.

None of the logging projects undertaken by the Forest Service in the monument have targeted the giant sequoias themselves.

The wood of the big trees is generally too brittle to be valuable as saw timber. But the soil compaction caused by logging



Rep. Anna Eshoo, flanked by Paul Hughes of Forests Forever (left) and Carl Ross of Save America's Forests (right)

operations damages the shallow root systems of the sequoias, destabilizing them. And by taking out the forest around them, isolated sequoias become more vulnerable to wind pressure and blowdown.

When rains fall on disturbed ground after a clearcut, erosion further removes anchoring soil from around the trees' roots.

In addition to their impact on giant sequoias, logging projects such as the Saddle have damaged the habitat of endangered and threatened species, including the California spotted owl and the Pacific fisher.

### Forests Forever goes to Washington

Forests Forever executive director Paul Hughes took a trip to Washington, D.C., this fall to lobby for the re-introduction of the Act to Save America's Forests. He was joined by Carl Ross, executive director of Save America's Forests, an organization that has strongly supported the bill and is working for its re-introduction.

Hughes and Ross visited the staffs of 27 legislators and briefed them on the bill. They also attended a fundraiser for Rep. Eshoo and with her discussed grassroots organizing strategy to support the bill.

"We emphatically expressed the need to protect the monument via passage of the Act," Ross said. "The co-sponsors for the Act have increased and we are a giant step closer to protecting the giant sequoias."

—M.L.

destructive effects of roads on water quality and aquatic life. The EPA comments were supported by numerous studies, citing among them the 1996 Sierra Nevada Ecosystem Project report and the 1993 Sierra Nevada Science Review. The letter also pointed out the Forest Service's \$8.5 billion backlog in road maintenance.

But none of these criticisms appeared in the final version of the letter that was sent to the Forest Service. According to the NRDC, Stephen Shimberg, a political appointee in the EPA's Office of Compliance Assurance, dubbed the letter "a rant" and refused to send it, ordering the statements critical of the roadless rule change removed.

The only remnant of the EPA's criticisms in the letter he finally authorized to be sent was a feeble suggestion that an advisory council be convened to advise on damage to watersheds from roadbuilding.

### Non-science for mismanagement

The National Forest Management Act (NFMA) was passed in 1976 to help ensure the sustainability of our national forests. Among its provisions, the act required the

regular preparation of forest management plans.

In December 2004 the Bush administration published rule changes in the Federal Register that exempted forest plans from environmental reporting requirements under NEPA, eliminated protections for endangered species, dispensed with scientific review, and made public input into Forest Service projects much more difficult.

The new rules threw out specific NFMA protections for fish and wildlife, and replaced them with vague, generalized language about maintaining "healthy, diverse, and resilient" ecosystems.

Instead of consulting with scientists and submitting forest plans to independent scientific review, managers are told to "consider" the "best available science."

These rule changes, for the first time since NFMA's enactment, were developed and implemented without review or input from the Committee of Scientists, appointed under NFMA to advise the Forest Service on forest planning and regulations.

### A long, long list

Many more examples of Bush administration flouting of scientific evidence could

be listed, from stem cell research to global warming, from obesity to endangered species.

"The administration and Congress are on track to undo 30 years of environmental policy," Newman said. "They are ignoring the evidence of scientists and allowing political appointees to sell out the public interest to the highest bidder."

—M.L.

### For further reading

*Crimes Against Nature* by Robert F. Kennedy, Jr. (HarperCollins, 2004)

*The Republican War on Science* by Chris Mooney (Basic Books, 2005)

Rep. Henry Waxman's report, *Politics and Science in the Bush Administration* is available online:  
[http://democrats.reform.house.gov/features/politics\\_and\\_science/index.htm](http://democrats.reform.house.gov/features/politics_and_science/index.htm)

The Union of Concerned Scientists:  
<http://www.ucsusa.org/>  
See especially their report from 2004, *Scientific Integrity in Policymaking*.

## The Watershed

A publication of Forests Forever, Inc.  
and the Forests Forever Foundation

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*"Restore,  
Reinhabit,  
Re-enchant"*

*"Follies," continued from p. 3*

other species. "Based on its own science, the Forest Service greatly altered its policies for managing forests in the Sierra Nevada region," said Buckley.

Photo courtesy U.S. House of Representatives



Rep. Cathy McMorris, chairwoman of the Resources Committee's NEPA Task Force

• After a fire in Stanislaus National Forest in 1997, the Forest Service claimed that eight million board feet needed to be cut because the trees were dead or dying. Using one of the provisions of NEPA, forest activists walked through the targeted areas and found that even though some trees had been burned, the vast majority were green and healthy. When faced with this, the Forest Service withdrew plans to helicopter-log in a roadless, old-growth area where almost no trees had actually been killed by the fire.

"NEPA has become the key framework for environmental planning and decision-making," said Greacen of EPIC. "If we are to gut or eliminate NEPA, I think it's entirely foreseeable that we will have government agencies making decisions in relative secrecy and silence."

### *Over-protective or under-funded?*

NEPA critics complain that the process takes too long and that energy needs demand more flexibility.

For example, noting the effects of Hurricane Katrina on oil and gas refineries in the Gulf states, Task Force members rec-

ommended relaxing NEPA requirements for oil and gas production inside national forests.

NEPA critics also advocate loosening restrictions against salvage logging in hurricane-devastated forests to take advantage of the commercial value of partially damaged trees.

Another frequently heard criticism is that NEPA's requirements restrict timber sales and increase fire danger on forest lands by allowing forests to become "overgrown."

Inslee, on the other hand, has expressed only one concern. He would most like to see an increase in funding for NEPA review. Inadequate resources Inslee believes, can cause delays and other problems with implementing NEPA's provisions. For example, the Council on Environmental Quality, which oversees NEPA's implementation by federal agencies, has only one

full-time staff member to provide these agencies with NEPA-related technical advice and coordination.

### *What to Expect*

The NEPA Task Force, originally set to expire on Oct. 5, has had its lifespan extended by McMorris. It will now continue to hold hearings around the country, with the goal of producing a report by Nov. 30.

The Task Force's recommendations will be only that. But activists are concerned that they will provide ammunition for anti-environmentalists seeking to limit the effectiveness of an important environmental law.

—Tara Treasurefield

## TAKE ACTION:

Write or call your senators and representative and urge them to support NEPA. You'll find their contact information at <http://www.house.gov> and <http://www.senate.gov>

## FORESTS FOREVER FOUNDATION

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*"Roadless," continued from p. 1*

when it failed to prepare an environmental impact statement (EIS) for the repeal. Under NEPA, a federal agency is required to prepare an EIS for any "major federal actions significantly affecting the quality of the human environment."

• The agency violated the Administrative Procedure Act (APA) by failing to meet its own stated objective of taking "a responsible and balanced approach to addressing concerns while enhancing roadless area values and characteristics," and by failing to comply with its overriding statutory duties to protect national forest land.

• The Forest Service violated the Endangered Species Act, which requires all federal agencies to make sure their actions do not jeopardize the continued existence of any endangered or threatened species, or destroy their critical habitat.

The earliest date this lawsuit will be heard is likely April of 2006.

#### **Three states file suit**

The lawsuit brought by California, New Mexico, and Oregon also alleges violations of NEPA and the APA.

While the case is being presented to the judge, other states may join the lawsuit. In November, the conservation groups' lawsuit was assigned to the same judge as the states' action, and the cases will proceed together.

#### **No help for roadless destruction**

The Levine bill is still alive and could be brought up for a vote in the next state legisla-

tive session. Between now and January, Levine hopes to meet with the opposition and identify specific areas of disagreement and possible resolution.

Since June, Forests Forever has been working closely with Levine, organizing grassroots support for the measure and helping to keep it in the public eye.

"The public has spoken out repeatedly in favor of hanging on to these roadless areas and not developing them," Fletcher said. "Thousands of Californians in recent months have written, phoned, and faxed their elected representatives."

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***"The Bush repeal places the last remaining large, untouched and unprotected tracts of our national forests squarely at risk."***

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#### **National Roadless Area Protection Act**

Another effort to restore protections to roadless areas is the federal National Roadless Area Protection Act of 2005 (H.R. 3563). Introduced by Reps. Jay Inslee (D-WA) and Sherwood Boehlert (R-NY) in July, this bill proposes to codify as federal law the protections in the original roadless rule.

H.R. 3563 is now in the House Committee on Resources, chaired by anti-environmental zealot Rep. Richard Pombo (R-CA).

"Pombo and others in the Resources Committee probably intend to hold the bill there until it dies," Fletcher said. "Just get-

ting it to the House floor for markup will be a huge challenge, but we've got to try."

#### **Petition to save roadless areas**

Forests Forever also has joined with 75 other conservation organizations urging their members to sign a petition demanding that the Forest Service restore the original roadless rule.

The petition, written by the Heritage Forests Campaign, an organization that has been working on roadless issues for several years, can be seen and signed at <http://www.net.org/petition.php?partner=FF>

#### **The original roadless rule**

On May 5, when the Bush administration repealed the Roadless Area Conservation Rule, 58.5 million acres of roadless public land on national forests lost their protection from logging, drilling, and development. In California, 4.4 million roadless acres are at risk.

Roadless areas are an important source of clean drinking water for cities and towns; they are also home to countless species of wildlife.

The 380,000 miles of roads already in national forests fragment wildlife habitat, and open the land to clearcut logging and increased threat of destructive wildfires, poaching, and invasive species.

"The roadless areas of our national forests are under attack right now," Fletcher said. "But we in the conservation community have begun to fight back. If we hold to our vision of saving these last pristine forests, and do what's needed to make that vision reality, we will succeed."

— Tara Treasurefield

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