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The newsletter of Forests Forever

Spring, 1999

## New Headwaters Preserve opens amid discontent

Two minutes before a midnight deadline on the night of Mar. 1 an historic agreement was completed to set aside almost 10,000 acres of Headwaters Forest as a public preserve.

Tied to the acquisition was a controversial Habitat Conservation Plan (HCP) covering all logging activities on Pacific Lumber Co.'s (PL's) lands.

On Jan. 22 federal wildlife agencies had released their final environmental impact document, which included the proposed final HCP and its closely related Sustained Yield Plan (SYP). Together these documents cover all of PL's 211,000 acres.

PL, which owned the 60,000-acre Headwaters Forest in Humboldt County, announced on Feb. 26 that it would not accept the deal



Headwaters' ancient rewoods stretch skyward

photo by Bill Young

embodied in the HCP/SYP. This announcement precipitated a flurry of media coverage, including one Bay Area TV station's glum declaration that the battle to save Headwaters was "lost."

But after clearing up a purported misunderstanding in the deal, the timber company announced it would accept the arrangement. Maintaining suspense almost to the end, negotiators bought three more hours by moving the deadline from midnight Eastern Standard Time to midnight Pacific

Standard Time.

MAXXAM Corp., parent company of PL, will receive almost \$500 million in exchange for 9500 acres of redwood forest—7500 surrounding Headwaters Grove and 2000 acres in the Owl Creek and Grizzly Creek areas.

"The Headwaters acquisition contains only a small portion of the old-growth forests in the area," said Mark Fletcher, board president of Forests Forever. "The struggle to protect all 60,000 acres of Headwaters Forest will probably continue on for many more years."

The new preserve opened to the public on Mar. 15. The federal Bureau of Land Management (BLM) and a yet-to-be-determined state agency will administer the reserve until a permanent cooperative

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

## Board of Forestry rejects emergency logging rules, clears way for watershed protection bill

Forests Forever's legislative campaign to strengthen California's forestry laws got fully underway Feb. 24 with the introduction of a no-nonsense bill to protect and restore impaired watersheds.

Assembly Bill (A.B.) 717, authored by Assemblymember Fred Keely (D-Santa Cruz), would defer Timber Harvesting Plans (THPs) for logging projects not already underway in

watersheds designated as impaired.

The measure is identical to the language of Forests Forever's proposed emergency rules presented to the California Board of Forestry (BoF) on Feb. 3. As expected, the board rejected the rule proposal on a 6-0 vote.

With this key administrative remedy exhausted, the way was clear for introduction of

legislation to safeguard the communities, wildlife and water quality impacted by destructive logging practices. See the complete text of A.B. 717 on page five.

"We fully expected the Board of Forestry to vote down the rules," said Forests Forever Executive Director Paul Hughes. "Now we can roll out with a legislative campaign to protect and recover these

resources and help downstream residents."

At this writing, the bill has picked up endorsements from the Redwood, Loma Prieta, and San Francisco Bay chapters of the Sierra Club. Assemblymember Ted Lempert (D-Palo Alto) has requested that Keeley add him as a co-author of A.B. 717. Also, Assemblymember Kevin

see "A.B. 717," p. 6, col. 1

*from the Executive Director...*

## Cause-and-effect science a tough task but necessary to save forest watersheds

*"I would rather understand one cause than be King of Persia."*

– Democritus, Greek scientist, c. 400 BC

To the environmentally concerned observer it is pretty obvious our forests are hurting.

The daily news tells the tale—California's once-proud wild Coho salmon fishery now is closed to save the forest-dependent species from extinction; ancient redwoods have been pared to four percent of their original range; the federal Clean Water Act's list of impaired waterbodies in the state totals about 500, many listed because of sedimentation; North Coast watersheds once chocked with tall timber and bustling mills now host cutover slopes and flooded-out residents.

Yet when environmental advocates point to these seemingly common-knowledge problems and demand tougher forestry regulations we are told, mostly, "You must come up with the science to support your assertions." Assertions, that is, of both the nature and scope of the problems and the effect of proposed remedies.

There are even those— regulators come to mind— who agree there is a problem but say they are constrained by a lack of scientific data or explicit legal mandates from enforcing the law. In voting against our emergency rules proposal at the state Board of Forestry hearing in February (see article, page one) one board member's comments struck a typical false note.

One of the more environmentally friendly members of an otherwise hostile body, he acknowledged shortcomings by his agency, its staff and Pacific Lumber Co. in enforcement and compliance. But he added: "I'm not sure whether existing (timber harvest plans) would have any real or potential impact on flooding but (the department of forestry) should look at that. It's not clear to what degree timber harvesting is the cause (of the flooding and siltation problems)."

Frustrating though this state of affairs may be, we must and we will help generate the required data and measurement methodologies. For the burden of proof in such matters still lies with environmen-

tal defenders rather than the timber industry. Its money and influence speak through often-overwhelming lobbying and through campaign finance.

A forest is an interconnected web of living and non-living parts far beyond the ken of any scientist who has ever lived, and probably beyond the grasp of any philosopher as well. A forest is an exquisitely complicated system in which the trees are only the largest and most visible components— though perhaps not even

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***There are even those— regulators come to mind— who agree there is a problem but say they are constrained by a lack of scientific data...***

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the most important ecologically. So how do we establish— let alone regulate— cause and effect in such a complex system?

"Bit by bit" seems to be the answer in the current era. In 1973 the timber wars had not yet begun to reach their height in California. That year the legislature sought to address problems of diminishing timber supply and poor regeneration by enacting the Forest Practice Act. It is still said to be the nation's strongest state-level forestry law, an assessment at once inspiring and depressing considering the demonstrated ineffectiveness of the act and the tattered condition of the state's forests.

One of the act's hallmarks was its mandate that logging plans must evaluate the cumulative effects of the proposed cutting. The cumulative effects assessment is supposed to evaluate "both on-site and off-site interaction of proposed project activities with the impacts of past

and reasonably foreseeable future projects—" a sweeping compass that should identify any environmental problem created or added to by the logging.

But despite epic court victories by environmentalists since 1973 timber companies found loopholes and forests and wildlife continued to suffer— the salmon fishery collapsed, to cite one example.

Chris Maser, author of The Redesigned Forest, describes the "Ignorance Quotient" as the ever-growing gap between, on the one hand, our advancing technology for timber harvesting and wood consumption and, on the other hand, our scientific understanding of how the forest functions.

"Add elusive cumulative effects to this equation," Maser says, "and our only real 'absolute' is a growing uncertainty about the outcome of our decisions."

Nevertheless we remain hopeful we can bring about meaningful advances against irresponsible timber practices, over time, mostly through science. Every now and then, we suspect, someone must cut the Gordian knot twisted together from strands of timber industry obfuscation and bureaucratic buck-passing if we are to progress. Every so often moral leadership and common sense have to prevail over the available supply of quantifiable data.

But assuming common sense won't move most lawmakers any time soon, we are confident that the specific requirements for assessing cumulative effects outlined in A.B. 717 (Keeley) will help forests' health a great deal as up to now no actual measurements of most cumulative effects have been required.

With a combination of both leadership and strong positioning, Assemblymember Keeley and his bill may just make a difference we will see on the ground.

– Paul Hughes



# Giant sequoia campaign gathers momentum

Over half of the world's 75 remaining Giant sequoia groves would gain permanent protection under a bill now poised for reintroduction in Congress.

The Sequoia Ecosystem and Recreation Preserve Act (SERPA), H.R. 2077, was introduced by U.S. Rep. George Brown, Jr. (D-San Bernardino), in June, 1997. Forests Forever's campaign for the bill began in August, 1998.

According to a Brown spokesperson recently, the congressman is waiting for the total number of introduced bills to reach 2076 so SERPA can retain the same bill number it carried in the 105th Congress. As soon as the bill is reintroduced, the campaign's focus will be to increase the number of its co-sponsors. At this writing 24 co-sponsors officially have signed on.

The bill would set aside over 400,000 acres of California's Sequoia and Inyo National Forests as a public preserve and as wilderness. Of the total area, 170,000 acres would be designated wilderness. This includes 105,970 acres for additions to the Golden Trout Wilderness, 12,071 acres for additions to Domeland Wilderness, 39,398 acres for a new Bright Star Wilderness, and 12,531 acres for a new Slate Mountain Wilderness.

Currently up to 1000 acres are logged each year in Sequoia National Forest alone. One result of the cutting has been a

loss of habitat for listed species such as the California spotted owl, as well as more-common wildlife.

According to Sequoia Forest Alliance activist Ara



A typical sequoia stand

photo by Charlene Little

Marderosian, timber companies are placing ever more pressure on the U.S. Forest Service to let bids on an increasing number of timber sales in the national forest.

"(Timber sales) are probably on the fast track because of so many anti-logging bills in Congress," Marderosian said. "The Forest Service is encouraged to implement more logging now that might not be able to go through later."

This situation accentuates the need for protection of the

sequoias. Although sequoias themselves are not cut down, they are being toppled by wind at an increasing rate after the surrounding stands of merchantable non-sequoia forest are leveled, removing the big trees' shelter.

The area covered by Brown's bill permanently would protect 40 percent of Sequoia National Forest's acreage. The preserve would be off-limits to logging and its focus shifted from commercial extraction to recreation and restoration.

Passage of SERPA also would mean the public could look forward to seeing its tax dollars spent more wisely.

Subsidized logging in the Sequoia National Forest has cost taxpayers over \$45 million in the last 10 years. By contrast, Sequoia National Forest planners have estimated that recreation is six times more economically valuable than logging. Recreation also provides employment and other values for the area.

Although logging would be prohibited in the preserve, ranching and grazing would remain unaffected by SERPA and would continue to be regu-

lated by the Forest Service.

In recent decades the national forest system's mission has been to facilitate a balance of uses including a continuous supply of water, wood and forage, as well as a place for recreation and wildlife. But the emphasis on timber production increasingly has grown out of proportion to the other uses.

In one of the most noteworthy reintroduction programs of an endangered species, 16 California condors were released in Los Padres National Forest 90 miles west of Sequoia National Forest in 1998. This charismatic member of the sequoia ecosystem boasts the largest wing-span of any bird in North America, at 10 feet. The condor depends on the dead standing trees found in these old-growth forests. Condors use these snags as perches from which to spot prey; and the birds can glide down from the dead tops without obstruction from live boughs.

By the middle of 1998 young condors instinctively were flying over to Sequoia National Forest apparently without guidance from older, experienced birds to show them the way.

Another timber sale in which Marderosian is involved would remove 300-foot-wide swaths of so-called "hazard trees" along each side of roads through the forest. This would include snags on which con-

see "Sequoia," p. 7, col. 4

## New endangered species bill would focus on recovery

U.S. Rep. George Miller (D-Martinez) on Mar. 3 reintroduced his Endangered Species Recovery Act (ESRA) as H.R. 960.

In its former incarnation as H.R. 2351 the bill attained 108 co-sponsors but failed to pass

the 105th Congress last year. Praised by environmental groups, ESRA would greatly strengthen the Endangered Species Act (ESA). ESRA now has 67 co-sponsors and the number is steadily growing.

H.R. 960 would accelerate

the process of identifying and protecting endangered species, providing financial incentives to encourage landowners to comply with the law. The bill also would make restoration the standard for saving threatened species rather than simply

protection.

Most importantly, ESRA would institute an holistic approach, saving intact ecosystems and habitats instead of focusing only on safeguarding one animal or plant at a time.

see "ESRA," p. 8, col. 1

# Same rainfall, bigger floods:

## Timber country residents left stranded, worried

Kristi Wrigley wanted to mail her photos to Forests Forever for this article. The pictures document her property damage from flooding. They would add a great deal of impact to the story, we told her.

But she was unable to leave her home because of 18 inches of water inundating her only access road.

Wrigley's family, longtime residents of the Elk River area in Humboldt County, have suffered greatly due to abnormal recent floods. The house that Kristi's uncle built in 1950 has been flooded so much in recent years it is no longer livable.

"I have a little apple farm," Wrigley said. "It's been in the family for a hundred years and we have taken water from the river for 90-plus years. Now we can no longer use the North Fork of the Elk as our source for domestic or agricultural water because it is too silty, it is too muddy, and it is too disgusting."

In recent years the residents of the nearby Freshwater Creek watershed also have experienced serious problems apparently resulting mostly from the logging practices of their upstream neighbors. These residents have endured flooding, landslides, stream sedimentation, property damage and health and safety hazards.

Said Freshwater resident Alan Cook: "They've harvested approximately 60 percent of our watershed since 1994 and plan to get the rest of it in the next five years. That's the cause.

"Take away the forest, increase the runoff, you put more dirt into the creek, you raise the creek bed, now the creek has less carrying capacity, and more water comes off the hillside. The flood plain is expanding, the flood frequency is increasing and the flood intensity is increasing. The coincidence in time is difficult to explain away."

Watershed damage over the last three years is especially alarming to residents

such as Cook who say its severity is extreme compared to the past. In 1964 a landmark flood occurred— a 100-year flood. Since 1995 the Freshwater watershed has undergone several 100-year floods surpassing the high-water mark of 1964, he said.

"In one particular flood I couldn't get home," Cook said. "My wife was home, I have a two-year-old and she was sick. Fortunately it wasn't a grave illness. But had it been, there would have been no access out."



An inundated bridge on Elk River Road is normally 20 feet above stream.

photo by Humboldt Watershed Council

Residents say roads that historically would be flooded out only once every three years already had flooded three days by late March, 1999, seven days in 1998 and nine days in 1997— a dramatic increase. Today the waters rise quicker and the floods last longer than in the past.

Similar impacts have been documented by residents of other Humboldt County watersheds: Stafford Creek, Bear Creek and Yager Creek. In the Stafford drainage, landslides destroyed seven homes in the winter of 1997-98.

"We live in fear of what we can expect the result (of normal rains) to be," said 20-year Freshwater resident Darryle Story. "And that's devastation and threats to the well-being of the downstream neighbors.

"We have experienced wells being

destroyed and covered up," he said. "The sedimentation in the stream has built to such a level now that regularly Freshwater Creek overflows its banks and threatens homes, and indeed floods many of my neighbors. It has resulted in a regular threat to the health, safety and property of many of the residents in the valley."

The sense of community has been shattered and the threat to safety prevents residents from feeling comfortable in their own homes, Wrigley said. Knowing that the landslides and stream sedimentation of this year likely will produce increased devastation when rains come next year, she and neighbors do not look forward to being around for the next disaster to strike.

Historically these watersheds have provided not only habitat for people, but also drinking water. Many have questioned the quality and safety of this water in recent years due to the increased turbidity of the streams and use of herbicides accompanying big upstream logging operations. Timber companies use potent herbicides such

as Atrazine to eradicate the brush and hardwoods that crop up after a forest is clear-cut. The control of brush and hardwoods allows merchantable trees such as Douglas fir to grow back faster.

These herbicides, some of which have been linked to cancer in humans, can become even more dangerous when used in combination.

Wrigley said many residents of the Elk, Yager and Freshwater watersheds now fear the long-term health effects of swimming in and drinking the local water. These folks say their rights have been sacrificed to benefit the timber companies.

To remedy the situation residents have approached the logging companies with

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

management plan is developed in about a year. Suggestions and ideas from the public are welcome at 707/825-2300.

California Gov. Gray Davis paid a high-profile visit to the new preserve on Mar. 17. The access road will open sometime in June and will extend to the boundary of the preserve.

According to U.S. Sen. Dianne Feinstein (D-CA), one of the principal negotiators on the cliffhanger deal, the former misunderstanding concerned the number of board-feet PL allowably could log in a given year. She said biologists for the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) said PL initially had interpreted the harvest volume inaccurately.

The timber company had said it could not survive by cutting only 136 million board-feet per year, the original amount PL believed it allowably could cut under the HCP/SYP.

volume to 200 million board-feet per year, while federal scientists pegged the figure at 177 million per year.

Where did the extra timber come from? According to

zones effectively were re-classified as selective-cutting zones. Whether this switch resulted from genuine misinterpretations of the document or were, as some have suggested, thinly disguised last-minute changes by the negotiators, PL would be allowed to log within many streamside buffer zones. The clarification, Bundy said, is incorporated in an addendum to the HCP under the principle of "adaptive management process" (see below).

Moreover, because boundaries in the deal remain unclear the acreage is open to adjustment, Bundy said.

At public comment hearings on the environmental documents on Nov. 5, 1998, concerned citizens told federal and state officials that the final draft of the HCP/SYP was far too

see "Headwaters," p. 7, col. 1

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***"The agencies and PL need to be watched over carefully as we still aren't sure what the impacts from the possible logging in stream buffers could amount to."***

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Rather, PL had said, 210 million board-feet were necessary.

After the clarification on Mar. 1, press reports said PL revised its projected harvest

Kevin Bundy of the Environmental Protection Information Center (EPIC), streamside buffer zones previously understood to be no-cut

BILL NUMBER: AB 717 INTRODUCED BILL TEXT  
INTRODUCED BY Assembly Member Keeley  
FEBRUARY 24, 1999

An act to add Sections 4592.5 and 4592.6 to the Public Resources Code, relating to forest practices.

AB 717, as introduced, Keeley. Timber harvesting plans: watershed areas.

Existing law, the Z'bag-Nejedly Forest Practice Act of 1973, prohibits a person from conducting timber operations, as defined, until the person files a timber harvesting plan with the Department of Forestry and Fire Protection, in accordance with specified requirements.

This bill would require the Director of Forestry and Fire Protection to defer approval of a timber harvesting plan that covers lands in a watershed area that a state or federal agency has determined, on the basis of substantial evidence and expert opinion, to be impaired or degraded, until such time that specified conditions occur, unless a timber operator can demonstrate that the timber harvesting will abate a known or a likely potential source of impairment or degradation and will substantially accelerate recovery of the beneficial uses of water. The bill would require the director to place a stop work order prohibiting the conduct of any timber operations in a watershed area determined to be impaired or degraded, except as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4592.5 is added to the Public Resources Code, to read: 4592.5. The director shall defer approval of a timber harvesting plan that covers lands in a watershed area that a state or federal agency has determined, on the basis of substantial evidence and expert opinion, to be impaired or degraded until all of the following conditions are satisfied:

(a) A cumulative impact analysis has been completed for the watershed that includes all of the following:

(1) Information concerning the cause of any existing environmental impact in the watershed.

(2) Information identifying any controllable activity that contributes to the impact.

(3) An evaluation of each impact according to criteria that are relevant to each impact.

(4) A plan for the recovery of the beneficial uses of water within a reasonable amount of time.

(b) The analysis prepared pursuant to subdivision (a) has undergone a technical review by a team of experts who are independent of the preparer of the analysis, the regulatory agencies reviewing the timber harvesting plan, and the landowners of the affected watershed.

(c) The analysis has been found to be sufficient by the agency or agencies that have determined the watershed to be impaired or degraded.

(d) Timber harvesting and related activities including, but not limited to, site preparation, commercial thinning, hauling, and road building shall be prohibited in a watershed area determined to be impaired or degraded until all of the conditions set forth in subdivisions (a), (b), and (c) are satisfied, unless a timber operator can demonstrate (1) that the timber harvesting and related activities will abate a known or a likely potential source of impairment or degradation, and (2) that on the basis of actual measurements, the timber harvesting and related activities will substantially accelerate recovery of the beneficial uses of water. The demonstrations by the timber operator shall be approved by the director, in consultation with the agency or agencies that made the determination that the watershed was impaired or degraded.

SEC. 2. Section 4592.6 is added to the Public Resources Code, to read:

4592.6. During the period of deferral pursuant to subdivision (a) of Section 4592.5, the director shall place a stop work order with respect to any approved timber harvesting plan or related activities on land within the watershed area, except that the order shall not apply to those timber harvesting and related activities for which the director, in consultation with the agency or agencies that determined that the watershed was impaired or degraded, has approved the demonstrations made pursuant to paragraphs (1) and (2) of subdivision (d) of Section 4592.5.

"A.B. 717"  
continued from p. 1

Shelley (D-San Francisco) has given the bill his verbal endorsement. The measure is scheduled for an Apr. 12 hearing before the Assembly Natural Resources Committee.

In voting down the rule the board said it "did not find that an emergency rule(s) was needed for the immediate preservation of the public peace, health and safety or general welfare."

Hughes led off the Feb. 3 hearing with introductory comments on the rule package and cited the California Administrative Procedure Act's definition of an emergency: "An immediate threat to the public welfare." Next, Jesse Noell, a board member of Forests Forever, presented a proposed water quality monitoring methodology. He showed overheads on rainfall and flooding patterns and aerial photos of clear-cut slopes in the Humboldt County area.

Many other persons spoke in support of the rules. Residents from some of the hardest-hit North Coast watersheds told of disruption to their lives caused by a worsening pattern of abnormally serious flooding brought about by normal rainfall events—flooded bridges, stranded relatives, wells covered over with silt, reduced property values, and more. See related article, page four.

The array of opponents included California Department of Forestry and

Fire Protection (CDF) officials, timber industry executives and lobbyists and Chamber of Commerce officials. An estimated 100 persons attended the seven-hour Sacramento hearing on the emergency rule package.

"We told the board that



A young Coho salmon

anyone can see how normal rainfall running off denuded slopes has helped create this increasing pattern of flood damage," Hughes said.

At the hearing Forests Forever submitted over 6000 signatures on a petition calling for the BoF to adopt the emergency rules. By the end of the day about 300 letters had been mailed or hand-delivered by Forests Forever to Chris Rowney, BoF executive officer. The organization also had garnered 226 commitments to write, call, FAX or e-mail him with a plea to adopt the rules.

In comments explaining their vote the six board mem-

bers individually cited potential economic hardship to areas that might be impacted by the proposed rules but did not mention the current economic hardship being imposed on residents and communities in logging-impaired watersheds. The board members also said

the results of several BoF-affiliated studies affecting the issue were still due in.

The BoF members said that a recent action by CDF to take care of flooding and siltation problems at Freshwater Creek and Elk River in Humboldt County demonstrated that the matter already was being addressed. The action to which they referred was set forth in a letter to Pacific Lumber Co. (PL) President John Campbell dated Jan. 21 from Dean Lucke of CDF.

In this unusual and relatively tough letter CDF ordered a halt to 10 submitted-but-not-yet-approved THPs in the two

watersheds, pending completion of a Level II watershed analysis. The action thus affected only two of many impaired watersheds in California, and did not affect THPs previously approved and awaiting cutting.

The BoF regulates over seven million acres of California's 16.5 million acres of "productive forest lands"—harvestable conifer forest not set aside in parks and preserves. As of 1993 CDF, the staff under the BoF, was approving about 1500 THPs a year.

The Forest Practice Act mandates "maximum sustained production of high-quality timber products" while giving consideration to a wide array of environmental and other values. These include recreation, watershed, wildlife, fisheries, economic vitality and aesthetic enjoyment.

The act established the nine-member BoF, whose members are appointed by the governor and ratified by the state Senate.

Further, the act established the THP submittal process, through which logging could be reviewed and approved. Persons or companies wishing to conduct logging activities must submit a THP for their proposed project to CDF. The THPs must consider the impacts of various methods and elements of timber harvesting, such as site preparation, winter operations and logging roads as well as environmental

see "A.B. 717," p. 8, col. 4

"Watershed"  
continued from p. 4

requests to curtail the clearcutting, but to no avail. The residents' next stop was the public agencies responsible for regulating forest and watershed conditions, including the California Department of Forestry and Fire Protection (CDF).

Even after many letters to CDF and appearances at

California Board of Forestry hearings, watershed resident groups such as Humboldt Watershed Council and Freshwater Working Group have been left, for the most part, frustrated.

Cook said CDF has admit-

ted a causal relationship between upstream clearcutting and downstream damage, and recently placed a moratorium on the approval of further Timber Harvesting Plans (THPs) in the Freshwater drainage. As for

Elk River, the North Coast

Regional Water Quality Control Board has declared the watershed "sediment impaired."

To the locals CDF still is dragging its feet.

"We went to the Board of Forestry six times to tell them what was going on," Wrigley said, "and finally got the CDF to declare us 'adversely impacted.' But little has changed."

- Bill Young

**Watershed:** 1. The line of separation between two contiguous drainage valleys: sometimes called *water parting*. 2. The whole region from which a river receives its supply of water.

weak. There were 47 Forests Forever staff members attending the Oakland hearings; 27 of them spoke in favor of a stronger HCP or none at all. Those arguing for a stronger HCP/SYP demanded wider no-cut buffers along streams, as well as permanent protection for virgin groves.

In arriving at the final

### The Watershed

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

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HCP/SYP, the FWS and NMFS apparently waived their standard procedure for generating HCPs. Normally an HCP is the result of a voluntary permit process in which the affected private landowners write the HCP draft themselves. Then the appropriate government agency approves or denies the document. In the Headwaters case, FWS and NMFS wrote the HCP and presented it to PL for approval.

In a closely related development, Charles Hurwitz, CEO of MAXXAM, has become the sole remaining respondent to charges involving the failure of United Savings Association of Texas (USAT) in 1988. Five other USAT board members who were respondents in this suit settled with the U.S. Treasury Department's Office of Thrift Supervision (OTS) on Feb. 10 without admitting guilt. They will be fined a combined total of \$1,030,000.

The government has charged the former USAT directors with failure to maintain the net worth of USAT. Environmentalists have maintained that USAT's assets were used in a scheme involving the purchase of junk bonds, leading to the funding of PL's takeover by MAXXAM in 1986. To pay off its debt from the takeover, MAXXAM nearly tripled the volume of timber harvested on PL's property.

In negotiations prior to the final Mar. 1 purchase deal, Bundy said, PL sought to preserve an amendment procedure in the HCP that would open up designated Marbled Murrelet Conservation Areas (MMCA) for commercial logging in as little as 10 years. Bundy said the adaptive management process allows PL to propose changes to the HCP as the company says the need arises. There are no clearly defined procedures concerning this process and no regulations control it. After the deal was culminated, he added, some stream buffers were agreed upon as truly no-cut, while many buffers could be

logged.

MMCA are ancient and residual forest parcels now protected under the deal for 50 years. Total acreage of the MMCA is 8510 acres, according to the federal environmental impact statement.

"Most people were under the impression that all stream

Northern spotted owl were slightly strengthened,

- spraying of highly toxic herbicides on forest lands will no longer be a viable alternative and,
- no new roads could be constructed during the winter months while measurable rain is falling.

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## ... the adaptive management process allows PL to propose changes to the HCP as the company says the need arises.

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buffers in the deal were no-cut zones," Fletcher said. "This last-minute change came as a complete surprise to us. The agencies and PL need to be watched over carefully as we still aren't sure what the impacts from the possible logging in stream buffers could amount to."

By Nov. 16, 1998, Forests Forever had collected and mailed over 3900 written public comments on the HCP and generated an additional 14,265 commitments to contact legislators in support of a strengthened HCP. The public comments were included in the final environmental document.

After the Nov. 16 public comment deadline the following changes were made to the HCP/SYP:

- an increase in buffer zone widths from 30 feet to 100 feet along fish-bearing streams,
- buffers hiked from 10 to 30 feet for smaller year-round-flowing creeks,
- a larger role for federal agencies in the stipulated watershed-analysis process, which will determine long-term watercourse protections and use federal standards for determining the process for evaluating THPs,
- additional lands around the Owl Creek Grove were added to the MMCA,
- protective measures for the

In recent years some local residents living in the Headwaters Forest area have been up in arms over the destruction of and threats to their property caused by alleged irresponsible logging upstream. See related story, page four. PL was cited for over 300 violations of the state Forest Practice Act between 1995 and 1998. This led to suspension of PL's logging license for 1998.

Some conservationists have said federal guidelines hold that permits such as HCPs should not be issued to applicants convicted of crimes covered by the permit.

-Y.K.

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### "Sequoia" continued from p. 3

dors depend.

Forests Forever is the largest organization working on SERPA with a sizable proportion of its resources. Since August, 1998, Forests Forever phone canvassers have garnered 11,563 commitments to write, call, FAX or e-mail for SERPA co-sponsors.

With passage of SERPA, the public could rest assured that these wild, unique areas will always be set aside for future enjoyment.

- Kristin Kirk

# Action Rolodex

## A.B. 717

Please ask your local Assemblymember to co-sponsor A.B. 717. Also ask the following legislative leaders to support A.B. 717:

Assemblymember Antonio Villaraigosa  
 Speaker of the Assembly  
 State Capitol, P.O. Box 942849  
 Sacramento, CA 94249  
 916/445-0703 phone  
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Sen. John Burton  
 Senate President Pro Tem  
 State Capitol, Room 205  
 Sacramento, CA 95814  
 916/445-1412

## Sequoia Bill

Contact Rep. George Brown and thank him for introducing SERPA last session. Urge him to reintroduce the legislation right away. Urge your congressperson to protect California's natural heritage by co-sponsoring SERPA upon its reintroduction.

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concerns.

THPs also must consider cumulative effects, presenting an "evaluation of both on-site and off-site interaction of proposed project activities with the impacts of past and reasonably foreseeable future projects."

"But because the act provides no specifics as to how cumulative effects are to be evaluated or even measured," Hughes said, "THPs are regularly approved based on subjective opinion rather than actual science."

The Forest Practice Rules even go so far as to state, "No actual measurements are intended" in assessing cumulative effects.

"The whole idea of assessing cumulative impacts is that a given clear-cut doesn't exist in isolation," Hughes said. "Its impact in combination with nearby cuts and other factors can often lead to a result— such as a massive slide— that's greater than the effect of a single cut alone."

Timber operators can and do regularly proceed with logging activities based on a determination by CDF that a THP's mitigation measures represent the "least damaging alternative."

—Y.K.

Senate, pressure from the Clinton Administration and grassroots organizing by groups such as Forests Forever, S. 1180 was stopped. Kempthorne's bill would have greatly delayed the already-slow process of listing species as threatened or endangered. The measure would have placed the decisionmaking power concerning habitat protection into the hands of private industries and some industry-friendly federal agencies. The bill also would have required that public funds be used to repair habitat damage incurred by the offending corporations or landowners.

Miller now is seeking to recruit 150 co-sponsors to move his ESRA and ensure House passage of H.R. 960.

— Eric Brooks

"ESRA"  
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Last year H.R. 2351 ran into a major roadblock in the Senate: Sen. Dirk Kempthorne's (R-ID) S. 1180, which Kempthorne gave the same name (ESRA) as Miller's bill. S. 1180 went into the session with the apparent support of the majority of the Senate. Thanks in large part to a threatened filibuster in the

Senate, pressure from the Clinton Administration and grassroots organizing by groups such as Forests Forever, S. 1180 was stopped.

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