

## ABSTRACT

Dissertation Title: DEFENDING GIANTS: THE BATTLE OVER HEADWATERS FOREST AND THE TRANSFORMATION OF AMERICAN ENVIRONMENTAL POLITICS, 1850 TO 1999

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The redwoods have long been a source of inspiration and conflict. By the end of the twentieth century, disputes over logging Redwood Country had helped transform American environmental politics. Historians have largely neglected the redwood wars, but their impact on environmental politics was great. After 1945, the redwood wars ended official corporatist timber regulation in California, established a series of legal precedents governing private property management, and prompted the reordering of the federal environmental protection regime. This dissertation describes those transformations in detail, and helps situate the long history of conflicts over logging the redwoods in American history.

The history of the redwood wars demonstrates the ways in which local activism influence the development of environmental politics, Northcoast activists complicate our understanding of radical environmentalism and wilderness ideals, and conservation methodologies persist in the priorities of modern environmentalism.

The redwood wars were one of the longest and most violent environmental disputes in American history, beginning during the 1970s and lasting into the twenty-first century. Northcoast residents had grown increasingly concerned about the future of the ancient forest, timber jobs, and their rural culture as the rate of clear-cutting increased

and as corporate giants swallowed up land. Some residents organized and challenged the industrial logging regime because of its threat to the health of their rural society. Eventually, the Northcoast was awash in daily direct actions, persistent litigation, and intense media scrutiny. After 1986, the citizen activists focused more and more on Pacific Lumber's plans to harvest its remaining old growth groves in Humboldt County. Pacific Lumber owned nearly all of the unprotected ancient redwood forest in the world, and the forest complex that contained those old-growth groves became known as Headwaters Forest. In 1999, after more than a decade of violent and protracted conflict, Pacific Lumber, California, and the federal government consummated an agreement to publicly acquire several old-growth groves and manage the rest of the company's land under a comprehensive land management plan. Even so, the wars continued because of the uncompromising nature of the local activists.

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TRANSFORMATION OF AMERICAN ENVIRONMENTAL POLITICS, 1850 – 1999

By

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not have been possible without their archives. Additionally, Dan and Carrie Hamburg also opened their memories, home, and office to me, and Carrie even sorted through the Congressman's boxes in the attic and found the ones related to his Headwaters bill for me. Many others on the Northcoast were vital resources as well: Robert Sutherland, Richard Geinger, Darryl Cherney, Alicia Littletree, Paul Mason, Kevin Bundy and Kate Anderton each provided me with marvelous oral histories. The Humboldt Historical Society mailed me copies of documents from their files at no charge when I was back on the East Coast. Finally, I owe a deep debt to the late John Campbell and his family for generously allowing me to interview John while he was in the final fight in his battle with cancer.

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This project, of course, was made possible by the unending support of my family. In particular, my parents, Fred and Linda Speece, supported and helped fund my venture into the history of conflicts over logging the redwoods. I am forever in their debt. And finally, I cannot appropriately express my gratitude to my wife, Tiernan, who sacrificed a great deal in order to support my fascination with understanding the Headwaters Forest conflict. Thank you!

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## **List of Acronyms**

California Board of Forestry: BOF

California Department of Fish and Game: DFG

California Department of Forestry: CDF

California Environmental Quality Act: CEQA

California Forest Practices Act: FPA

Endangered Species Act: ESA

Environmental Protection Information Center: EPIC

Habitat Conservation Plan: HCP

Incidental Take Permit: ITP

Timber Harvest Plan: THP

National Environmental Policy Act: NEPA

United States Fish and Wildlife Service: FWS

## **People and Associations**

Kathy Bailey: Forest Forever, CA Sierra Club volunteer state forestry chair, Headwaters Forest Coordinating Committee

Alicia Littletree Bales: Northcoast Earth First!

Judi Bari: Northcoast Earth First!

John Campbell: Pacific Lumber Company

Darryl Cherney: Northcoast Earth First!, HFCC

Sharon Duggan: EPIC

Larry Evans: EPIC

Richard Geinger: EPIC

Dan Hamburg: Congressman (CA-1) 1993-1994

Charles Hurwitz: Maxxam

Cecelia Lanman (Gregori): EPIC

Greg King: Northcoast Earth First!

Carl Pope: Executive Director, Sierra Club (national)

Robert Sutherland (The Man Who Walks in the Woods, Woods): EPIC, Forests Forever

## Chapter One: The Battle over Headwaters Forest and the Transformation of American Environmental Politics

*This land is your land, this land is my land  
From California, to the New York Island  
From the Redwood forest, to the gulf stream waters  
This land was made for you and me*

*As I was walkin' - I saw a sign there  
And that sign said - no tress passin'\*  
But on the other side .... it didn't say nothin!  
Now that side was made for you and me!*

*--Woody Guthrie 1956*

\*note: in the original 1944 version, the sign said “private property”

When Woody Guthrie wrote *This Land is Your Land* in response to Irving Berlin’s *God Bless America*, he had no way of knowing how well the preceding verses would describe the battle over Headwaters Forest forty years later. The competing visions of America described by Guthrie and Berlin were similar to those of opponents in the Headwaters Forest conflict because on each side different visions of American property rights and obligations were pitted against one another. The similarities between Guthrie’s song and the Headwaters Forest conflict run even deeper. The Headwaters conflict began in California, was escalated by Wall Street activities on “the New York Island,” and its major epicenters were located in the Redwoods and in Houston — on the Gulf, and near the Gulf Stream, if not exactly on the “gulf stream waters.” The Headwaters Forest conflict was one of the longest, most violent, and most intractable environmental conflicts in postwar America. But its impact on American history has been neglected. In many ways, the Headwaters conflict and the broader redwood wars of

the late twentieth century were the physical manifestation of the battle between the competing national values Guthrie and Berlin identified in their songs. Though related to the Spotted Owl conflict and the western Timber Wars, the battle for Headwaters Forest stands alone because of the symbolism of the giant redwoods, the hostile takeover that precipitated the conflict, the role of private property in the conflict, and the local nature of the conflict.<sup>1</sup>

Unfortunately, the most prominent narrative and analysis of the Headwaters conflict and the redwood wars is still defined by the popular press, journalistic books such as David Harris' *The Last Stand: The War Between Wall Street and Main Street Over California's Ancient Redwoods*, and several firsthand accounts by participants. Historians rarely grant the conflict more than a page in histories of late twentieth century environmental politics, and well-known scholars have botched the simplest details of the conflict, referring to the incorrect timber company and name of the forest.<sup>2</sup>

The dominant narrative of the Headwaters conflict, as defined by the popular press, David Harris, Alston Chase and others, reduces the battle to a simple morality play.

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<sup>1</sup> In the dissertation, ancient forest and old-growth forest are used interchangeably.

<sup>2</sup> The first hand accounts are: Judi Bari, *Timber Wars* (Monroe, ME: Common Courage Press, 1994), Joan Dunning, *From the Redwood Forest: Ancient Trees and the Bottom Line: A Headwaters Journey* (White River Junction, VT: Chelsea Green Publishing, 1998), Dave Foreman, *Confessions of an Eco-warrior* (New York: Harmony Books, 1991), and Julia Butterfly Hill, , David Harris wrote the only journalistic book that deals solely with the Headwaters conflict (*The Last Stand: The War between Wall Street and Main Street over California's Ancient Redwoods* (New York: Times Books, 1995). The journalistic and polemical treatments that attend briefly to the Headwaters conflict include, Chase, *In A Dark Wood*, David Helvarg, *The War against the Greens: The "Wise-Use" Movement, the New Right, and the Browning of America* (Boulder, CO: Johnson Books, 2004), Christopher Manes, *Green Rage: Radical Environmentalism and the Unmaking of Civilization* (Boston: Little, Brown, 1990), Jacqueline Vaughn, *Green Backlash: The History and Politics of the Environmental Opposition in the U.S.* (Boulder: Lynne Rienner Publishers, 1997), and Susan Zakin, *Coyotes and Town Dogs: Earth First! and the Environmental Movement* (Tucson, AZ: University of Arizona Press, 1993). A few scholarly books that are focused on environmentalism briefly mention the Headwaters conflict, including Hays, *Wars in the Woods*, Carolyn Merchant, *Radical Ecology: The Search for a Livable World* (New York: Routledge, 2005), and Rik Scarce, *Eco-warriors: Understanding the Radical Environmental Movement* (Walnut Creek, CA: Left Coast Press, Inc, 2006). Hays and Merchant are the historians who erred.

In that narrative, Wall Street and environmentalists battle over the fate of Pacific Lumber's Headwaters Forest, located approximately 250 miles north of San Francisco on the California coast. The once benevolent feudal landlord, Pacific Lumber Company, was the victim of a hostile takeover by Maxxam Corporation in 1985. Charles Hurwitz, the CEO of Maxxam, leveraged the takeover with "junk bonds" underwritten by Michael Milken of Drexel Burnham & Company. The takeover effort was aided by Ivan Boesky and Boyd Jeffries' insider trading activities. After the takeover, the new Pacific Lumber tripled its logging efforts to meet the company's obligations to its new \$800 million high interest debt. Workers and environmentalists feared that the company would cut down the forest and abandon America's last company town, but the tentative alliance did not last long. National environmentalists flocked to rural Humboldt County to stop Pacific Lumber's attempts to destroy the last unprotected ancient redwood forest in the world. Years of court cases, protests, direct actions, and halted timber harvests pitted the company and its employees against the outsider environmentalists in a battle for the forest and the local economy. In 1996, President Clinton stepped in and negotiated a deal with Hurwitz that protected part of Headwaters Forest and gave Pacific Lumber \$500 million. Activists challenged the terms of the deal in court, and Julia Butterfly Hill sat in one giant redwood for more than two years, but the national fervor largely died out. In 2007, however, the company filed for bankruptcy either because of its risky financial strategies or because its land was overregulated. Either way, the fate of Headwaters Forest was once again uncertain.

The morality play is compelling, but the story is far more complex, and the narrative neglects the central nature of the conflict, which was a local fight over the

future of the rural county's social and ecologic character. The fight was never as simple as jobs versus trees and birds; it was a local fight over land use and social vision. Big business and proponents of corporatism fought against local insurgents and back-to-the-landers for control of a specific territory—Humboldt and Mendocino Counties. The activists and the timber industry actively and persistently vied for the support of workers and the state during the rural uprising. And Pacific Lumber was never as benevolent as often portrayed. Though it retained its small town image, the company was a fully diversified conglomerate by the 1970s, and the seemingly sudden change in logging activity after the Maxxam takeover had been in the works for years. The environmental activists were predominantly locals who worked to protect Northcoast logging and forests alike. Those activists appeared more like an amalgamation of Gifford Pinchot, John Muir, David Brower, Bill Devall, Wavy Gravy, Edward Abbey, and Rachel Carson than they did urban middle class professionals working to protect “nature” from human engulfment. In essence, the battle over Headwaters Forest was one battle in the war between competing social visions for northern California—a war nobody won.<sup>3</sup>

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<sup>3</sup> Much of the literature treats “environmentalists” and modern environmentalism as a single, nationally-defined, white middle class phenomena. In particular, see J. Baird Callicott and Michael P. Nelson eds., *The Great New Wilderness Debate: An Expansive Collection of Writings Defining Wilderness from John Muir to Gary Snyder*, (Athens: University of Georgia Press, 1998) and William Cronon, ed, *Uncommon Ground: Rethinking the Human Place in Nature* (New York: W.W. Norton & Company, 1996), Thomas R. Dunlop, *Faith in Nature: Environmentalism as Religious Quest* (Seattle: University of Washington Press, 2004), J. Brooks Flippen, *Nixon and the Environment* (Albuquerque: University of New Mexico Press, 2000), Robert Gottlieb, *Forcing the Spring: The Transformation of the American Environmental Movement* (Washington, DC: Island Press, 1993), Samuel P. Hays, *Beauty, Health, and Permanence: Environmental Politics in the United States, 1955-1985* (Cambridge: Cambridge University Press, 1987) and -- *A History of Environmental Politics since 1945* (Pittsburgh, PA: University of Pittsburgh Press, 2000), Roderick Nash, *Wilderness and the American Mind* (New Haven, CT: Yale University Press, 1973), Richard J. Lazarus, *The Making of Environmental Policy* (Chicago: University of Chicago Press, 2004), Adam Rome, *The Bulldozer in the Countryside: Suburban Sprawl and the Rise of American Environmentalism* (Cambridge: Cambridge University Press, 2001), and Joseph Sax, *Mountains Without Handrails: Reflections on the National Parks* (Ann Arbor: University of Michigan Press, 1980). Cronon, in his critique of “wilderness,” admonishes environmentalists for separating humanity from wilderness. The activists in this study do not so easily fit into the dominant definition of modern environmentalists. While they are more similar to the depictions of Bob Marshall, Aldo Leopold, Brenton Mckaye, and Robert Yard Sterling

This study addresses a set of questions generated by my years of experience as a political organizer. As an undergraduate at Humboldt State University, I witnessed the frenzied height of the Headwaters Forest conflict and attended a number of the large logging protests. When I graduated, I worked on grassroots campaigns to protect ancient forests, to end logging road subsidies, and to expand Clean Air and Clean Water Act protections, among other campaigns. My experiences in Humboldt County and with state and national politics led me to ask a number of questions, among them: why did the national environmental groups largely stay out of the Redwood wars and the Headwaters conflict? Why did the conflict seem to dissolve from the public consciousness? Why have scholars ignored the conflict? What does the conflict over Headwaters Forest tell us about American politics? How did the conflict begin, and how is it related to the development of the modern environmental protection regime?

Accordingly, this close study of the battle over Headwaters Forest explores the influence of the late twentieth century redwood wars on American politics, analyzes the underappreciated role of local activism on environmental political development, and complicates our understanding of twentieth century environmental ideology and politics. Specifically, this dissertation argues: 1) the battles over California redwoods, and especially the Headwaters Forest conflict, resulted from local conflicts about the valuation of specific redwood groves, about the development of local rural communities, and about humanity's place among the redwoods; 2) the local conflicts were driven by activists who largely rejected middle-class work and culture; 3) the local conflicts

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from Paul Sutter's study of interwar wilderness advocates (*Driven Wild: How the Fight against Automobiles Launched the Modern Wilderness Movement* (Seattle: University of Washington Press, 2002), the Northcoast activists were more interested in the independent value of non-human life than Sutter's subjects.

influenced the development of state and national environmental politics and policies in significant ways; 4) on the Northcoast, conservation priorities and methodologies fused with preservation, ecologic, and spiritual values; and 5) the localism of the conflict, the non-middle-class nature of the activists' ideas and tactics, and the centrality of private property rights helped confine the conflict to the Northcoast until 1996, after which they took on significance on the national stage.

### **Summary of the Redwood Wars and the Battle over Headwaters Forest**

The history of conflict over redwoods is long, and the intensity and hostility of the conflicts grew over time as the ancient redwood forest shrank and their cultural and economic values increased. The Northcoast grew in fits and spurts during the twentieth century, and along with that growth numerous conflicts over the fate of Redwood Country developed. The redwoods' economic value increased as logging depleted the Eastern and Midwestern forests, as the region's transportation options improved, and as the rot- and insect-resistant properties of the timber produced from the giant trees became better known. Simultaneously, the Coastal Redwoods' cultural value increased due to expanded public exposure to the trees. The redwoods and the redwood forest quickly became symbols of American grandeur as well as laboratories for the study of evolution. Conflict sparked nearly as quickly as the trees were celebrated, and citizens fought over the relative economic and cultural values of specific groves of giant redwoods. The redwood wars grew out of local activists' desire to prevent further logging in the remaining ancient forests on the Northcoast and to preserve the long term viability of the

county's rural society based on timber and agriculture. By 1985, approximately 1.8 million acres of ancient redwood forest had been harvested and approximately 76,000 acres of ancient redwood forest were protected in various state parks and in Redwood National Park, while nearly 14,000 acres of ancient redwood forest remained on private land. 10,000 of those acres developed into the center of gravity of the Headwaters Forest conflict<sup>4</sup>

Social vision and giant redwoods lay at the heart of the redwood wars. The redwood wars were one of the longest and most violent environmental disputes in American history, beginning in earnest during the 1970s and lasting into the twenty-first century. During the 1970s and 1980s, Northcoast residents grew increasingly concerned about the future of the ancient forest, timber jobs, and their rural culture as the rate of clearcutting increased and as corporate giants like Louisiana Pacific swallowed up land previously owned by small local timber producers. Some Northcoast residents organized and challenged the industrial logging regime because they viewed corporate timber liquidation as a serious threat to the health of their rural society they believed was built on sustainable resource extraction and healthy ecosystems. The California Board of Forestry and the timber industry stiffly resisted the challenge, which soon turned into conflict. Eventually, the rural Northcoast was awash in daily direct actions, persistent litigation, and a degree of press attention never before directed at the counties. Louisiana Pacific's Mendocino County land and operations were the initial targets in the widened

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<sup>4</sup> Michael Barbour, Sandy Lydon, Mark Borchert, Marjorie Popper, Valerie Whitworth, and John Evarts, *Coast Redwood: A Natural and Cultural History* (Los Olivos, CA: Cachuma Press, 2001), IX, 10, 96; The Trees Foundation, "The Headwaters Forest Stewardship Plan: A Citizens' Alternative to Maxxam Management of Headwaters Forest," (Redway, CA: The Trees Foundation, 1996), 3. Elliot Diring, "Cutting a Deal on Redwoods: A tangled tale of trees, takeovers and a Texas S & L," The San Francisco Chronicle 4 Sept. 1996: A1,

war on industrial logging. The Mendocino activists were largely interested in sustainable forestry because much of the old growth had already been harvested and the future of the local timber industry and wildlife depended on preventing the continued denuding of the landscape. After 1986, however, the citizen activists focused more and more on Pacific Lumber's plans to harvest its remaining old growth groves in Humboldt County as proxy for the fight against industrial logging and ecosystem destruction. The company's land drew intense interest because by the 1980s, less than 4 percent of the estimated pre-colonial old growth redwoods forest remained on the planet (90,000 acres).<sup>5</sup> Pacific Lumber owned nearly all of the unprotected ancient forest, and the forest complex that contained those old growth groves became known as Headwaters Forest.<sup>6</sup>

The conflict over Headwaters Forest was a microcosm of the nature of the redwood wars because it combined the long-running disputes over sustainable forestry, ecosystem health, and the spiritual values of old growth redwoods. The battle for Headwaters Forest began in 1985 when Charles Hurwitz set his merger and acquisition sites on The Pacific Lumber Company of Scotia, California. However, the conflict was deeply rooted in the early century battles over Founders Grove and Humboldt Redwoods State Park, and it was an outgrowth of the fights over Redwood National Park in 1968 and 1978. The battle for Headwaters was also related to the timber wars fought over the old growth Douglass fir forests of the Pacific Northwest. More closely, the battle over Headwaters Forest was an integral part of the 1980s and 1990s redwood wars on the

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<sup>5</sup> The Trees Foundation, "The Headwaters Forest Stewardship Plan: A Citizens' Alternative to Maxxam Management of Headwaters Forest," (Redway, CA: The Trees Foundation, 1996) page 3.

<sup>6</sup> Diringer, "Cutting a Deal on Redwoods," Unlisted Staff Writer, "Deal Saves Giant Redwoods: 2,000-year-old Forest on Pacific Coast to be Made a Preserve," *The Gazette* (Montreal, Quebec), 3 March 1999: A14. I say "relatively untouched" because though we know that those groves had not been logged, we do not know whether the Yurok Tribe utilized the groves as hunting grounds, or whether they modified the underbrush.

Northcoast during which local environmental activists challenged the corporate logging regime of Humboldt and Mendocino Counties. The Headwaters conflict, as was true for the broader conflicts over logging the redwoods, became a battle of attrition. In 1986 there were 14,000 acres of old-growth forest on Pacific Lumber's 210,000 acres. Activists were united and energized. By 1995 there were only 8,000 to 9,000 acres remaining and the negotiations between the state and the company regarding the public purchase of Headwaters splintered the activists at the same time as fatigue set in on the community.<sup>7</sup>

Local activists drove the resistance to the development of industrial logging just as they drove the process of protecting individual stands of ancient redwoods earlier in the century. The late twentieth century campaign was largely the product of a small group of Northcoast residents—a cohort that included Mendocino residents Kathy Bailey, the volunteer state chair of CA Sierra Club's state forestry program; Sharon Duggan, a native Northcoast attorney working in the Bay Area; Gary and Betty Ball of the Mendocino Environmental Center; and Judi Bari, co-founder of North Coast Earth First!. In Humboldt County, the effort was guided by the activists who created the Environmental Protection Information Center (EPIC), and the Humboldt residents of North Coast Earthfirst!, including Robert Sutherland, Darryl Cherney, Alicia Litteltree, Richard Geinger, and Cecelia Lanman. Throughout the 1980s and 1990s, these activists combined direct action, litigation, legislative and administrative advocacy, earned and paid media, protests and rallies, and grassroots organizing to defend the giant trees and

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<sup>7</sup> Jane Kay, "Last Stand: Fighting for the Tall Trees," *San Francisco Examiner*, 16, December 1995 ([www.sfgate.com/special/Redwoods/part1.html](http://www.sfgate.com/special/Redwoods/part1.html)), Mendocino Environmental Center, "Spring Headwaters Campaign," *Headwaters Updates*, Issue 30 (Winter 1998), page 5 ([www.mecgrassroots.org/NEWSL/ISS30/30.10H](http://www.mecgrassroots.org/NEWSL/ISS30/30.10H), accessed May, 2006).

the ancient forest ecosystem, and to promote their development vision for the Northcoast of California.

By the end of the twentieth century, the timber wars of the American Northwest that once demanded the attention of the national press, Congress, the President of the United States, Wall Street, and Hollywood had been reduced to low-level skirmishes led by the persistent local activists that initiated the war during the 1970s. In 1999 the public purchased 7700 acres of Pacific Lumber land for nearly \$500 million, and the company placed the rest of its land under Habitat Conservation- and Sustained Yield Plans that regulated its activities in sensitive habitats. Together, the purchase and the plans became known as “The Deal” by the press and environmental activists. In 2000, Julia Butterfly Hill came down from her two-year tree sit protesting the The Deal. Afterward, the battle over Headwaters Forest faded from the public eye even as EPIC, Earth First! and others continued to fight the terms of The Deal.

## **Historiography and Argument**

This dissertation speaks to numerous bodies of literature, specifically, environmental history, American Political Development and political history, and business history. In addition to challenging the dominant narrative of the Headwaters Forest conflict, this dissertation confronts the largely federal scope of the historiography of United States environmental history and suggests ways that local perspectives might alter the dominant narrative. Specifically, this history of the Headwaters Forest conflict challenges the nationalization and professionalization narrative of environmental politics,

and many of the conclusions of the Great New Wilderness Debate. For political scientists, my study speaks to American Political Development Theory, especially with respect to the role of private property and environmental politics. Business historians will find this study useful because it challenges the postwar narratives about the development of the timber industry and the postwar attacks on corporate America. Additionally, this study fills a void in the literature on the 1980s mergers and acquisitions wave. The 1985 Pacific Lumber takeover was the first takeover investigated by Congress for insider trading allegations, and led directly to the investigations of Ivan Boesky, Boyd Jeffries, and Michael Milken, a takeover ignored by business historians.

Much of American environmental history has been occupied with two sweeping goals: 1) tracking the history of the relationships between humans and the non-human world and 2) studying the rise of “modern environmentalism.” Out of both sets of literature, one common theme arises: that the “environment” was something to fear and/or civilize for the early European settlers, but by the 1960s, an increasing number of Americans believed that the “environment” was valuable and needed to be protected from human activities. That line of thinking was strong enough to force the federal and state governments to pass an unprecedented series of laws regulating the relationship between American society and the non-human world, and those new laws elevated the non-economic values of the non-human world.

The once-dominant narrative of postwar environmental politics, as constructed by Stephen Fox, Samuel Hays, Robert Gottlieb, Michael Kraft, Richard Lazarus, and others, emphasizes the nationalization and professionalization of “modern” environmentalism and the development of command-and-control federal environmental regulation (though

to be fair, Fox's argument primarily revolved around the role of the "radical amateur" in the environmental movement, despite the professionalization of the movement). At its core, the narrative explains how the expanded, largely white middle class, animated by its understanding of popular ecology and of the destructive forces of modern industry, rose up and demanded a cleaner, more beautiful environment filled with greater recreation opportunities. Earth Day 1970 represents the culmination of that popular upsurge, and from there, professional "environmentalists," politicians, and bureaucrats took the reins and built the modern environmental protection regime. Environmental politics was then integrated into the everyday horse-trading of Capitol Hill. There, DC-based environmental groups, business interests, and state actors lobbied and debated the scope and intent of the new environmental laws, and the courts rendered judgments. Many of the debates were over science, specifically, whose science contained the best prescription for the management of the environment.<sup>8</sup>

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<sup>8</sup> On the rise of modern environmentalism see especially: Samuel P. Hays, *Beauty, Health, and Permanence* and -- *A History of Environmental Politics since 1945* (Pittsburgh, PA: University of Pittsburgh Press, 2000); Roderick Nash, *Wilderness and the American*; Richard J. Lazarus, *The Making of Environmental Policy*; Adam Rome, *The Bulldozer in the Countryside*; Paul Sutter, *Driven Wild: How the Fight against Automobiles Launched the Modern Wilderness Movement* (Seattle: University of Washington Press, 2002); and Thomas R. Wellock, *Preserving the Nation: The Conservation and Environmental Movements, 1870 – 2000* (Wheeling, WV: Harlan Davidson, 2007). Rome, Sutter, and Wellock each argue there were more continuities in the pre- and postwar environmental movements than Hays and Nash argued.

On the nationalization and professionalization of modern environmental politics and the environmental movement see: Thomas R. Dunlap, *Faith in Nature*; J. Brooks Flippen, *Nixon and the Environment*; Stephen Fox, *The American Conservation Movement: John Muir and his Legacy* (University of Wisconsin Press, 1985); Paul Hirt, *A Conspiracy of Optimism: Management of the National Forests since World War Two* (Lincoln, NE: University of Nebraska Press, 1994); Robert Gottlieb, *Forcing the Spring*; Michael E. Kraft, *Environmental Policy and Politics* (New York: Pearson Longman, 2007); Dennis C. Lemaster, *Decade of Change: The Remaking of Forest Service Statutory Authority during the 1970s* (Westport, CT: Greenwood Press, 1984); James Salzman and Barton H. Thompson, *Environmental Law and Policy* (New York: Foundation Press, 2003); Joseph Sax, *Mountains Without Handrails: Reflections on the National Parks* (Ann Arbor: University of Michigan Press, 1980); and James Morton Turner, *The Promise of Wilderness: A History of American Environmental Politics, 1964-1994* (Dissertation, Princeton University, June 2004).

With respect to forests, the debate revolved around visions of a healthy forest: was a healthy forest intensively managed to maximize wood growth and timber production, or was a healthy forest one where human management was minimized? As the nation's timber operations moved from east to west during the seventeenth, eighteenth, and nineteenth centuries, Americans became concerned about an impending timber famine. By the time timber companies reached the West Coast during the late nineteenth century, companies and governments experimented with timber conservation. On private land, tree farming and even-age silviculture became the norm.

The history of redwood timber harvesting differs from the developments of the Pacific Northwest industry. Unlike the Weyerhaeuser example offered by the classic study by Hidy, Hill, and Nevin – heavily drawn on by Michael Williams-- the history of Pacific Lumber logging incorporates greater forest diversity. Partly due to the public pressure on Northcoast timber firms and partly a result of the differences between Douglass firs and redwoods, Pacific Lumber operations utilized fewer clearcuts and more selective harvests. The industry trends across the West came under fire during the postwar era as concerns about recreation, scenic beauty, and biodiversity gained popularity. Because the answers and the science behind the debates and management proscriptions were always contested, politics was the final arbiter.<sup>9</sup>

According to the standard narrative, the separation of humanity and “nature,” represented most dramatically by the so-called wilderness ideal, gave direction to modern environmentalism and the environmental protection regime. With respect to forest management of public lands, what is less well known are the battles and debates over

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<sup>9</sup> See Ralph W. Hidy, Frank Ernest Hill, and Allan Nevins, *Timber and Men: The Weyerhaeuser Story* (New York: The MacMillan Company, 1963) and Michael Williams, *Americans and Their Forests: A Historical Geography* (Cambridge, UK: Cambridge University Press, 1989).

private land management like those involved in the redwood wars. The general narrative rings true when viewed at the national scale, but it frays the deeper one gazes into local history.<sup>10</sup> Studies of federal developments have illuminated the dramatic postwar changes in federal policy for public land management, the rifts and tensions between local and national environmental groups during the Spotted Owl conflict, and the ways local groups acted on the federal scene regarding federal land issues. Many scholars have addressed local activism and its effects on the federal environmental protection regime and public land management, but there are relatively few treatments of the local politics of forestry on private land.<sup>11</sup>

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<sup>10</sup> The classic texts on the ways humans physically, culturally, and economically accommodated the non-human world and modified the non-human world are: William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983); Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W.W. Norton & Company, 1991); Richard White, *The Organic Machine* (New York: Hill and Wang, 1995); Alfred W. Crosby, *Ecological Imperialism: The Biological Expansion of Europe, 900-1900* (Cambridge, UK: Cambridge University Press, 1986, second edition 2004); Ari Kelman, *A River and Its City: The Nature of Landscape in New Orleans*, (Berkeley: University of California Press, 2003); Theodore Steinberg, *Nature Incorporated: Industrialization and the Waters of New England* (Amherst, MA: University of Massachusetts, 1991); W. Prescott Webb, *The Great Plains* (Boston: Ginn and Company, 1931); and Jared Diamond, *Guns, Germs, and Steel: The Fates of Human Societies* (New York: W.W. Norton & Company, 1997). The classic texts covering the rise of modern environmentalism and the Great New Wilderness Debate are: J. Baird Callicott and Michael P. Nelson eds., *The Great New Wilderness*; Gary C. Bryner, *Blue Skies, Green Politics: The Clean Air Act of 1990 and Its Implementation* (Washington, D.C.: Congressional Quarterly Press, 1995), Cronon, *Uncommon Ground*, Dunlop, *Faith in Nature*, J. Brooks Flippin, *Nixon and the Environment*; Robert Gottlieb, *Forcing the Spring*; Hays, *Beauty, Health, and Permanence*, and -- *A History of Environmental Politics since 1945*, Nash, *Wilderness and the American Mind*, Nancy Langston, *Forest Dreams, Forest Nightmares: The Paradox of Old Growth in the Inland West* (Seattle: University of Washington Press, 1995), Richard J. Lazarus, *The Making of Environmental Policy*; Rome, *The Bulldozer in the Countryside*; James Salzman and Barton H. Thompson, *Environmental Law and Policy*, and Sax, *Mountains Without Handrails*.

<sup>11</sup> Hirt, *Conspiracy of Optimism*, and LeMaster, *Decade of Change* are great studies of the transformation of federal land management. Some of the recent treatments of local forestry activism as it related to federal laws such as the Wilderness Act of 1964, the Endangered Species Act, and the National Forest Management Act include: William Dietrich, *The Final Forest: The Battle for the Last Great Trees of the Pacific Northwest* (New York: Penguin Books, 1993); Kathie Durbin, *Tree Huggers: Victory, Defeat & Renewal in the Northwest Ancient Forest Campaign* (Seattle, WA: The Mountaineers, 1996); Kevin R. Marsh, *Drawing Lines in the Forest: Creating Wilderness Areas in the Pacific Northwest* (Seattle, WA: University of Washington Press, 2007); and Samuel P. Hays, *Wars in the Woods: The Rise of Ecological Forestry in America* (Pittsburgh, PA: University of Pittsburgh Press, 2007). Henry F. Bedford produced a wonderful study of the local activism in New Hampshire regarding the NEPA impacts on the nuclear industry (*Seabrook Station: Citizen Politics and Nuclear Power* (Amherst: University of Massachusetts Press, 1990). The literature on the redwood wars are largely journalistic and autobiographic, including:

Despite the national notoriety of the Headwaters conflict, scholars have almost completely ignored it. The Spotted Owl conflicts dominate the analyses of forest and endangered species politics, which are largely centered on national institutions. The literature examining the late twentieth century timber wars largely focuses on the debates over the economic impacts of conservation policies, the role of scientists determining conservation policies, and the ways local and national citizen groups challenged the implementation of the National Forest Management Act and the Endangered Species Act. Studies of the conflicts over federal land also shed light on the postwar politicization of “science” and the importance of having “science” on one’s side (here, I am reminded of Bob Dylan’s song, “With God on our Side,” as well as David Waldstreicher’s book, *In the Midst of Perpetual Fetes: The Making of American Nationalism, 1776-1820*). The result was not policy clarity, but confusion, with politics arbitrating final decisions. The current literature is not well developed with regard to private property issues, and there is only one other scholarly treatment addressing the redwood wars, and it deals exclusively with the conflict over Headwaters Forest in the 1990s.<sup>12</sup>

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Judi Bari, *Timber Wars* (Monroe, ME: Common Courage Press, 1994), Joan Dunning, *From the Redwood Forest: Ancient Trees and the Bottom Line: A Headwaters Journey* (White River Junction, VT: Chelsea Green Publishing, 1998), Dave Foreman, *Confessions of an Eco-warrior* (New York: Harmony Books, 1991), and Julia Butterfly Hill, , David Harris wrote the only journalistic book that deals solely with the Headwaters conflict (*The Last Stand: The War between Wall Street and Main Street over California’s Ancient Redwoods* (New York: Times Books, 1995). The journalistic and polemical treatments that attend briefly to the Headwaters conflict include, Chase, *In A Dark Wood*; David Helvar, *The War against the Greens: The “Wise-Use” Movement, the New Right, and the browning of America* (Boulder, CO: Johnson Books, 2004); Christopher Manes, *Green Rage: Radical Environmentalism and the Unmaking of Civilization* (Boston: Little, Brown, 1990), Jacqueline Vaughn, *Green Backlash: The History and Politics of the Environmental Opposition in the U.S.* (Boulder: Lynne Rienner Publishers, 1997), and Susan Zakin, *Coyotes and Town Dogs: Earth First! and the Environmental Movement*. A few scholarly books that are focused on environmentalism briefly mention the Headwaters conflict, including Hays, *Wars in the Woods*, Carolyn Merchant, *Radical Ecology: The Search for a Livable World* (New York: Routledge, 2005), and Rik Scarce, *Eco-warriors: Understanding the Radical Environmental Movement* (Walnut Creek, CA: Left Coast Press, Inc, 2006).

<sup>12</sup> Some of the best examples of studies about the interest group jockeying and scientific and political confusion are: Alston Chase, *In a Dark Wood: The Fights over Forests & the Myths of Nature* (New Brunswick, NJ: Transaction, 2001), Samuel P. Hays, *Wars in the Woods: The Rise of Ecological Forestry*

Richard Widdick's *Trouble in the Forest* argues that the Headwaters conflict of the 1990s was one in a long series of violent conflicts in Humboldt County over land, working conditions, and environmental degradation. Widdick examines three historical violent conflicts: the massacre of Wiyott Indians in 1860, the slaughter of striking loggers in 1935, and the violence during the Headwaters conflict. His study illuminates the pattern of violence against groups resisting American capitalist developments in the county, and argues the Headwaters conflict embodies the evolution of those conflicts from fights over settlement, then the rights of business managers, and finally private property rights. Widdick's conclusion is that the persistent conflicts in the county produced a social environment infused with a narrative about resisting the advances of free market capitalism, making the county ripe for conflict over environmental values.<sup>13</sup>

This dissertation more closely examines the long history of patterns of conflict and politics among the redwood preservation movement, timber companies, and the state. In particular, it dissects how those particular groups of local combatants influenced the development of forestry regulation, redwood preservation efforts, and the modern environmental protection regime. The two studies are related; Widdick's study highlights the volatile role of the timber industry on various Northcoast populations over time as

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*in America* (Pittsburgh, PA: University of Pittsburgh Press, 2007), Langston, *Forest Dreams, Forest Nightmares*, Victor M. Sher, "Travels with Strix: The Spotted Owl's Journey Through the Federal Courts," *Public Land Law Review*, Spring 1993 (14 Pub.Land. Rev.41), Brendan Swedlow, "Scientists, Judges, and Spotted Owls: Policymakers in the Pacific Northwest," *Duke Environmental Law and Policy Forum*, Spring 2003 (13 Duke Env'tl.L. & Pol'y F. 187), John Lowe Weston, "The Endangered species Committee and the Northern Spotted Owl: Did the 'God Squad' Play God?" *Administrative Law Journal of the American University*, Fall 1993/Winter 1994 (7 Admin. L.J. Am. U. 779), and Stephen Lewis Yaffee, *The Wisdom of the Spotted Owl: Policy Lessons for a New Century* (Washington, DC: Island Press, 1994).

<sup>13</sup> Richard Widdick, *Trouble in the Forest: California's Redwood Timber Wars* (Minneapolis: University of Minnesota Press, 2009). Douglas Bevington (*Rebirth of Environmentalism: Grassroots Activism from the Spotted Owl to the Polar Bear* (Washington, DC: Island Press, 2009) contains a chapter about the Headwaters Conflict. Bevington's larger argument about the localism of the biodiversity groups, the uncompromising nature of their strategies, and their use of traditional political tools fit in well with my own analysis and arguments.

well as the persistent tension over the property rights and prerogatives of private timber companies, specifically in Humboldt County. My dissertation digs deeper into the broader redwood wars on the entire Northcoast, and the environmental policy implications of the redwood wars. The broader redwood wars, along with the longer history of conflict and accommodation between timber companies and redwood preservationists are a part of the historical tensions over property rights behind the Redwood Curtain. As such, it this study helps delineate the policy and political implications of the competition among the state, redwood preservationists, and timber companies on American environmental politics.

This dissertation challenges the traditional interpretation of modern environmentalism as an urban middle-class movement; it challenges the nationalization and professionalization narrative of environmentalism; and it challenges the dominance of the so-called wilderness ideal over resource conservation in postwar environmental activism. The West Coast timber conflicts changed the landscape of American environmental politics, and the battle over Headwaters Forest occupied the fevered center of the timber wars from 1993 to 1999. Unlike the Spotted Owl conflict, the redwood wars were a state and local war for most of their duration, though they powerfully influenced national politics and culture. For example, the conflict played a large role in the Clinton administration's development of administrative tools to negotiate endangered species claims on private land. Additionally, Congress appropriated \$300 million to purchase part of Headwaters Forest. And the federal courts, for the first time, used the Endangered Species Act to stop logging on private land. The conflict also changed the national environmental movement. The local Earth First! activists feminized and

humanized the radical movement, eventually causing Earth First! to divide into numerous smaller groups. Because of the private property issue, DC-based groups did not embrace the locals' campaign until the conflict was federalized after 1995. In California, the redwood wars undercut corporatist timber regulation, and forcefully asserted citizens into the decision-making process.

This history of the Headwaters Forest conflict offers new perspectives on American politics and postwar environmentalism as it addresses a hole in the historiography. Based on the standard postwar environmental narrative, one might assume that the battle over Headwaters Forest was between middle-class environmentalists who worked to prevent permanent human activity from invading the forest, and a timber industry intent on creating a tree farm out of the forest. In reality, the battle was over how best to integrate human society with non-human communities. Nearly every local participant wanted humans to actively manage the landscape so that giant redwoods, Douglass fir, timber workers, farmers, marbled murrelets, northern spotted owls, giant pacific salamanders, and the other inhabitants of the Northcoast could cohabitate in perpetuity. Recognizing those ideals of the Northcoast activists undercuts historians' arguments about the dominance of the wilderness ideal. In fact, Dave Foreman, co-founder of the national Earth First! movement, has been the poster child for historians of the modern wilderness ideal that removes humanity from the wild. But probably the most well known local affiliate of his group pursued goals that integrated humans and their surroundings. Additionally, while the Northcoast activists utilized many mainstream political tools, including lawsuits, lobbying, and public relations, as a group they largely rejected middle-class work and culture and heavily leaned on direct

action and civil disobedience as tactics. In fact, many of the most prominent local leaders had migrated to the Northcoast in order to escape urban and suburban middle-class politics and life.<sup>14</sup>

The two major protagonists in the redwood wars differed dramatically in their approaches to management, however. The activists wanted to rid the county of distant corporate landlords, place local people in charge of county development, create a matrix landscape composed of a variety of habitats and work environments, and prevent the harvesting of the last ancient redwoods. The leaders of the Pacific Lumber Company wanted to maximize new wood growth and efficiently harvest trees. Their approach was based on the eighteenth and nineteenth century European model of sustainable forestry that emphasized sustained yields and rotational harvests to maximize annual timber yields and growth, an approach that treated forests in ways similar to cultivated food crops. The company believed enough ancient redwoods were protected to provide adequate old-growth habitat, and that species previously found in old-growth forests would adapt to second growth habitat.

The standard postwar narrative, until recently, overestimated the diminished influence of those types of resource conservationism on environmental thought. Adam Rome, Paul Sutter, Thomas Wellock, and others have highlighted the oversimplification of the conservation, preservation, environmentalism divides. This study is a part of the efforts to dismantle the pre- and postwar divide in environmental historiography. Sutter emphasized the interwar wilderness advocates' utilization of conservation methodology to pursue preservationist goals. Rome highlighted how the state addressed suburban

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<sup>14</sup> See Cronon, "The Problem with Wilderness;" and Calcott and Nelson, *The New Wilderness Debate* especially regarding Foreman and modern wilderness ideals, along with the more expansive debates

pollution and sprawl with conservation strategies. Wellock described modern environmentalism as combining “resource conservation, pollution control, and wilderness preservation” into one movement. The activists in the redwood wars approached local landscape management with conservation tools, but their goals differed from Sutter’s activists when they created the The Wilderness Society. The Northcoasters were far more concerned about sustainable logging, workers, and biodiversity than about recreation, reserves or game management. On the Northcoast at least, Pinchotian conservation was a powerful source of ideas throughout the twentieth century, and was easily integrated with modern ecological theories and Muirian preservationism. Pinchot believed in efficient resource use based on scientific forestry as a necessary path to the improvement of human society to prevent resource scarcity and resulting social conflicts. Additionally, Pinchot believed the government as promoter of the public good needed to safeguard the nation’s resources from profit-focused corporations. Muir was also skeptical of business’ ability to protect natural resources, but Muir was interested less in protecting the economic value of resources, and more on protecting the sublime qualities of the grandest landscapes in America. He viewed wild places as sources of spiritual renewal to better enable individuals to fight off the ills of industrial society. The Northcoast activists believed they could create a landscape that utilized conservation methodology to protect economic, spiritual, and ecologic resources.<sup>15</sup>

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<sup>15</sup> See Henry E. Lowood, “The Calculating Forester: Quantification, Cameral Science, and the Emergence of Scientific Forestry Management in Germany,” in Tore Frangsmyr, J.L. Heilbron, and Robin E. Rider, eds., *The Quantifying Spirit in the 18<sup>th</sup> Century* (Berkeley, CA: University of California Press, 1990) 315 – 342 regarding the origins of scientific forestry. See Rome, *Bulldozer in the Countryside*; Sutter, *Driven Wild*; and Wellock, *Preserving the Nation*, 128. See also, Richard White, “Are You an Environmentalist Or Do You Work for a Living?,” in Cronon, *Uncommon Ground* for a good description of the most popular critique of modern environmental activists as middle-class activists. Additionally, see Carolyn Merchant, *Columbia Guide to American Environmental History* (New York: Columbia University Press, 2002).

Similarly, the history of the redwood wars offers a new perspective on the development of the modern environmental protection regime. In California, environmental activists not only contended with the client-agency traditions of the Forest Service and Bureau of Land Management, they also had to contend with corporatist hurdles. Under corporatist governance, the state granted industries the ability to improve efficiencies via self-regulation. The state facilitated industry participation by forming official regulatory boards on which industry held a majority of seats. The Forest Service, Bureau of Land Management, and the Fish and Wildlife Service were never managed by corporatist boards, and accordingly, national advocates of the modern environmental protection regime only needed to address agency action and statute interpretations. However, the states utilized corporatist boards more frequently, which complicated the shift to the modern environmental protection regime. The battle over Headwaters Forest was a part of a long effort by environmental activists to break down corporatist regulation. Though the redwood wars were fought over state laws and traditions, they had a profound effect on national politics, and emphasize the bottom-up forces that drove the development of the modern environmental protection regime. The intractable nature of the Headwaters conflict forced the federal government and other national institutions to grapple with the fate of ancient redwoods and ultimately the interaction between federal environmental law and private property.<sup>16</sup>

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<sup>16</sup> *Corporatism*, as used here, refers to the definition Ellis Hawley used in his classic article, “The Discovery and Study of a “Corporate Liberalism,” *The Business History Review*, Vol. 52, No. 3, Corporate Liberalism (Autumn, 1978), 309-320. Hawley defines corporatism as a system whereby industries are guided by “officially recognized, non-competitive, role-ordered occupational or functional groupings...where the state properly functions as a coordinator, assistant, and midwife rather than director or regulator.”

The history of the Headwaters conflict fits well with some of the key recent findings of American Political Development Theory, while at the same time raising questions about its overall direction. APD Theory, as defined by Stephen Skowronek and Karen Orren, states that American political development is defined by shifts in institutional authority “from prescriptive to positive lawmaking” driven by the “intercurrence” of authority.<sup>17</sup> APD theorists argue that American political institutions have been increasingly abandoning precedent and the Constitution in favor of decisions based on contemporary values and circumstances. .

Certainly, much of environmental political history demonstrates that phenomena, and Orren and Skowronek discuss the history of federal land management to support their argument for the direction of APD. The shifts from acquiring and distributing public land to managing natural resources on public land to protecting the health of ecosystems represent progressive movements away from the authority delegated to the federal government by the Constitution and common law. Each shift was the result of positive lawmaking, driven by a crisis of authority. Conservationists, motivated by progressive notions of technical management, did not fit easily within the General Land Office, whose mission was to sell land into private hands. Conservationists wanted the government to maintain a supply of public land, and pushed for the creation of the Forest and Park Services and for some semblance of bureaucratic independence.<sup>18</sup> The move to environmental protection resulted in transfers of authority and positive lawmaking as

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<sup>17</sup> Orren and Skowronek, *The Search for American Political Development*, 172-201. The quoted phrase about the direction of development is from page 178.

<sup>18</sup> In addition to Orren and Skowronek, *The Search for American Political Development*, 156 – 171 re: federal land history, see Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862 – 1928* (Princeton, NJ: Princeton University Press, 2001).

well. The environmental protection regime required all agencies to accommodate new laws and values. Simultaneously, Congress and the courts more actively managed agencies, and the agencies were further stripped of authority when citizens were effectively deputized by the environmental protection laws in order to watchdog industry and agencies.

While the APD trajectory works for public land policy, the history of the Headwaters conflict does not conform so neatly—in part because the conflict revolved around private land and corporate prerogative. The basics of APD theory are present in the history of the conflict: an older regulatory tradition and arrangement (the corporatist Board of Forestry) butted uncomfortably against new priorities (i.e. the 1973 Forest Practice Act, the Endangered Species Act, the Clean Water Act, and the California Environmental Quality Act) and authority (“deputized” citizen groups, the legislature, and the courts). However, rather than resolving the issue via positive lawmaking, federal agencies, the President, Congress, and the California State Assembly abandoned the relatively new environmental laws to forge compromises to protect traditional private property rights. Thus, the Headwaters conflict points out that private property traditions may block the institutional pathways necessary to true positive lawmaking.

Additionally, this dissertation challenges at least two prominent frameworks for analyzing postwar business history. In their history of Weyerhaeuser, Ralph W. Hidy, Frank Ernest Hill, and Allan Nevins asserted that technological advances, scientific management, and conservation were the dominant trends of the twentieth century timber industry. Pacific Lumber’s history partially supports their contentions, but it also sets the company apart from companies like Weyerhaeuser that focused their expansion efforts on

increasing market share through increased production and through related diversification efforts (i.e. adding paper products to the timber product lines). Rather, Pacific Lumber increased its market share by cutting its prime asset—1000-year-old redwoods -- slowly, and by doing so it gained a monopoly position by holding on longest in a war of attrition. While Weyerhaeuser and others entered the paper business during the postwar era, Pacific Lumber behaved like a conglomerate, adding cutting and welding operations, a hotel, and a Central California tomato and rice farm.<sup>19</sup>

David B. Sicilia has argued that the American corporation went through five postwar stages:

success and optimism immediately following the war; sustained challenges by social movements; increasing regulatory control by the ‘new social’ regulatory state of the early 1970s; new accommodationist public relations strategies and tactics; and involvement in large-scale tort litigation.

The history of Pacific Lumber demonstrates that Sicilia’s stages need not follow the order of his three case studies (the chemical, tobacco, and nuclear industries) nor involve exclusively tort litigation. Pacific Lumber moved from success to social movement challenges to increased regulation to administrative and enforcement litigation battles to more accommodationist public relations. Additionally, the history of the lawsuits brought against Pacific Lumber and the timber industry challenge Sicilia’s argument that the increased use of tort law when government enforcement of regulations waned may indicate the gradual dismantling of the progressive era regulatory state. By contrast, the lawsuits filed against Pacific Lumber and other timber companies

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<sup>19</sup> Hidy, Hill, and Nevins, *Timber and Men*; Michael V. Namorato, “Lumber and Wood Products, 24.0,” Chapter 6 in David O. Whitten and Bessie E. Whitten, eds, *Manufacturing: A Historiographical and Bibliographical Guide*, (Westport, CT: Greenwood Press, 2000), 117-131; Joseph Zaremba, *Economics of the American Lumber Industry*, (New York: Robert Speller & Sons, 1963) 2-3; and Paul V. Ellefson and Robert N. Stone, *U.S. Wood-based Industry: Industrial Organization and Performance* (New York: Praeger, 1984) 359 also identifies transportation, automation, and conservation as the three major timber industry trends during twentieth century.

strengthened the state's regulatory power and were based on prevention and enforcement, not "retribution" for past harm.<sup>20</sup>

## Organization and Methodology

To accomplish its goals, this dissertation gives voice to the local participants on both sides of the redwood wars in order to enhance our understanding of the conflict and its role in American history. Accordingly, the research is largely based on the unprocessed archives of the Environmental Protection Information Center located in Garberville and Arcata, California; the personal papers of Kathy Bailey, former state forestry chair for California Sierra Club, located in Philo, California; the personal papers of Congressman Dan Hamburg, located in Ukiah, California; the personal papers of Alicia Littletree, Earth First! organizer, located in Ukiah, California; and the public records of The Pacific Lumber Company and Maxxam Inc. Oral histories conducted with local leaders Dan Hamburg; Kathy Bailey; Sharon Duggan, EPIC attorney; Kevin Bundy, EPIC media spokesperson; Darryl Cherney, North Coast Earth First! co-founder; Robert Sutherland, EPIC co-founder; Alicia Littletree; John Campbell, former CEO and President of Pacific Lumber; Richard Geinger, EPIC activist; Paul Mason, former EPIC Executive Director; and Kate Anderton, former Save-the-Redwoods League Executive Director and Dan Hamburg Chief of Staff, provided me with invaluable information about the conflict and the participants. These sources, I believe, allowed me to

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<sup>20</sup> David B. Sicilia, "The Corporation Under Siege: Social Movements, Regulation, Public Relations, and Tort Law since the Second World War," Chapter 7 in Kenneth Lipartito and David B. Sicilia, eds., *Constructing Corporate America: History, Politics, Culture* (Oxford: Oxford University Press, 2004), 188-222. The quoted sections are on pages 189 and 213 respectively.

understand what was important to the local participants and why they acted the ways they did. My hope is that the resulting analysis furthers our understanding of the complexities of American environmental politics and ideologies, and that it helps dissolve some of the false boundaries we've erected between pre- and postwar environmentalism.

The dissertation is organized chronologically to foreground the story itself as well as my arguments about the historical continuities of environmental ideology and values. As such, each chapter tracks the developments of the three key institutions involved in the redwood wars and the battle over Headwaters Forest: The California Board of Forestry, The Pacific Lumber Company, and citizen activist organizations. This chronological structure focused on three institutions highlights how and when the Headwaters Forest conflict became more intractable, and the ways the locals' actions influenced the development of national politics.

Chapter Two examines the deep roots of the redwood wars, beginning with the earliest incarnations of the Board, The Pacific Lumber Company, and Northern California redwood conservation activists, and how different valuations of the redwood sparked the early conflicts and set the stage for the late twentieth century redwood wars. During this period, each of the three institutions developed traditions, strategies, and tactics that, not without modification, remained the primary tools in their respective toolboxes for interacting with each other throughout the twentieth century. A common conservative-progressive social vision eased the negotiations between parties during the early part of the century. Between 1900 and 1964, The Save-the-Redwoods League, the Sierra Club, Pacific Lumber, the Board of Forestry, and other interested parties worked out deals to protect some representative groves of giant redwoods through private

negotiations funded with private dollars. The negotiations were not as gentlemanly as often portrayed, however, and after World War II, the cracks in the system widened and expanded

Chapter Three covers the genesis of the redwood wars and the related transformation of redwood politics after 1968. The chapter argues that the development of a concerted attack on the Board's corporatism, the aggressive conglomeration of Pacific Lumber, and the migration of key new residents to the Northcoast paved the way for the redwood wars of the 1980s and 1990s. Additionally, the chapter argues that even though new ecological and political ideas about "nature" and humanity's role in "nature" drove a wedge between Sierra Club and Save-the-Redwoods in the fight for a National Park, and even though the Wilderness Act of 1964 and the 1970s environmental protection laws were largely based on the newly popular ideas, Pinchotian conservation remained a powerful influence on Northcoast environmentalists and California's logging regulations. The 1973 Forest Practice Act and the 1976 Timber Production Act were good examples because they were based on the active management of the landscape to provide timber, water, recreation opportunities, wildlife habitat, and aesthetic preservation. Likewise, citizen challenges to California's logging regime were based on the activists' belief that the regime was not providing and could not provide landscape management that would fulfill their sustainable harvest and ecological health goals.

The campaign against the corporatism of the Board and the Board's development focus turned into the redwood wars during the late 1970s and early 1980s when Northcoast residents who were veterans of the 1960s social movements not only attacked corporatism and its lack of commitment to sustainable forestry and ecological health, but

also the social structure of the Northcoast. Robert Sutherland, Kathy Bailey, Richard Geinger, Dan and Carrie Hamburg, and others relocated to the Northcoast during the early 1970s as weary refugees of the 1960s San Francisco Bay Area. They moved north to escape political strife and to live a more rural, less destructive lifestyle. Gradually, they were dragged back into politics. At first, it was very local politics: school boards, Agent Orange use on the adjacent hillside, county development plans. Those political fights led inexorably to larger targets — corporate logging, the Board of Forestry, the Roadless Area Review and Evaluation.

Chapter Four examines the escalation of the redwood wars between 1985 and 1989. The gulf between the different social and environmental visions of the activists and the local timber leaders was never bridged, and their respective positions hardened over time. The war then became one of attrition—of money and trees and will. It did not have to end up that way. Around the core of early 1970s activists, more recent transplants like Judi Bari and Darryl Cherney joined the war and raised the stakes and the profile of the redwood wars. Finally, the Headwaters conflict dragged them all into the national spotlight, and a local fight over local governance, local trees, and local society pushed, and was pushed by, larger institutions.

North Coast Earth First! was not like other Earth First! groups. Judi Bari, Darryl Cherney, Judy Ball, and Gary Ball were not misanthropes working to push humans off the countryside and into the cities in order to create a vast pre-colonial-style wilderness. North Coast EF! reached out to workers, and its leaders agreed with EPIC and California Sierra Club that smart landscape management was the most desirable end game for the Northcoast. John Campbell at Pacific Lumber also desired a sustainable logging regime

so that his company could operate in perpetuity. There could have been a way out of the war. Acts of violence, unproductive rhetoric, and hardened positions, however, prevented reconciliation. The sticking points were Headwaters Forest, corporatist governance traditions, and corporate ownership of logging companies. There, in Humboldt County, the recurrent American battles between individualism and communalism, capitalism and socialism, and Woody Guthrie and Irving Berlin once again played out on the national stage. The activists wanted Maxxam out of the county and wanted the whole Headwaters Forest complex managed by a nonprofit community logging company. Hurwitz would not leave, however, and would not sell Headwaters until its sale value was maximized. The activists wanted the Board of Forestry to strictly enforce the sustainable logging provisions of the Forest Practice Act according to conservation biology principles. Campbell believed sustainability was achieved by maximizing new timber growth and improving harvesting efficiencies. Both sides dug in their heels and refused to compromise.

Chapter Five examines the process that catapulted the local conflict out of the Northcoast and into legislature and courtrooms at the state and federal level. The local Headwaters combatants forced the state and federal governments to respond to the conflict over local values. The conflict also forced national environmental groups to make a decision about the last ancient redwoods, to somehow reconcile private property rights and sustainable logging. After 1990, the federal government further backtracked from the 1970s legacy of environmental protection, as it had in 1982. It was no coincidence that the feds backed off at a time when the national media was drawn to the conflict, Dan Hamburg was elected to Congress, EPIC filed suit against Pacific Lumber

in federal court, the Spotted Owl conflict raged in the Pacific Northwest, and the Republicans mounted legislative challenges to the environmental protection regime. Curiously, the national environmental groups were active in the Spotted Owl conflict, but almost completely absent from the Headwaters Forest conflict, despite the fact that the Headwaters conflict was the result of two of the main systemic problems environmental groups wanted to address: the political influences of corporate America and the lack of a more holistic environmental protection regime capable of comprehensive resource management. The main difference between the two conflicts was that the Spotted Owl fight was over public land and the Headwaters conflict was over private land. Once the conflict was federalized, however, national groups were forced to get involved to varying degrees.

Chapter Six covers the events that led to the unprecedented Headwaters Agreement signed in 1996 and the ways the conflict transformed American environmental politics. The chapter argues that President Clinton was forced into the negotiations by the local actors, and that the Agreement was the consummation of efforts to balance private property rights, endangered species law, sustained yield forestry, and aesthetic preservation. The Gingrich Revolution, the Ninth Circuit panel ruling in favor of EPIC, a FDIC suit against Maxxam for its role in the Texas Savings and Loan scandal, the Spotted Owl negotiations, and Pacific Lumber Company's takings suit against the federal government forced President Bill Clinton to ask the Department of the Interior to come up with a plan to prevent endangered species conflicts in the future without needing an act of Congress. President Clinton also pushed his administration to the negotiating table with Charles Hurwitz to end the conflict over Headwaters Forest as he had done in

Oregon in 1993 to end the Spotted Owl conflict. Environmental activists were not at the table, though they were kept abreast of the negotiations and occasionally consulted. The results were the September 1996 Headwaters Agreement and Bruce Babbitt's "safe haven" and "no surprises" policies intended to bring private landowners to the negotiating table with the Department of Interior before a conflict sparked. The agreement was supposed to end the redwood wars, but it unexpectedly widened it.

That transformation in the conflict eventually restricted the war to a policy battle in the state house and in the federal government, but the terms of the Agreement and the exclusion of Northcoast locals in the negotiations initially galvanized the Northcoast activists and widened the war. The newly expanded war resulted in the two largest anti-logging protests in American history, an unprecedented forest occupation by tree-sitters, nationwide rallies every September 20<sup>th</sup>, and increased state violence against the protesters. By 1999, when the California Assembly had to decide whether to appropriate its share of the cost of the Headwaters purchase, the consummation of the Agreement was in jeopardy. The state was not pleased with the company's Habitat Conservation Plan and Sustained Yield Plan. The company was not pleased with the Assembly's proposed changes, and environmentalists decried the "ransom" offered to Hurwitz. The agreement was literally signed at the eleventh hour, but the legal challenges to the plans and anti-Maxxam sentiment remained.

To state that the legacy of the redwood wars is complicated would be an understatement. The redwood wars further divided an already combustible Northcoast; helped push endangered species protection out of the legislative arena; launched a series of legal challenges to private property "takings;" protected more than 3000 acres of

ancient redwood forest; allowed for the harvest of another 7000 acres of ancient redwood forest; and ultimately led to the removal of Louisiana Pacific and Pacific Lumber from the Northcoast. The redwood wars did not change the social structure of the Northcoast, but they did begin to break down California's corporatist regime. The war was an epic battle between competing social visions, and as with the battle between Guthrie and Berlin, neither won and both won. America chose to sing both songs.

## Chapter 2: Deep Roots, 1850 – 1968

The roots of the redwood wars stretch back into the second half of the nineteenth century, when the institutions, governance traditions, values conflicts, and Northcoast radicalism that fueled the Headwaters Forest conflict were born. This chapter charts the development of the first era of redwood politics from the late nineteenth century until 1968. Beginning in 1968, redwood politics was dramatically transformed by the state, the courts, and the newly radicalized redwood preservation movement. Despite the transformation of the conflicts in Redwood Country, deep ties to the first era remained.

The four most important aspects of the first era of redwood politics were: the emergence of conflict over the management the redwood forest; the development of the first system of resolving the conflicts; the development of California's corporatist system of private forest regulation; and the growth of Pacific Lumber and the redwood preservation movement. The redwood wars of the late twentieth century, like the earlier conflicts, were rooted in a conflict over land management, and the drama and violence of Headwaters Forest conflict was due to the power of the preservation movement and Pacific Lumber. However, the redwood wars became a protracted conflict because they were a battle over the inherited systems of governance and conflict resolution as much as they were about land management.

From the mid 1800s to the onset of the redwood wars in the 1970s, there were four important continuities in redwood politics. First, many of the institutional players of the late twentieth century were the same as those at the turn of the twentieth century. The Pacific Lumber Company, the California Board of Forestry, and the Sierra Club all were created during the late nineteenth century, and all were engaged in redwood politics from

that point forward. Second, redwood politics throughout the period was defined by the debate over how to best manage the land to accommodate recreationists, scientists, industrialists, agriculturalists, and the redwood forest. The debates did not truly resemble the oft-described competition between John Muir and Gifford Pinchot on the federal stage. Muir despised industrialists and Pinchot strove for industrial efficiency in forestry. However, the activists, regulators, and timber operators on the Northcoast strove for coexistence, and developed a set of competing hybrid environmental ideologies that incorporated conservationism, preservationism, and ecology. The conflicts arose because people disagreed on end goals and on operations, each of which were a moving target throughout the century, especially for the state and for environmental activists.

Third, women activists provided great leadership and initiative from the earliest redwood preservation campaigns through the late century redwood wars. And fourth, during both eras, national and state institutions were forced to accommodate local Humboldt activists because the locals were often more forceful, confrontational, and independent than the larger institutions. Thus, the development of redwood politics from the nineteenth century until 1970 directly set the stage for the protracted redwood wars of the late twentieth century.

## **The Development of a Rare Forest**

The history of conflict in the redwoods is inextricably tied to the character and history of the redwood forest itself – its age, size, and geographic range. The trees are tall, they are old, and they have a exist in a small geographic range, all of which has made

them valuable as timber, as research specimens, and as cultural symbols. The forest dominated by the redwoods also is old and rare, as are many of the inhabitants, making the forest ecologically valuable as a source of biodiversity. Redwood, however, is a rather recent name for the species of giant coastal trees found on the West Coast of the United States. Native Americans have referred to the giants as gahsay, cholay, and loomeen. When Father Juan Crespi of Spain penned the first known written description of the coastal trees in 1769, he gave them the Spanish name palo colorado (red wood). During the nineteenth century, botanists first named them *Taxodium sempervirens*, and in 1874, the trees were reclassified as *Sequoia sempervirens*. By the turn of the twenty-first century, the trees that long occupied a prominent space in the minds of artists, scientists, businessmen, workers, citizens, and politicians are best known as coast redwood, California redwood, or simply redwood.<sup>21</sup>

The “Sequoias” of the Taxodiaceae family, including the redwoods that stood in the middle of the persistent twentieth century conflicts, were the product of both individual longevity and communal shrinkage. The coast redwoods are the sole surviving species of the *Sequoia* genus, but they have two extant relatives: *Metasequoia* (dawn redwood) and *Sequoiadendron* (giant sequoia). Each genus lives on a single continent, *Sequoia* and *Sequoiadendron* on North America, *Metaswauoia* on Asia -- testimony to their long evolution. The Sequoias, the tallest trees in the world, can live for more than 1000 years, and are the result of more than 100 million years of evolution. Despite their individual longevity and size, however, the “Sequoias,” like the dinosaurs, retreated after the early Tertiary Period (approximately 65 to 24 million years ago). Unlike the

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<sup>21</sup> Barbour, *Coast Redwood*, 1-2, 88 and Reed F. Noss ed., *The Redwood Forest: History, Ecology, and Conservation of the Coast Redwoods* (Washington, DC: Island Press, 2000), 2-4.

dinosaurs, the coast redwood, the giant sequoia, and the dawn redwood remained extant, albeit in a shrinking range. Beginning in the late Tertiary, due to cooler and drier conditions, the “Sequoias” that had occupied a wide belt around the globe (from current Alaska to Oregon) migrated south and west toward warmer climates. Three million years ago, redwoods disappeared from Europe, Asia, Greenland, and Japan. Today, they remain only in a narrow belt along the central and northern California coast and in a small patch of southwest Oregon from 42° 09’ latitude north to 35° 41’ latitude north.<sup>22</sup>

Despite its relatively small acreage—approximately 1.9 million acres of forest at the time of the European arrival on the west coast of North America -- the modern redwood belt is surprisingly diverse. The coastal belt is five to twenty-five miles wide, generally under 2500 feet elevation, and mostly absent from the immediate coast. The belt is drenched in summer fog and winter rains, with only mild seasonal temperature fluctuations. The redwoods dominate this landscape for several reasons. Their thick bark protects the trees from fire. They are not reliant on pollen or seed distribution because they have the ability to sprout new saplings from basal buds and stumps. And they can thrive in shade-suppressed environments for centuries. Eighty-eight percent of modern redwoods reside in California’s Sonoma, Mendocino, Humboldt, and Del Norte counties in three types of forests. The alluvial flats of the northern rivers of the belt such as the Eel, Smith, and Klamath are dominated by redwoods and contain the tallest trees. Many of the alluvial flat redwoods grow to heights of more than 350 feet with 15-foot diameters. As slope and elevation increases, tree size decreases and species diversity increases. On the slopes rising above the river bottoms throughout the redwood belt exist a mixed forest of redwood and Douglass fir (*Pseudotsuga menziesii*). Mixed in with the

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<sup>22</sup> Barbour, *Coast Redwood*, 7-9; Noss, *The Redwood Forest*, 7-24, 39.

conifers are more drought-resistant trees such as tanbark oak and madrone. Above 1000 feet elevation, the redwood and Doug fir forest is accompanied by an understory of Western hemlock, Sitka spruce, huckleberry, California rhododendron, along with tanbark oak and madrone.<sup>23</sup>

Along with diverse plant communities, the modern redwood forest is home to an array of wildlife species, especially within the remaining old growth forests of the belt. A redwood forest is considered old growth, or ancient, if it is “relatively old and relatively undisturbed by humans,” according to redwood ecologist Reed Noss, with eight trees per acre greater than 300 years old, and a complexly layered canopy. Additionally, an ancient forest contains considerable numbers of snags (standing dead trees) and downed trees and branches. Colloquially, an ancient forest often is defined as a forest that has not been logged since the European migration to North America. Many insect and animal species of the redwood belt are nearly or totally endemic, such as the banana slug and redwood bark beetle, and including eleven of the twenty-nine amphibians found in the belt, such as the red-bellied newt, lungless salamander, Pacific giant salamander, and the world’s most primitive frog – the tailed frog. The forest also is home to rare mammals such as the Roosevelt elk, the northern flying squirrel, ring-tailed cats, and the Humboldt marten. It was, however, the bird and fish species of the forest that, aside from the redwoods, received the most popular attention, especially the various salmonids, the northern spotted owl, and the marbled murrelet.

The rare species of fauna, the giant trees, the forest’s limited range, and the deafening silence of the forest captivated Europeans and Americans from the nineteenth century forward. Because of the myriad economic, cultural, and scientific opportunities

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<sup>23</sup> Barbour, *Coast Redwood*, 10, 39-41.

the forest held, Americans battled during the entire twentieth century over the fate of the giants.<sup>24</sup>

## Seeds of Conflict Planted

Although humans have occupied the west coast of North America for at least 8,600 years, conflict over the redwoods was a modern phenomenon. The clashes emerged when citizen activists proposed land management regimes for specific groves of redwoods that were at odds with the plans of the landowner. Early residents, such as the Yurok tribe, resided on the “balds” – hilltops devoid of trees – and used fire to clear the understory, in ways similar to Native Americans on the East Coast. There is no evidence the West Coast inhabitants logged the giant trees, and because of the sparse population, conflict over the vast forest was unlikely.

As the logging industry and the European population of northern California expanded, however, conflict over the future of the ancient redwoods seemed almost inevitable. During the late nineteenth century, logging practices became controversial because of a nationwide fear of a timber famine, but conflict over the redwoods in particular ignited because people feared the loss of giant trees, not lumber. To timber companies and to the Board of Forestry, the giant trees represented economic opportunity. To some influential citizens, the giant trees represented scientific and recreation opportunities, as well as monuments to American greatness. As the giant’s

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<sup>24</sup> Barbour, *Coast Redwood*, 58-74. Noss, *The Redwood Forest*, 87-90 re: old growth definition

range receded, the economic, cultural, and scientific values of the remaining redwoods increased, and the stakes were raised over the management of those final forests.<sup>25</sup>

## **Birth of the Redwood Preservation Movement**

In the mid nineteenth century, the giant redwoods captured the imagination of Americans and became symbols of American aspirations. Those aspirations fueled a few unsuccessful efforts to retain some of the redwood forest as public property. Redwood Country was relatively undeveloped by Europeans until after the California Gold Rush, when American and European immigrants built the redwood logging industry and introduced Americans to the giants. Nearly simultaneous with the influx of new settlers came calls for the preservation of some redwood groves as public parks and as monuments to American aspirations. In 1852, California Assemblyman Henry A. Crabb introduced a resolution to prevent the “trade and traffic” of redwoods as well as the settlement of redwood land owned by the federal government. His effort failed, and much of Redwood Country was transferred into private hands after the passage of the Timber and Stone Act of 1878. In 1874, Walt Whitman published “Song of the Redwood-Tree,” a poem that memorialized the redwoods and described Whitman’s vision of American society replacing the redwoods as nature’s highest forms of life.

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<sup>25</sup> See Barbour, *Coast Redwood*, 81-84 and Noss, *The Redwood Forests*, 22-27 regarding the early Yuroks and other Native American inhabitants. Also, see Nash, *Wilderness and American Mind*, and Susan R. Schrepfer, *The Fight to Save the Redwoods: A History of Environmental Reform, 1917-1978* (Madison, WI: University of Wisconsin Press, 1983), 7 regarding monuments and exceptionalism; and Samuel P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920* (Pittsburgh, PA: University of Pittsburgh Press, 1959), and Gifford Pinchot, *Breaking New Ground* (New York: Harcourt, Bruce, 1947) regarding the rise of forestry and the fear of timber famine.

Whitman valued the trees as a reminder of what he saw as humanity's best aspiration. It was this combination of reverence for the trees and hopes for America that drove the early activists. Like Crabb, Whitman and others saw spirituality, purity, and regality in the redwoods.

*Not wan from Asia's fetiches,  
Nor red from Europe's old dynastic slaughter-house,  
(Area of murder-plots of thrones, with scent left yet of wars and scaffolds every  
where,)  
But come from Nature's long and harmless throes—peacefully builded thence,  
These virgin lands—Lands of the Western Shore,  
To the new Culminating Man—to you, the Empire New,  
You, promis'd long, we pledge, we dedicate.*

In the redwoods, Whitman saw American exceptionalism and the rightful place of white Americans in the natural order. Five years after Whitman published his poem, the Secretary of the Interior, Carl Schurz, recommended that 46,000 acres of Redwood Country be withdrawn from sale and held in public trust. Like Henry Crabb, Schurz failed to withdraw any land for preservation. At the time, the redwood forest seemed too vast to worry about, so the federal government continued to sell its public holdings rather than manage them.<sup>26</sup>

It was during the closing decades of the nineteenth century that conflict finally erupted over the fate of the giant redwoods and public access to them for scientific, recreational, and spiritual endeavors. Scientists and progressive professionals developed a fondness for the ancient redwoods and perceived the forest as a source of knowledge and human salvation. However, the rather young logging regime of the American settlers in California had already dramatically reduced the size of the forest, and Bay Area professionals feared the forest would be lost before society could benefit from its non-

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<sup>26</sup> Barbour, *Coast redwood*, 8, 94, 122-124; Schrepfer, *Fight to Save Redwoods*, 6-7; Walt Whitman, "Song of the Redwood-Tree," *Harper's Monthly Magazine* 48 (February 1874): 366-367.

market resources. During the 1860s, the areas around Berkeley, Marin, and Santa Cruz were heavily logged, and during the 1880s, newspaper editors sounded the alarm about the decimation of the giant trees. For example, Ralph Sidney Smith of the *Redwood City Times and Gazette*, a town just south of San Francisco, suggested the state establish a park and resort on either Butano Creek or at Big Basin, near Santa Cruz. Other citizens also sounded the alarm. In 1887, the Eighth Convention of California Fruit Growers passed a resolution that requested the California Board of Forestry investigate and pursue the creation of a redwood park for scientific research and conservation experimentation. The Board sent some staff members to Big Basin, but the department took no action.<sup>27</sup>

During the 1890s, efforts were made to enlist the Sierra Club in the redwood park preservation effort. William R. Dudley, a Stanford botanist, close friend of John Muir and Gifford Pinchot, and a founding member of the Sierra Club, studied the redwoods and developed into a major force in redwood politics. On November 23, 1895, Dudley addressed the annual meeting of Sierra Club members and urged the Club to address the fate of the redwoods and to work to establish “several federal redwood parks” including Big Basin. Previously, the Club had advocated intensely on behalf of high Sierra recreation areas and the preservation of giant sequoia, but not for the coastal ranges or coast redwood. Dudley believed that the redwoods also needed the Club’s “immediate attention” because redwood was the highest valued timber, it was the “loftiest species of conifer,” and like their Sierra relatives, it needed protection from the “rapacity of men and scourge of fire.” As such, the forest needed more active management, in Dudley’s

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<sup>27</sup> Barbour, Coast redwood, 124-128; and C. Raymond Clar, Raymond, *California Government and Forestry: from Spanish Days until the Creation of the Department of Natural Resources in 1927* (Sacramento, CA: Division of Forestry, Department of Natural Resources, State of California, 1559 [Cal Doc C805 H5g]), 116-117.

view, to provide timber, fish and game habitat, and opportunities for scientific study and recreation. In many respects, Dudley's analysis differed from Muir's and other Club members who focused on outdoor recreation and scenic preservation as a means to uplift humanity in the rapidly industrializing modern world. Dudley was seemingly as interested in sustainable forestry as he was in "typical" Sierra Club endeavors. For example, Dudley wrote "Forestry Notes," which discussed park creation, forestry techniques, and forestry policy for every *Sierra Bulletin* during the 1890s.<sup>28</sup>

Dudley seemed to single-handedly push the Club toward the coast, and toward technical forestry issues; tension over forestry practices remained at the heart of redwood conflicts from that point forward. In fact, Dudley's ideas and proposals laid the basic foundation for all the twentieth century redwood preservation efforts. Despite Dudley's efforts, the movement to create the first public redwood park did not develop until -- much like the late twentieth century redwood wars -- there was an on-the-ground conflict about private property. In 1898, Dudley foresaw the greatest challenges park advocates faced, as well as the advocates' greatest asset. The first challenge was acquiring the requisite park land. Since the failure of the 1850s and 1870s efforts to prevent the sale of some tracts of federal redwood land, virtually all of Redwood Country had been purchased by private interests. Dudley argued for the creation of a citizen fund to purchase the Big Basin grove, and for the deliverance of the grove to the state for use as a park. The fund was feasible, he argued, because the public's motive to create such parks

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<sup>28</sup> See Barbour, *Coast redwood*, 128; *Sierra Bulletin* Vol. I, No.1,2,3, and 7, Vol. II, No. 4 and 6, University of Maryland, College Park, McKeldin Library, Periodicals microfilm; and Clar, *California Government and Forestry*, 116-117.

was “almost wholly one of sentiment,” and all that was required was a vigorous appeal to spark action.<sup>29</sup>

The spark that ignited the first broad movement to preserve redwoods took place in early 1900. Photographer Andrew P. Hill was shooting the redwoods inside the private Welch’s Big Trees Grove park when the owner approached him. Mr. Welch tried to confiscate the photograph plates because the trees were on private property, and he had not authorized the photo shoot. Outraged, Hill took his story to newspapers and prominent citizens. On March 7, opinion-editorials appeared in the *Santa Cruz Sentinel* and the *San Jose Herald* calling for the public acquisition of Welch’s park, near Santa Cruz. On May 1, Hill; John F. Coope, a Santa Cruz winemaker; Dudley; Carrie Stevens Walker of the San Jose Women’s Club; and Dr. C.L. Anderson met at Stanford to discuss the Welch’s incident and redwood preservation in general. At the meeting, they decided to focus on Big Basin, not Welch’s, no doubt at Dudley’s urging. On May 15, the group surveyed Big Basin and created the Sempervirens Club of California while sitting around the campfire. They created the group to advocate for a public redwood park, to preserve the redwoods for future generations, and to save the fauna and flora for scientific study.<sup>30</sup>

Soon after the camping trip, the Sempervirens Club launched the first grassroots political campaign to protect the redwoods, and what appears to be the first grassroots environmental campaign in American history. More importantly, the political tactics of the Sempervirens Club were repeated by environmental groups during the fights over

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<sup>29</sup> See William R. Dudley, “Forestry Notes,” *Sierra Bulletin* vol. II no. 4, June 1898, 244-245 regarding Dudley’s comments and Samuel Trask Dana and Myron Krueger, *California Lands: Ownership, Use, and Management* (Washington, DC: The American Forestry Association, 1958), 62 re: all public land sold except 10,000 acres for schools.

<sup>30</sup> See Barbour, *Coast Redwood*, 128-129; Schrepfer, *Fight to Save Redwoods*, 18; and William R. Dudley, “Forestry Notes,” *Sierra Bulletin*, Vol. III, No. 2, May 1900, 182-188; F.L. Clarke, “The Big Basin,” *Sierra Bulletin*, Vol. III, No. 2, May 1900, 218-223.

Hetch Hetchy, Dinosaur National Park, Redwood National Park, Love Canal, Headwaters Forest, the Clean Air Act Amendments of 1990, and nearly every other major environmental battle of the twentieth century. In July 1900, the Sempervirens met to discuss strategy. They decided against a federal appeal to avoid jeopardizing a pending bill that authorized the federal purchase of Calaveras Big Trees in the Sierra Nevada range. Instead, they decided to create a citizens fund as Dudley had urged two years prior. The activists developed a news campaign of photographs and text that conveyed an imminent threat; Andrew Hill lobbied the Assembly in Sacramento with photographs; and they enlisted the support of the American Association for the Advancement of Science, the American Forestry Association, and other scientific groups. Additionally, the group enlisted the support of sympathetic business leaders such as H.L. Middleton, the largest stockholder of the Big Basin Lumber Company. Middleton used his position to forestall logging in the basin while the activists rallied support for a bill.<sup>31</sup>

The publicity and lobbying campaigns followed Dudley's prescription to appeal to sentiment, describing the "solemn grandeur" of the redwoods and their "silent majesty." The advocates argued that the groves were important to the "nation and world" so that people could "seek health and restoration" in "God's own temple." And like Walt Whitman had decades earlier, the new redwood advocates described the trees as "the last of their race," possibly in an attempt to equate the vanishing redwoods with many Americans' fears of the vanishing "white" race. In November, the California Assembly considered a bill for the public purchase of a park. On March 16, 1901, Governor Henry Gage signed the bill that appropriated \$250,000 for the purchase of 2500 acres of ancient

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<sup>31</sup> Barbour, *Coast redwood*, 130; William R. Dudley, "Forestry Notes," *Sierra Bulletin*, Vol. III, No. 3, February 1901, 262-270; Schrepfer, *Fight to Save Redwoods*, 11; and Carrie Stevens Walter, "The Preservation of Big Basin," *Overland Monthly and Out West Magazine*, Vol. XL, No. 4, October 1902..

redwood forest. On September 6, 1902, the state completed the purchase of 3800 acres of land in Big Basin. The nation's first successful redwood preservation campaign was completed with minimal conflict, and it established of a blueprint for future environmental campaigns. The combination of urgency, sentimentality, scientific credibility, graphic imagery, accommodation with private interests, elite citizen support, lobbying power, and news coverage became the standard strategy for nearly all twentieth century environmental activist campaigns.<sup>32</sup>

### **The Domination of Redwood Logging by a Modern Company with Anti-modern Traditions**

The Pacific Lumber Company played no role in the early contests over the fate of ancient redwoods, but its development as a diversified business with a small-town image, like the development of the environmentalists' campaigns, influenced the later redwood wars. The company straddled the worlds of national corporations and of small-town proprietors, which enabled it to develop a near-monopoly position in the old growth redwood lumber industry while securing the loyalty of workers and the local community. It was not an easy balancing routine, but it was usually successful. Timber companies, like Louisiana-Pacific, that never established deep roots on the Northcoast were able to retreat when profit margins dwindled and the heat of the redwood wars escalated.

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<sup>32</sup> Barbour, *Coast Redwood*, 129-130; F.L. Clarke, "The Big Basin," *Sierra Bulletin*, Vol. III, No. 2, May 1900, 218-223; William R. Dudley, "Forestry Notes," *Sierra Bulletin*, Vol. III, No. 2, May 1900, 182-188, Vol. III, No. 3, February 1901, 262-270; and Vol. IV, No. 3, February 1903, 246-252; Schrepfer, *Fight to Save Redwoods*, 11; and Carrie Stevens Walter, "The Preservation of Big Basin," *Overland Monthly and Out West Magazine*, Vol. XL, No. 4, October 1902.

However, Pacific Lumber could not, or would not, retreat because of its business model and its corporate culture. The company thought it had steeled itself against attacks from corporate raiders and from environmental activists, but instead, its strategy of trying to satisfy diverse stakeholder groups made it an ideal target for both.

The Northcoast was far from California's population centers, and there were no roads or rail lines up the coast, so the northern logging outfits operated autonomously for nearly seventy years. Like business more broadly in the nineteenth century, Northcoast logging was a boom and bust industry, and one that became increasingly dominated by larger companies. The logging operation that would become The Pacific Lumber Company was founded in 1863 when A.W. McPherson and Henry Wetherbee bought 6000 acres of land for \$7500 in northern California, approximately 250 miles north of San Francisco near the coast. In 1882, "various interests" merged to establish the company town of Forestville, a large lumber operation on the Eel River, and a railroad that ran from the site to Humboldt Bay. For the rest of the nineteenth century, the Forestville operation and its Northcoast colleagues innovated, worked to improve logging and transportation options, and grew steadily. By 1888, the company had 300 employees, and was the largest lumber producer in Humboldt County, producing 20 million board feet of lumber annually. The company's growth accelerated in the late nineteenth and early twentieth centuries because eastern and midwestern forests were depleted of their timber, a destructive earthquake near San Francisco in 1906 dramatically increased demand for redwood lumber and shingles, and Pacific Lumber was sold to eastern investors who folded the company into their diverse holdings.<sup>33</sup>

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<sup>33</sup> Barbour, *Coast Redwood*, 91-95; Lynwood Carranco and John T. Labbe, *Logging the Redwoods* (Caldwell, ID: Caxton Printers, 1975) 112; Schrepfer, "Business," *Los Angeles Times*, October 26, 1897, p.

Simon Jones Murphy and his family transformed Pacific Lumber by injecting the company with their aggressively expansionist and innovative business outlook. Simon Jones was a second-generation American born in Maine on April 22, 1815. Simon bought his first lumber mill in Maine in 1840, and when the Maine forest stock was largely harvested, he moved his family to Wisconsin to take advantage of the Midwest lumber boom. From there, Murphy acquired an iron ore mine in Michigan, moved his family to Detroit, and expanded his business empire. Out of Detroit, Murphy acquired a copper mine in Arizona, railroad interests in New Mexico, a citrus ranch in southern California, oil interests, and real estate. Back in Detroit, Simon Jones founded the Murphy Power Company, which eventually became a part of Detroit Edison Company. He also created the Detroit Automobile Company in 1899 to build “fordmobiles.” Henry Ford was the chief engineer for Murphy Power, and he convinced Simon his automobile model was viable. Ford eventually left the company, and the Murphy’s changed the name of the automobile company to Cadillac in 1902. Simon Jones’ expanding empire led him to Humboldt County when the Midwest timber boom faded and when the railroads became interested in the Northcoast of California. During the late nineteenth century, Southern Pacific Railroad and the Santa Fe Railroad moved in on the Northcoast to connect the area to San Francisco and to Seattle via rail. Murphy purchased land around Humboldt Bay, near Forestville, on behalf of the Santa Fe Railroad and on behalf

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12; "Big Lumber Deal", Los Angeles Times, September 24, 1902, pg 1. An additional source of some basic facts about the company’s history can easily be found on the company’s website, [www.palco.com](http://www.palco.com). Specifically, inside The “History” section of “The Company” section. The “Reports of the President to the Shareholders” were also incredibly helpful. Specifically, the 1917 report page 5 regarding early claims about the company’s competitive position (Washington, DC, The Library of Congress, Adams Building, Business Reading Room, “Selected Historical Annual Reports,” The Pacific Lumber Company, “Report of the President to the Shareholders”).

of his own timber interests, the first steps that transformed Pacific Lumber and the redwood industry.<sup>34</sup>

By World War I, Pacific Lumber claimed in its annual reports that it was the world's largest manufacturer of redwood lumber, that it was a nearly fully vertically integrated corporation, and that it was akin to a benevolent feudal landlord. The company's position in a vast business empire, its isolated location, its company town of Scotia (formerly Forestville), and its patriarchal family owner combined to distinguish Pacific Lumber from the timber industry and corporate America alike. The company was a large vertically integrated firm and acquired some unrelated businesses like a proto-conglomerate, yet retained its small-town image. That process of expansion and integration began the same year the Murphy's formed Cadillac. Simon Jones Murphy and Hiram Smith of San Francisco purchased Pacific Lumber in 1902 for an unknown sum and relocated company headquarters to Detroit. In 1905, the same year Simon Jones Murphy died, The Pacific Lumber Company incorporated in Maine, setting into motion its thrust toward growth and modernity. A Murphy would either run the company or sit on the board of directors from 1905 until 1986. By 1913, the company had acquired 65,000 additional redwood timberland and produced 106 million board feet of lumber annually. By 1920, Pacific Lumber employed 1500 workers, and operated two mills and one railroad line.<sup>35</sup>

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<sup>34</sup> Carranco, *Logging the Redwoods*, 112 and Lowell S. Mengel II, "The Murphy Family and T.P.L. Co.," *The Humboldt Historian*, Vol. XXV, No. 4, July – August 1977, 1

<sup>35</sup> "Big Lumber Deal", Los Angeles Times, September 24, 1902, pg 1; Harris, *The Last Stand*, 10-18; Lowell S. Mengel II, "The Murphy Family and T.P.L. Co.," *The Humboldt Historian*, Vol. XXV, No. 4, July – August 1977, 1; "Report of the President to the Shareholders," The Pacific Lumber Company, 1915, p. 1.

In many ways the company's strategy foreshadowed the path of timber industry development after World War II: it lowered overhead, relied on contractors, diversified, and aggressively planted seedlings. In 1915, Pacific Lumber closed its Oakland, San Francisco, and Wilmington lumber yards, and transferred all operations to the Scotia mills in an effort to lower overhead while maintaining production levels. Similarly, the company sold Pacific Lumber Transportation and its ships, betting that the new Scotia railroad tracks would be sufficient to get the lumber to market in the Midwest. To accommodate the workload, the Scotia mills were updated and run "round the clock," resulting in what the company claimed inspectors called the largest and most modern redwood mill complex in the world.<sup>36</sup> As it grew, the company cultivated the image of a friendly and benevolent neighbor focused on the town, people, and forests of Scotia, while it rapidly clearcut old growth groves and diversified operations for the benefit of shareholders—most of whom were from the East and Midwest. For example, in 1916, Pacific Lumber acquired \$59 million worth of cattle and in the next decade reportedly "denuded" miles of forests behind the tree-lined and forest-surrounded town of Scotia. For the remainder of the century, the company's attempts to straddle the worlds of big business and small town America would prove to be its greatest strength and its greatest vulnerability.<sup>37</sup>

### **The Board of Forestry: Rooted in Corporatism**

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<sup>36</sup> "Report of the President to the Shareholders," The Pacific Lumber Company, 1915, 2; "Report of the President to the Shareholders," The Pacific Lumber Company, 1916, 2; and "Report of the President to the Shareholders," The Pacific Lumber Company, 1917, 5-6.

<sup>37</sup> "Big Lumber Deal", Los Angeles Times, September 24, 1902, 1; Harris, *The Last Stand*, 3, 16, 18; "Report of the President to the Shareholders," The Pacific Lumber Company, 1915, 1, and the 1917 report page 6, Le Roy Joffers, "A Highway Menaces Great Redwoods" New York Times, November 15, 1925, 7.

Like the Pacific Lumber Company, the California Board of Forestry played no role in the creation of Big Basin, but the agency's corporatist development was crucial in the redwood wars. The California Board of Forestry was a model of corporatism long before Herbert Hoover popularized the concept, and the Board remained an official corporatist body until 1970. In 1885, California became one of the first states to regulate private timber land through the use of an appointed Board of Forestry, and that Board appears to be one of the first incarnations of corporatist regulatory entities. Under corporatist governance, the state grants industries the ability to improve efficiencies via self-regulation. The state facilitates industry participation by forming official regulatory boards on which industry holds a majority of seats.<sup>38</sup> Specifically, the Board of Forestry was created and designed to ensure that those with intimate knowledge of the industry could guide the development of California timber operations. The Board's mission was not to wrest control of the timber industry from large companies and landholders, but rather to efficiently manage the industry by safeguarding its interest in long-term timber harvests. However, the Board was more committed to its economic development goals than it was to its conservation mission.<sup>39 40</sup>

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<sup>38</sup> Again, as in Chapter 1, *Corporatism*, as used here, refers to the definition Ellis Hawley used in his classic article, "The Discovery and Study of a 'Corporate Liberalism,'" *The Business History Review*, Vol. 52, No. 3, Corporate Liberalism. (Autumn, 1978), 309-320. Hawley defines corporatism as a system whereby industries are guided by "officially recognized, non-competitive, role-ordered occupational or functional groupings... where the state properly functions as a coordinator, assistant, and midwife rather than director or regulator."

<sup>39</sup> Samuel Hays provides the classic interpretation of conservationism and progressivism in *The Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920* (Harvard University Press, 1959), Chap. 13. Hays argues that progressivism and conservationism were motivated by the efficient use of resources via the central guiding hand of Executive Branch scientific experts, not by "people versus the interests" politics. The Board of Forestry in California was similar, but different, in that the Board was not comprised of scientific experts but rather experts of the industry. The State Forester, overseen by the Board, provided technical analysis and advice. Stephanie S. Princtl, *Transforming California: A Political History of Land Use and Development* (Baltimore: Johns Hopkins Press, 1999) argued that the progressive Boards and commissions created during the Progressive Era directly contributed to land use and ownership patterns

The 1885 Board of Forestry was established to ward off the predicted timber shortage, so accordingly the governor appointed its five members based on their knowledge of the timber industry. Rather than address harvest methods or forest regeneration to head off the projected crisis, the first Board mostly concerned itself with recommendations to the Assembly to protect the inventories of the state's private timber operators. Indeed, from 1885 until its dissolution in 1893, only one law was passed that dealt with a forestry issue other than the prevention of fires and trespassing. Chapter 498 of the 1888 Assembly called for the encouragement of the planting of shade and fruit trees along highways in order to protect travelers from the heat and to provide a source of food in case of emergency.<sup>41</sup>

In 1905, the Assembly reorganized the Board, but retained its corporatist structure. The new Board was formally charged with preventing fires, protecting public and private land from trespass, managing the state parks, and purchasing clearcut land to manage as state forests in an effort to regenerate the timber supply. Timber harvesting methods were left to the judgment of individual timber operators. The forest regeneration duty of the Board demonstrated that the California Assembly leaned more toward the statist wing of progressivism and did not entirely trust the free market. However, the State Forester -- who was charged with coordinating fire-fighting efforts and the dissemination of information -- clearly believed that private timber companies were best suited to manage timber lands. From 1905 until the reorganization of the Board in 1927, every report from the State Forester on record recommended the state authorize more fire

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during the twentieth century because the regulatory Boards were comprised of business experts focused on development. See Clar, *California Government and Forestry*, (vol. 1), 96-98 and 74.

<sup>41</sup> Ibid., 214, 268-269, 297, 402, 411, 433, 445. And see Dana, *California Lands*, 64 and 68.

fighting money, more money for the acquisition of state nurseries, and for a change in the land taxes to make it more profitable for land owners to hold onto clearcut land during the unprofitable period of regeneration in order to prevent the conversion of timber land into ranch land.<sup>42</sup>

## **The Redwood Preservation Movement Institutionalized**

The corporatist tradition of the Board of Forestry eventually pit citizens concerned with redwood preservation against the Board and the timber industry, but during the interwar period, citizen groups and specific timber companies, primarily the Pacific Lumber Company, fought and negotiated largely without the state's intervention. Several key developments defined the era. First, the Northcoast was finally connected to San Francisco via land routes, making the Northcoast accessible to tourists, preservationists, and commerce. Second, the citizen movement to preserve ancient redwoods became a permanent part of California politics. Third, the state authorized the purchase of state parks. And fourth, Pacific Lumber adapted to the encroachments of the outside world. It was an era of progressive voluntarism for citizen activists, and an era of technological change and increased public scrutiny for the timber industry. The Board of Forestry remained a non-player as it retained its production-oriented corporatist mission focused on fire and pest control, and state nurseries.

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<sup>42</sup> Clar, *California Government and Forestry (vol. 1)* 225 - 230 for the sections of the 1905 act that created the Board of Forestry and State Forester positions. Chapter 11 (233 –249) discusses the tenure and reports of the state's first State Forester, E.T. Allen. Barbour, *Coast Redwood*, 132-133; Cameron Binkley, "No Better Heritage Than Living Trees': Women's Clubs and Early Conservation in Humboldt County," *Western Historical Quarterly*, Vol. 33, Issue 2, page 3; Schrepfer, *Fight to Save Redwoods*, 15-16; Roderick Nash, "John Muir, William Kent, and the Conservation Schism," *Pacific Historical Review* 36 (November 1967): 423-33

The redwood preservation movement institutionalized and moved its sights north during the interwar years because members of the professional class grew interested in evolution and eugenics, because the Redwood Highway was built, and because the only remaining ancient redwood forests of significant size were located at the northern end of the highway. As late as 1925, an estimated two-thirds of the ancient redwoods were still standing, with the vast majority located in Humboldt and Del Norte Counties. Construction of the Redwood Highway had begun in 1915, and as it edged northward, some citizens got their first glimpses of the vast forest up north, as well as of the impact of clearcut logging regimes on the landscape.

The institutional redwood preservation movement was founded by professional elites from the Bay Area and from New York City who were active in the progressive and national parks movements. William Dudley and other academics and writers sounded the first redwood alarms, and during the Theodore Roosevelt administration, this elite activist community expanded to include wealthy individuals and nationally prominent figures, including Roosevelt himself. Most notably, the group grew to include William Kent, the independently wealthy progressive Marin County resident. In 1903, Kent purchased nearly 300 acres of ancient redwood forest in Redwood Canyon, near his Marin home, to forestall development of the area. Kent hoped to turn his property into a public park that would allow urbanites to escape the modern world and restore themselves in nature. In addition to the spiritual attributes of what he called wilderness, Kent, like his fellow California progressives, but unlike Muir, was devoted to preventing private monopoly from subsuming the public interest. The Northcoast Water Company began condemnation proceedings against Kent's land in 1907 so the company could build a

reservoir. Kent responded, pressed by the women of the California Club of San Francisco, and put to good use his personal relationships with Gifford Pinchot, U.S. Chief Forester; James R. Garfield, Secretary of the Interior; and President Theodore Roosevelt. Congressman Kent supported the Hetch Hetchy municipal dam in order to prevent the Pacific Gas and Electric Company from building the dam at Hetch Hetchy. That kind of anti-monopoly spirit would create tensions within the Headwaters Forest preservation movement as well.<sup>43</sup>

The Bohemian Club retreat in the summer of 1917 provided the forum that led to a permanent institution devoted to redwood preservation. After the retreat, Madison Grant, Dr. John Merriam, and Henry Fairfield Osborn drove north to see the giant redwoods of the Northcoast. The three men were primarily interested in the redwoods' cultural and scientific values. Grant was a New York attorney and author, best known for his eugenics manifesto, *The Passing of the Great Race* (1916). Merriam was a paleontology professor at the University of California in Berkeley. Osborn was a professor of paleontology at Columbia University, President of the American Museum of Natural History in New York, and, like his friend Grant, a firm believer in eugenics. For these men, the ancient redwood forest, as it had for Walt Whitman, represented evolution's highest achievement, something for humanity, especially white northern Europeans, to aspire to. Understanding the redwoods, they believed, could help humans better understand evolution and how to direct it. To celebrate the redwoods was to

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<sup>43</sup> Barbour *Coast Redwood*, 136-139 and Schrepfer, *Fight to Save Redwoods*, XIII, 12, 15-18. See Alfred Runte, *National Parks: The American Experience* (Lincoln, NE: University of Nebraska Press, Third Edition, 1997) for the best discussion of the East Coast elite community's promotion of the national parks. Throughout the book, Runte refers to the specific actors, many of whom overlap with the redwood preservation movement, including John D. Rockefeller, Stephen Mather, Franklin Lane, and William Kent.

celebrate American and Nordic superiority. When they finally arrived on the Northcoast, however, the three travelers saw clearcuts and destruction all along the highway.<sup>44</sup>

Appalled at the seemingly wanton destruction, Grant, Osborn, and Merriam decided to create an organization to protect groves of ancient redwoods for posterity and for science. The Save-the-Redwoods League was thus born in 1918, its mission and strategy reflecting the progressive and scientific beliefs of its founders. The group dedicated itself to preserving representative groves of ancient redwoods by enlisting the private support of the wealthy and professional classes. Alongside Grant, Osborn, and Merriam, the League recruited Secretary of the Interior Franklin K. Lane to be president, and secured its first donations from William Kent; Stephen Mather, Director of the National Park Service; Grant; Osborn; and E.C. Bradley, Assistant Secretary of the Interior. Like the first donors and officers, the early members were nearly all doctors, lawyers, professors, scientists, writers, and men and women of independent wealth – typical California progressives wary of big business, but committed to private property and competitive capitalism. Accordingly, they believed that those who wanted redwoods protected would need to raise private money and negotiate with private landholders for the purchase of specific groves. The groves could then be donated to the state or federal government to be managed as public parks or as laboratories to benefit the public interest. The original strategy, with help from the state from time to time, stayed in place for nearly fifty years.<sup>45</sup> Local Humboldt County residents – separately from the Bay Area activists -- created their own redwood preservation movement that sometimes acted alone, but often worked in concert with the other preservation groups.

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<sup>44</sup> Barbour, *Coast Redwood*, 139-140 and Schrepfer, *Fight to Save Redwoods*, XIII, 12, 20, 30, 24, 72.

<sup>45</sup> Binkley, “No Better Heritage,” 2-4.

The local Humboldt movement was driven largely by women who seized political opportunities that fit into their family caretaker roles. In 1902, the Eureka Monday Club sent a delegation of women by ship to San Francisco for the first convention of the California Federation of Women's Club. The Humboldt delegation learned that the Federation was interested in the redwoods because forests provided clean water and beautiful landscapes. The Monday Club spurned the Federation's efforts to push for a redwood park, however, because one third of the members were tied to the timber industry and they did not want to engage in controversial issues. Despite their early resistance to redwood preservation, the Monday Club and its Humboldt network of women's clubs offered local women the opportunity to build relationships and to gain the civic experience they would rely on when they finally engaged redwood politics.<sup>46</sup>

While the Bay Area activism dissolved after Big Basin, and while William Kent worked on his personal crusade, local Humboldt citizens organized to fight for a Humboldt redwood park. In 1905, George Kellog, head of the Humboldt Chamber of Commerce, petitioned the state Assembly to pass a law to promote tourism to the Northcoast by creating a redwood park in the ancient forest. In 1908, local women's groups and the Chamber of Commerce delivered to the U.S. Forest Service a two-thousand-signature petition created by Eureka school children. Theodore Roosevelt responded to the petition, voicing his support for their cause. In 1909, the Humboldt County Federation of Women's Clubs officially joined the movement. The Chamber was primarily interested in using the park idea to extract state funding for a railroad to connect Eureka to San Francisco. The women wanted a park to study, to enjoy, and to buffer their families from commercialism. In 1912, the Humboldt Federation convinced

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<sup>46</sup> Barbour, *Coast Redwood*, 136-142, Binkley, "No Better Heritage," 5-9.

their congressman to introduce a bill authorizing the investigation of a national park in Humboldt County. The legislation stalled until 1913, when then Congressman William Kent pledged to donate \$25,000 to acquire land for a national redwood park. The Humboldt Federation, led by Laura Perrot Mahan, organized a petition drive, developed a set of site recommendations for a park, and even hired a Washington, D.C., lobbyist. The Raker-Kent bill died in 1915, however, and the Federation set aside its park fund for a better day.<sup>47</sup>

Despite the loss of the federal park bill, the League and the Humboldt activists reorganized to work toward their park goals. One of the League's first actions was to publicize the giant redwoods to garner national support. The officers of the League, via their personal connections, recruited *The Saturday Evening Post* and *National Geographic Magazine* to write articles about the redwoods and the increased harvest levels that accompanied the highway, the railroad, and the war. In 1919, National Park Director and League officer and donor Stephen Mather visited Humboldt County to tour the redwoods. Mather was investigating the possibility of a national redwood park. The visit and the pledges encouraged local redwood activists and the League. The Humboldt County Federation of Women's Clubs created the Women's Save-the-Redwoods League in Humboldt County to work on behalf of a local redwood park. The Save-the-Redwoods League hired Newton B. Drury to raise money, run a public relations campaign, and to lobby on behalf of redwood park creation. The local Women's League created a park committee, headed by Laura Mahan, to survey Humboldt lands and to recommend site locations. However, as would be the case throughout the century, redwood activists did not always agree on substance or tactics. The League wanted the groves along Bull

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<sup>47</sup> Barbour, *Coast Redwood*, 139 and Binkley, "No Better Heritage," 10, 12.

Creek – a tributary of the Eel River in southern Humboldt -- protected as a park because of their immense size and potential for scientific study. The Women’s League wanted a park located at Dyersville Flat, closer to the highway and more suitable for a family park and picnic area. During the frenzied pace of redwood politics during the 1920s, both groups would get what they wanted, even though they would utilize different tools.<sup>48</sup>

During the 1920s, the patterns of conflict and negotiation took root that would drive redwood politics until the 1960s. The California Assembly played a minor role, leaving the preservation organizations and the timber companies to work out arrangements on their own. The state did, however, kickstart the acquisition process in 1921, when the Assembly appropriated \$300,000 to acquire the redwoods along the Redwood Highway to halt the local timber companies’ practice of logging up to the edge of the road. The move by the Assembly was designed to encourage the use of the highway by tourists, and to prevent public outcry about unsightly clearcuts lining the road. Notably, the League and Pacific Lumber worked together to make sure the appropriation only authorized purchases in southern Humboldt; a restriction that kept Pacific Lumber land safe from condemnation. Although we cannot be certain, given the League’s subsequent acquisition strategy, the early cooperation between the company and the League were likely designed to generate goodwill to improve the League’s chances for more ambitious purchases. Regardless, their work on the highway appropriations bill was the first step in the development of a long-standing working relationship between the League and the company.<sup>49</sup>

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<sup>48</sup> Barbour, *Coast Redwood*, 139 and Schrepfer, *Fight to Save Redwoods*, 23-24.

<sup>49</sup> Barbour, *Coast Redwood*, 140 and Schrepfer, *Fight to Save Redwoods*, 29-33

After the state's land appropriation, the League aggressively worked to acquire ancient groves on the Northcoast and to create a state park system that included an expansive set of redwood parks. In August 1921, the League made its first purchase, the Bolling Memorial Grove. Dr. John C. Phillips donated all the money used to acquire the grove at the southern end of the proposed Humboldt Redwoods State Park, just north of Phillipsville. In 1923, the League secured a donation of 166 acres of ancient redwoods in northern Humboldt to create the Prairie Creek Redwoods State Park. In 1924, the first acquisition of redwoods in Del Norte County was completed, a 288-acre grove that would become a part of the Del Norte Coast Redwoods State Park. True to the interwar pattern of voluntarism and philanthropy, the first groves acquired for the redwood park plan were acquired in private negotiations between timber companies and the League.

Once the acquisitions began to roll in, the League looked to the state to develop a management system. In 1925, the League began lobbying the Assembly to create a Parks Commission and to survey proposed park sites. In 1927, the Assembly created the Department of Natural Resources, which housed a reorganized Board of Forestry and a Parks Commission that authorized park acquisitions so long as the state footed only half of the bills. Governor C.C. Young also authorized funding to allow Frederick Law Olmstead to survey and design a state park system. Donations, bi-lateral negotiations, and state infrastructure assistance became the three-pronged model of redwood preservation, except when Humboldt locals found the process inadequate for their needs.<sup>50</sup>

While the League acted quickly and quietly, Humboldt County locals pushed more aggressively, in ways that foreshadowed the trends of the battle over Headwaters

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<sup>50</sup> Binkley, "No Better Heritage," 12-14.

Forest during the 1980s and 1990s, when local activists watch dogged logging activity, tried to change corporate policy by force of will, and used the police powers of the state when necessary and available. The League, on the other hand, wanted to avoid state involvement in real estate negotiations and to avoid on-the-ground conflicts. While working to secure the Dyersville Flat park, local Humboldt women aggressively used state and national public support to gain leverage with Pacific Lumber. It appears the women of Humboldt County became the first environmental activists to put their bodies in harm's way to stop the logging of redwoods at the site of production. In 1924, after the company rejected its offers, the Women's League convinced the Board of Supervisors to condemn the Pacific Lumber land for the park. To prevent this, the company offered the county a purchase agreement, but one that did not include Dyersville Flat. Laura Mahan and the County Board of Supervisors obtained a court order that halted the harvest of Dyersville Flat until the condemnation could be finalized.<sup>51</sup>

On November 10, 1924, Mahan and her husband received word that Pacific Lumber had violated the court order by beginning to log the Flat. Mahan and her husband ran to the woods to witness the logging, alerted the press, and recruited a group of activist women to occupy the grove. According to one source, the women encircled trees to prevent the loggers from working. Pacific Lumber subsequently agreed to halt the logging operation near Dyersville Flat and to negotiate a purchase agreement.

However, the involvement of national groups was crucial to the locals' success. First, the

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<sup>51</sup> Barbour, *Coast Redwood*, 140-142; Binkley, "No Better Heritage," 12-14; "Dyerville Flat Redwoods Fall," *Humboldt Times*, November 25, 1924, 1; "League Acts to Save Dyerville Flat," *Humboldt Standard* November 25, 1924, 1. Joan Dunning tells the story of the first tree-hugging women who performed direct action at the point of production in 1924 (*From the Redwood Forest*). I contacted Joan, and she can't recall where she discovered the additional details about the tree-hugging. The local papers cited all recount the trip to the woods by Mahan, her husband, and others, but none mention any direct action

League informed Pacific Lumber that an anonymous donor was ready to contribute \$1 million for the acquisition of Dyersville Flat. Additionally, The Women's League enlisted the support of the national Garden Clubs. Both actions increased the pressure on Pacific Lumber to return to the negotiating table. It took seven years to negotiate the deal. Although the depressed land prices and timber demand during the onset of the Great Depression certainly helped make the deal more attractive to Pacific Lumber, the Dyersville Flat purchase was completed in 1931, along with the acquisition of other Pacific Lumber groves, to create the Rockefeller Forest of the Humboldt Redwoods State Park—the largest contiguous ancient redwood forest remaining in the world, named after the League's 1924 anonymous donor, John D. Rockefeller. The 13,629-acre Rockefeller Forest was purchased with \$1.8 million from a state bond and \$1.4 million from private donors to the League and the Women's League of the Humboldt County Federation of Women's Clubs.

The conflict over the Humboldt park highlights the vital role local women played in the fights over the redwoods. From Josephine Clifford McCracken in the nineteenth century, to Laura Mahan in the early twentieth century, to Judi Bari, Kathy Bailey, Sharon Duggan, Alicia Littletree, Cecelia Lanman, and the other leaders of the late twentieth century redwood wars, women in leadership roles in the redwood conflict have roots as deep as the conflicts themselves.<sup>52</sup>

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<sup>52</sup> Pacific Lumber Company. [Ca. 1970] "The Pacific Lumber Company and The Redwood Parks." Pacific Lumber Company file. Forest History Society Library, Durham, NC; S.B. Show, "Timber Growing Practice in the Coast Redwood Region of California" Technical Bulletin 283, March 1932, in USDA Technical Bulletins No. 276-300 (Washington, DC: U.S. Government Printing Office, 1932).

## **Strengthened Position: Pacific Lumber Adjustments to Interwar Politics and Economics**

Faced with a surprisingly aggressive redwood preservation movement and a dynamic competitive environment, Pacific Lumber changed its business model to improve its competitive position in the industry and to improve its position in the community. The Pacific Lumber Company seems to have pioneered modernization efforts in the timber industry in response to the industry's two primary problems during the first half of the century: stagnant worker output and declining log quality. Because of the fierce competition in the industry, R&D investment was low and production gains were typically achieved through expanded land holdings and/or procurement of additional federal timber contracts. But increased logging depleted old growth forest inventories, which in turn decreased lumber quality. So technological gains were offset by decreased quality of the timber harvested and the increased distances of new harvest areas to population centers. Pacific Lumber acquired more land, but it also looked for ways to improve efficiency and price. Additionally, because of the density of the available timber in the redwood forest, the company didn't have to travel very far to acquire new land. The company built a second mill in 1920 to increase its production volume, and began producing cigar boxes out of redwood scraps to reduce waste. In 1935, Pacific Lumber introduced Presto Logs made of sawdust for use in home fireplaces. The culture of innovation and efficiency helped the firm develop into a formidable foe for redwood activists. The company was financially sound, and earned the loyalty of workers and the community because of its stability.

The company's early support of conservation measures also differentiated Pacific Lumber from the larger timber industry. During the 1920s and 1930s, the company, unlike most of its competitors, experimented with selective harvesting techniques instead of clearcuts. In 1923, the company hired some of the state's first private foresters and developed a tree nursery to aid second growth regeneration. In 1928, Pacific Lumber chief Albert Stanwood Murphy met with Newton Drury of the Save-the-Redwoods League and committed to protect some old growth groves of redwoods along the Eel River until the League could raise the money to purchase the groves.<sup>53</sup> During the early 1940s, Pacific Lumber officially adopted a selective harvest policy for its old growth forests, whereby the company removed 70 percent of the timber volume of a particular stand instead of ninety- to one hundred percent of the trees. Conservation values certainly played a role in those decisions, but so too did the change in California tax code that gave companies incentives to leave some trees standing. Another contributing factor was the company's desire to improve its market share of upper grade redwood lumber by hanging onto old-growth while other companies cut them fast and furiously. The sale of the Rockefeller Forest and other groves to create the Humboldt Redwoods State Park helped to decrease the supply of old-growth timber and it helped Pacific Lumber develop an amicable relationship with the League. Combined, the conservation, preservation, and efficiency programs improved the outlook of the company's business model. Its development patterns suggest Pacific Lumber was trying to insulate itself

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<sup>53</sup> Pacific Lumber Company. [Ca. 1970] "The Pacific Lumber Company and The Redwood Parks." Pacific Lumber Company file. Forest History Society Library, Durham, NC; Zaremba, *Economics of American Lumber* (New York: Robert Speller & Sons, 1963) 1, 7, 16-20, 84-90; Paul V. Ellefson and Robert N. Stone, *U.S. Wood-based Industry: Industrial Organization and Performance* (New York: Praeger) 1984, 25 and 359. Additionally, see The Pacific Lumber Company, "Rising from the Ashes," [www.palco.com](http://www.palco.com) within the "History" section of "The Company" (accessed 1/30/08) and "History of Conservation" within "The Company" section (accessed 1/30/08).

from industrial competition and activist agitation. The strategy worked well for more than six decades, and when activists eventually challenged the firm's land management, it was well positioned to sustain their assault.<sup>54</sup>

## **Corporatism Entrenched**

The Board of Forestry, meanwhile, continued its work to promote timber production and to protect industry investments, which helped cultivate a close relationship between the Board and the industry. The second Board, created in 1905, like the original Board, was a corporatist body concerned primarily with protecting timber inventories. The Board was formally charged with preventing fires, protecting public and private land from trespass, managing the state parks, and purchasing clearcut land to manage as state forests in order to regenerate the timber supply. On the recommendation of the Board, the Assembly passed five fire prevention laws, including the 1923 Compulsory Fire Patrol Act, as well as an insect abatement law in 1923, all in an effort to protect the timber supply. Not surprisingly, given the national parks movement of the time, and despite the lack of interest from the State Forester and the Board, the California Assembly also passed a number of laws funding the acquisition of state parks, including: chapter 268, to protect the "last trees" of the San Bernadino Valley; chapter 762, to buy trees along the Tahoe Wagon Road; and the first acquisition of Humboldt State Redwoods Park in 1921. The Board may have been singly interested in timber production, but Californians and the Assembly had begun to consider the recreational and

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<sup>54</sup> Clar, *California Government and Forestry (Vol. I)*, 214, 268-269, 297, 402, 411, 433, 445. And see Dana, *California Lands*, 64 and 68 and Schrepfer, *Fight to Save Redwoods*, 23.

educational values of the state's timber lands, as demonstrated by the park appropriations and the success of the redwood activists during the early to mid-1920s.<sup>55</sup>

In 1927, the Board was reorganized within the new Department of Natural Resources; the new Board's duties -- still a corporatist body of five members appointed by the Governor based on knowledge of the timber industry -- officially recommitted its members to timber supply and water (as if they needed any encouragement). The new Parks Commission took control of the management of recreation resources. In 1943, the third Board passed (in addition to the usual fire prevention, state nursery, and regeneration laws and recommendations) a minimum diameter law that prohibited the harvest of trees smaller than 18 inches in diameter. That law marked the first time the Board encroached on the management prerogatives of private industry in the name of conservation, and it came long after a 1932 Department of Agriculture report that recommended selective cuts in Redwood Country in order to prevent deforestation.<sup>56</sup>

## **Postwar Cracks in Corporatist Regulation and Progressive Voluntarism**

During the first twenty-plus years of the post-World War II era, the basal buds that sprouted the redwood wars emerged from the established roots of bilateral negotiations, minor state involvement, and largely zero federal involvement. The

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<sup>55</sup> See Raymond C. Clar, *California Government and Forestry-II: During the Young and Rolph Administrations* (Sacramento, CA: Division of Forestry, Department of Conservation, State of California, 1969) 36-37, 52, 121-125, 148-150, 189-274. Also see, Princetl, *Transforming California*, 110.

<sup>56</sup> Clar, *California Government and Forestry-II*, 36-37, 52, 121-125, 148-150, 189-274. Also see, Princetl, *Transforming California*, 110, 162-165; Dana, *California Lands*, 69-71, 187-188, 192-193; Barbour, *Coast Redwood*, 188.; S.B. Show, "Timber Growing Practice in the Coast Redwood Region of California," Technical Bulletin 283, March 1932, in USDA Technical Bulletings No. 276-300(Washington, DC: U.S. Government Printing Office, 1932). William Robbins points out on a more macro level the narrow focus of state agencies, federal agencies, and timber owners on fire and pest protection

redwood preservation movement, the Board of Forestry, and The Pacific Lumber Company all faced challenges during the postwar era that dramatically changed the relationships among the three institutions, as well as the tenor and nature of conflict over the redwoods. As America transformed after World War II, so did the timber industry and redwood politics. Official corporatist timber regulation continued to direct the Board's activities, but the California Assembly, other state agencies, and groups of citizens grew increasingly frustrated with the system and its consequences for the forest.

By the end of the 1960s, California corporatism was under intense attack. The national timber industry capitalized on high timber demand and high prices driven by the postwar housing boom to increase old growth harvests on the West Coast and to increase efficiency, but Pacific Lumber continued to buck industry trends and recommitted to its strategy to remain in the old growth timber business and to diversify into unrelated business. The company also continued to sell and donate land to the League, as it aggressively moved to solidify its image as a small town, family-centered enterprise. Like the Board of Forestry, Pacific Lumber was also on the verge of significant changes by 1970, changes that eventually propelled the company into the center of the redwood wars. The redwood preservation movement split during the postwar era as the Sierra Club adopted new strategies and philosophies based on ecology, mistrust of corporate America, and state intervention. The League remained committed to voluntarism, progressive evolutionary ideas, and industrial cooperation. The split complicated the battle over a national redwood park, escalated the challenges to corporatism, and eventually led to a significant shift in preservation strategy by the 1970s.

## Corporatism Challenged

Of the three institutions, the Board of Forestry faced the most serious challenges during the postwar era, despite its independence from the public and the Assembly. After World War II, the legislature made some cosmetic changes to the regulatory regime, but maintained its corporatist orientation. Without legislative oversight, the Board continued to support development but not forest conservation. For example, the 1943 law prohibiting the harvest of trees less than eighteen inches in diameter may appear to mark a move away from corporatism, toward greater legislative oversight, but that law was in fact another in the long history of regulations devised by businesses in order to protect their markets. In this case, the minimum diameter law protected big timber companies from competition from small, independent, “gyppo” contractors best suited to harvest small trees. Like the minimum diameter law, the 1945 Forest Practice Act that governed timber operations on private land also appeared to undercut corporatism while promoting conservationism. The law required the Board to create forest practice rules to ensure that the state’s private timber operators used the best conservation practices. However, it also perpetuated industry self-regulation. The Board the law reorganized still included a majority of members from the timber and grazing industry, and when the Board created the rules, it predictably declined to include penalties for violations.

As with the minimum diameter rule, the Board was able to move away from pure corporatism without eroding the practical operation of the corporatist model. In 1960 the Board, despite the recommendations of Northcoast timber reports, began approving large clearcuts because the timber industry wanted to capitalize on the housing boom and on

decreased timber production in the Pacific Northwest. None of these postwar logging developments are surprising. The Board's own assessment of its postwar priorities were to prevent fire from destroying timber and to protect the timber industry from unfair competition from within—priorities that reveal the influence of the postwar housing boom on the timber industry as well as The Board's commitment to helping the timber companies operate profitably.<sup>57</sup>

The resilience of California's corporatist Board of Forestry stands in stark relief against the rising tide of "modern environmentalism" and the resulting changes in environmental politics after World War II. The popularity of outdoor recreation increased dramatically, as did concern about suburban development and humankind's impact on the planet. As a result, national environmental groups like the Sierra Club and The Wilderness Society grew in size and stature. And local groups arose to combat local pollution, local land management, and suburban development. While the nation's environmental attention swung from nuclear fallout, to Dinosaur National Monument, to the Wilderness Act, the California Board of Forestry remained beyond reproach for the most part. Apart from loud complaints, no active opposition to the Board's operation was apparent until the late 1960s. And why would there have been? Most of the state's residents did not live near enough to timber lands to witness the increased logging and clearcutting. The Save the Redwoods League purchased grand redwood groves and created parks out of them for recreationists and scientists. Appreciation of the non-economic values of forests did not become widespread until well after World War II.

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<sup>57</sup> Clar, *California Government and Forestry-II*, 36-37, 52, 121-125, 148-150, 189-274. Also see, Princetl, *Transforming California*, 110, 162-165; Dana, *California Lands*, 69-71, 187-188, 192-193; and Barbour, *Coast Redwood*, 188.

And the timber industry was a major contributor to California's postwar prosperity. As a result, residents of the Northcoast seemed unwilling to bite the hand that fed them, and other Californians were not concerned with Northcoast logging.<sup>58</sup>

Challenges to the Board's predominance first emerged in the 1950s, when citizen groups such as the Sierra Club complained about the rate of timber harvesting and the prolific use of clearcutting in Redwood Country. As a result, the legislature took steps to increase its oversight of the timber industry. In 1962, the legislature commissioned a report that concluded that the forest practice rules "failed to provide adequate enforcement" to protect public values in water, fishing, and recreation." In 1967, another legislative report concluded that the rules needed to be broadened if California was to avoid major damage to its most important watersheds. A final legislative committee study of the forest practice rules concluded in 1971 that logging was one of the primary causes of the 80 percent decline in salmon and steelhead runs in Northern California. Agitation by Sierra Club and others thus helped undercut confidence in the corporatist regulatory regime by pressuring the legislature to study the industry in more detail.<sup>59</sup>

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<sup>58</sup> Samuel P. Hays and Roderick Nash provide classic discussions about the changing attitudes of the American public toward natural resources and landscapes during the nineteenth and twentieth centuries (Hays, *Beauty, Health, and Permanence* and Nash, *Wilderness and the American*. See Princetl, *Transforming California*, 163 for a discussion of the new pro-timber attitudes of Northcoast residents after World War II.

<sup>59</sup> See Princetl, *Transforming California*, 162-165 regarding the 1950s Sierra Club and Fish and Game complaints. Assembly Interim Committee on Natural Resources, Planning and Public Works, *Findings and Recommendations Related to the Forest Practice Act, 1961-1962*, quoted in Sharon Duggan and Tara Mueller, *A Guide to the California Forest Practice Act and Related Laws* (Point Arena, CA: Solano Press Books, 2005), 1. Assembly Subcommittee on Forest Practices and Watershed Management, *Man's Effect Upon the California Watershed, 1965-1967*, quoted in Duggan, *Guide to Forest Practice Act*, 1-2. Committee on Salmon and Steelhead Trout, *An Environmental Tragedy*, 1971, quoted in Duggan, *Guide to Forest Practice Act*, 2. The history of state legislators, agency employees, and environmentalists pushing these studies and reforms still needs to be told. For this study, the fact they took place, and the framework they set up, are the most important aspects of that history because it is that framework that led to the changes in law during the 1970s that gave citizens greater access to the bureaucracy and courts.

## **Pacific Lumber's Crusade**

While the Board of Forestry worked to aid the development of the timber industry and faced its first set of environmental attacks, Pacific Lumber worked to solidify its position and to prevent challenges to its regime. Because of its investments in mill technology, old growth inventory, and a permanent workforce in the company town, Pacific Lumber did not scramble to capitalize on the postwar housing boom. The timber industry at large, however, did scramble to modernize and mechanize, and with great success. Worker output increased from 0.8 percent annually from 1896 to 1947 to 2.1 percent annually from 1958-1980. And like Pacific Lumber had done earlier in the century, timber companies horizontally diversified after 1950, though most companies diversified into related industries like paper.

Pacific Lumber also diversified, and expanded its property holdings to improve its position in the old growth redwood market. In 1940, the company bought 22,000 acres of timber land in the Lawrence Creek and Yager Creek watersheds of Humboldt County. In 1950, Pacific Lumber acquired Dolbeer & Carson Lumber Company of Eureka and its property along the Elk River that adjoined Pacific Lumber's land near Freshwater and on Lawrence Creek. The company acquired Hampton Plywood Corporation that same year to capitalize on the new plywood market and to aid its efforts to more fully utilize redwood logs. In 1958, Pacific Lumber acquired Holmes-Eureka Lumber Company and its land along the Van Duzen River. All together, Pacific Lumber doubled its assets from 1931 to 1961, improved its position as the world's largest redwood lumber producer,

diversified its product line, and acquired what eventually became known as Headwaters Forest.<sup>60</sup>

Meanwhile, the company continued to cultivate its image as a small town company with small town values. In 1951, Pacific Lumber cooperated with *The Saturday Evening Post* to produce an article about Scotia. The article referred to the town as a “workers paradise,” where 950 employees lived and worked among the 131,000-acre “tree farm.” The author described Scotia as a place where the resident manager of Pacific Lumber was the “mayor,” and his office repainted houses, fixed leaky pipes, and repaired windows. The article portrayed Pacific Lumber as a giant family; resident employees resented the term “company town” and competed over the quality of the gardens they planted on their rented land. The *Post* and the *Christian Science Monitor* marveled at how welcoming the company was to tourists and the way it openly encouraged tourists to tour the Scotia complex using a printed tour guide. In 1961, Pacific Lumber began offering college scholarships to all employee children, and in 1964 it touted its generous nature by pointing out to a *New York Times* reporter that the company promised to hold onto the Pepperwood Groves near the Avenue of the Giants -- despite the taxes it paid for not logging the land -- because it hoped the Save-the-Redwoods League would be able to buy the ancient trees.<sup>61</sup>

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<sup>60</sup> Zaremba, *Economics of American Lumber*, 1, 7, 16-20, 84-90 and Ellefson, *U.S. Wood-based Industry*, 25 and 359. Additionally, every issue of the trade journal *Forest Industries* from the 1970s and 1980s included at least one article highlighting automation efforts and promoting automation. See also, Mengel, “Murphy Family and T.P.L.” re: land purchases.

<sup>61</sup> Brooks Atkinson, “Critic at Large: supporters of Park Exhort the Woodsmen to Spare That Tree, the Redwood,” *The New York Times*, August 4, 1964, 26; Frank J. Taylor, “Paradise with a Waiting List,” *Saturday Evening Post*, Vol. 223, No. 35, February 24, 1951, 36-37, 103-104, 106-107; Jewel M. Larson, “Visit to a Redwood Sawmill” *Christian Science Monitor*, October 9, 1957, 17. See also, Pacific Lumber Company, “1950-1998: Investing in the Future” at [www.palco.com](http://www.palco.com) (accessed 1/30/2008).

Those initiatives were generous to workers, environmentalists, and tourists, and the company benefitted as well. The Pacific Lumber workforce was not unionized, and the company likely hoped that promoting paternalism would insulate it from the postwar union drives and the excitement generated by the United Auto Workers "treaties" with Ford and others. Additionally, the timber industry was under attack in the state of California after World War II for what many residents and visitors considered destructive practices, more readily and frequently observed than ever from the Redwood Highway. Good business practices dictated that Pacific Lumber try to avoid new drains on resources in order to fully maximize net returns during the building and remodeling heyday.

### **Redwood Preservationism on the Brink**

The early years of the postwar era began with a familiar routine for redwood activists, but by the 1960s the activists were swimming in a cacophony of success, infighting, expanded public and political support, and renewed militancy. In many ways, the early postwar era was more similar to the early twentieth century than it was to the interwar period. On the Northcoast, there was minor conflict over the purchase of a grove, but mostly the negotiations plodded along and the redwood state park system grew thanks to the Save-the-Redwoods League. On the other hand, the Sierra Club, as it had during the Hetch Hetchy conflict in the first decade of the twentieth century, made national news organizing the media and citizens to oppose a proposed dam. The interwar

partnership between the League and the Club fizzled as their tactics and goals diverged during the effort to create a national redwood park in the 1960s.

One reason for the strain was the League's unwavering commitment to private negotiations with no state intervention. From the 1940s until the mid-1960s, Save-the-Redwoods League negotiated with landholders to expand California's redwood parks the way they had during the 1920s and 1930s. Groves along the Smith River and a National Tribute Grove that recognized the service of men and women during World War II were established in Jedediah Smith Redwoods State Park. The Montgomery Woods State Reserve in Mendocino County was donated to the League as well. The Avenue of the Giants was completed forty years after its conception, then expanded during the late 1960s. And Prairie Creek Redwoods State Park was expanded when the League acquired Gold Bluffs Beach and Fern Canyon from Pacific Lumber in 1965.

While the League negotiated with landholders, the Sierra Club, was by the 1950s engaged in more public and political disputes, which ushered in a new era of militantism and conflict in redwood country. Three events drove the Club in its new direction: the conflict over a proposed dam near Dinosaur National Monument, the hiring of David Brower as Executive Director, and winter floods on the Northcoast during 1954-55. The growing understanding and appreciation of ecology and of so-called wilderness areas helped forge a national constituency for the redwood parks movement, which at the same time widened the wedge between the Club and the League. The Club grew more concerned with ecological health, while the League remained committed to preserving exquisite specimens of redwoods for evolutionary studies. The Club, under David Brower, reached out to the public in ways similar to John Muir's old tactics of public

relations, anti-big business rhetoric, and grassroots organizing, while the League retained its faith in private negotiation, industrial cooperation, and private voluntarism. On the other hand, the Club demanded federal action to protect ecosystems.

In 1952, David Brower, a military veteran and long-time Club activist, was hired as the Club's first Executive Director, a move that cemented a change in Club culture from genteel advocate to public organizer. The Club's more militant, public roots date back to John Muir, of course, but from the time of Muir's death until 1950, the organization seemed to take the form of a literary and educational club concerned with national parks and adventure stories. In May 1950, however, a feistier element reared its head. Joseph R. Momyer organized a letter-writing drive that resulted in the delivery of three hundred letters to the U.S. Forest Service opposing a tramway project in the San Jacinto Valley. That winter, the Club formed its first chapters outside the West Coast, and during March 1951, the Club held its second biennial wilderness conference in Berkeley. Two of the major themes of the conference were, "Wilderness and Mobilization" and "Conflicts in Land-use Demands." Late in 1951, the Club re-published an opinion-editorial by paleontologist and Isaak Walton League officer Joe W. Penfold that roundly criticized the Assistant Secretary of the Interior for proposing a dam near Dinosaur National Monument. The Club's drive toward national constituencies and public organizing was in full motion.<sup>62</sup>

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<sup>62</sup> See, David Perlman, "The Local Boy Who Made Good," *Sierra Bulletin*, Vol. 41, No. 1, January 1956, 3-4; Richard M. Leonard, "Directors Hold February Meeting," *Sierra Bulletin*, Vol. 35, No. March 1950, 14; Richard M. Leonard, "Board Holds Organization Meeting," *Sierra Bulletin*, Vol. 35, May 1950, 11; and Richard M. Leonard, "Directors Hold Winter Meeting," *Sierra Bulletin*, Vol. 35, December 1950, 5-9. McGee Young ("From Conservation to Environment: The Sierra Club and the Organizational Politics of Change," *Studies in American Political Development*, Vol. 22 (Fall 2008), 183-203) argued that the Dinosaur controversy marked the emergence of a new Sierra Club with a focus on public organizing and a more militant position. McGee is correct for the most part, but he largely ignores the importance of the Hetch Hetchy conflict on the "new" tactics of the Club. Muir led a national public relations and letter-

The 1950s conflict over the dam in Dinosaur National Monument and Echo National Park has received the most attention from scholars as the campaign that transformed both the Club and postwar environmental politics, but the winter floods of 1954 and 1955 trained the Club's sites on the redwoods, forestry, and private property issues. The tactics the Club used during the Dinosaur controversy energized the expanding postwar environmental community and constituency; the Club's focus on the redwoods and logging practices on private land transformed redwood politics. During the Dinosaur controversy, the Club revived many of the tactics used during the unsuccessful effort to stop the damming of the Hetch Hetchy Valley near Yosemite. It published *This is Dinosaur* in 1956, and launched a public relations and citizen organizing campaign to pressure Congress to defeat the proposed dam that would have flooded portions of Dinosaur National Monument. The Dinosaur conflict of the 1950s and the Wilderness Act campaign of the early 1960s provided Club leaders with national campaign experience. The revival of public strategies on national issues increased the popularity of the organization. The new nationally powerful Sierra Club eventually grew into a major player in the Redwood National Park campaign of the late 1960s.<sup>63</sup>

But it was the damage to the giant redwoods of Bull Creek Flats within the Rockefeller Forest of Humboldt Redwoods State Park during the 1954/55 winter that led to some of the earliest evidence about the transformation of the Club's philosophy regarding the natural world and environmental politics. That winter, heavy rains flooded

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writing drive in his effort to protect the Hetch Hetchy Valley, and he blasted opponents as purveyors of greed and selfishness. Looked at from that perspective, Brower simply resurrected Muir's tactics and added to them new arguments about the importance of ecosystems and ecology

<sup>63</sup> The story of the Dinosaur National Monument controversy has been well documented by several authors including, Susan Schrepfer (*Fight to Save the Redwoods*), Roderick Nash (*Wilderness and the American Mind*), and McGee Young ("From Conservation to Environment").

and eroded major parts of the Bull Creek groves and destroyed part of the Redwood Highway that ran around Humboldt Redwoods Park. The Club published an account of the damage in its October 1956 *Bulletin*, in which Henry Saddler, the Park Ranger at Weott in Humboldt, along with Carl Anderson, the Chief Ranger of Humboldt State Parks, declared that the damage to the park and the road were due to “poor logging practices” and wildfire. The State Highway Commission maintained complete power of domain within the state parks, and they chose to rebuild the highway directly through the park. The State Park Commission and the League believed it was futile to protest the plan, and focused their energies on park rehabilitation. The Club, however, was outraged by the lack of protest over the highway and over the logging practices that created the mass wasting on the slopes above Bull Creek. There was a visible change in Club rhetoric and goals over the next several years. In 1957, the Club urged changes in the law to prevent the abuse of private land as well as public land. In doing so, the Club vilified the timber industry, and worked to generate public outcry at the logging practices allowed by the Board of Forestry by, for example, charging that, “although chainsaws don’t discriminate, men could” choose which trees to cut down. In 1958, the Club’s presence on the Northcoast was solidified when it formed the Redwood Chapter.<sup>64</sup>

By the end of 1960, the Club was fully engaged in redwood politics, albeit with a different tenor, a different set of goals, and a different strategy than those of the Save-the-Redwoods League. In 1959, the Club tracked the winter threats to the Rockefeller Forest and again charged the timber industry with creating the threat of floods and mass

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<sup>64</sup> J.W. Penfold, “The Dinosaur Controversy,” *Sierra Bulletin*, Vol. 36, No. 10, December 1951; Henry Sadler, “Winter Damage in Redwood Parks,” *Sierra Bulletin*, Vol. 41, No. 8, October 1956, 12-18; Peggy Wayburn and Edward Wayburn, “Our Vanishing Wilderness,” *Sierra Bulletin*, Vol. 42, No. 1, January 1957, 6-9; and George Ballis, “Havoc in Big Trees,” *Sierra Bulletin*, Vol. 42, No. 5, May 1957, 10-11.

wasting. In early 1960, the Club published the two-part series, “The Tragedy of Bull Creek,” written by Peggy Wayburn of the Sierra Club and Newton Drury of the League. The article traced the damage to Bull Creek Basin back to clearcuts performed in 1947 above the basin. The article chastised the resurgence of clearcutting and highlighted the California Division of Beaches and Parks’ critique of the Board of Forestry’s logging regime, but the Club did not demand the Board be challenged. Instead, it proposed that the state buy the cutover land above the basin, add it to the state park, and rehabilitate the slopes. The Club also published, *The Last Redwoods and the Parkland of Redwood Creek*, which chronicled the damage to the redwood forest and proposed a very large national park in northern Humboldt County that could protect the health of an entire ecosystem, not simply a stand of grand trees. Thus, by the end of 1960, with approximately 10 percent of the pre-colonial ancient redwoods still alive, the Club had positioned itself as the challenger of timber industry prerogative, the defender of ecosystems, and the group willing to use the power of the federal government to remove the last ancient redwoods from the timber market.<sup>65</sup>

The campaign to create Redwood National Park during the 1960s exemplified the evolution of the National Park System because the fight focused on the preservation of an ecological unit. As best articulated by historian Alfred Runte, the National Park System developed in three overlapping stages: the protection of grand scenery, the development of public recreational parks, and the preservation of ecosystems. The earliest parks,

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<sup>65</sup> “Board Adopts Policy Guide, Sets Budget,” *Sierra Bulletin*, Vol. 45, No. 1, January 1960, 5; Peggy and Edward Wayburn, “Bulletin,” *Sierra Bulletin*, Vol. 44, No. 9, December 1959; Peggy Wayburn, “The Tragedy of Bull Creek,” *Sierra Bulletin*, Vol. 45, No. 1, January 1960, 10-11; Newton B. Drury, “Chapter II – Bull Creek Story: Redwoods and You,” *Sierra Bulletin*, Vol. 45, No. 4, April/May 1960, 10-13; Schrepfer, *Fight to Save Redwoods*), 108-110, 112, 117, 144; and Francois Leydet, *The Last Redwoods and the Parkland of Redwood Creek* (San Francisco: Sierra Club, 1960).

including Yosemite, Yellowstone, Mount Ranier, Glacier, and Sequoia, were designed to protect majestic landscapes from the encroachment of industry and development, and to avoid the degradation and humiliation that occurred at Niagara Falls. The park boundaries encompassed only those areas not believed to be economically useful. After the turn of the century, partly a result of the loss of the Hetch Hetchy Valley, activists promoted parks as economically beneficial tourist and recreational sites. By the 1930s, many activists looked to the parks as places to protect ecosystems, watersheds, and wildlife. The Everglades was the first attempt at such a system; Redwood National Park and Olympic National Park were the subsequent attempts. The Everglades and Redwood National campaigns pushed the envelope of watershed protection, but fell short in the end. Still, they were important steps in the process of shifting the nation's goals with respect to the Park System to a regime designed to balance recreation and ecological preservation goals. The emergence of ecological goals in the Park System reflects the simultaneous transformation of the redwood preservation movement during the postwar era.<sup>66</sup>

By the end of the 1960s, what was once a strong partnership had frayed into a tense rivalry between the League and the Club. But it was repaired because the actions of private landowners on the eve of the creation of the Redwood National Park drove them back together. Different goals and different strategies separated the two environmental institutions, but in the end, and as would happen again and again during the late twentieth century redwood wars, the actions of timber companies pulled the groups back together to fight a common opponent. During the 1960s, the Club called on the federal government to protect redwoods -- very publicly and with the goal of protecting a vast

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<sup>66</sup> See Runte, *National Parks* for a full discussion of the evolution of the parks.

ancient forest. At the 1961 Sierra Club Wilderness Conference, the Club requested that Secretary of the Interior Stewart Udall and President John F. Kennedy purchase enough private redwood forest to create a Redwood National Park. In 1962, Brower decreed that any new park should cover the greatest number of acres possible, and should not simply focus on protecting the tallest trees, because it was the redwood ecosystem that was most important. Previously, the redwood preservation movement had emphasized finding and protecting the biggest trees as examples of evolution. Brower's call demonstrated the popularity of newer ideas about ecology and the importance of biodiversity for a healthy planet.

The Club's efforts were boosted in 1963 when the California State Highway Commission announced its plans to rebuild the Redwood Highway and Highway 199 freeways through Prairie Creek Redwoods State Park and Jedediah Smith State Park. The Ford Foundation pressured President Lyndon Johnson to convince Governor Edmund Brown to stop the proposed project because the foundation had donated money for the Gold Bluffs Beach purchase, and Udall and the National Park Service subsequently investigated two potential park sites: one at Mill Creek and one at Redwood Creek – both near Prairie Creek and Jedediah Smith.<sup>67</sup>

The League bristled at the reengagement of the Club into redwood park issues because the League was working to complete the Humboldt Redwoods State Park by negotiating agreements with Pacific Lumber for land along the Eel River and near Bull Creek Flats to complete the Avenue of the Giants. The group's goal remained to protect specimens of the "best" trees and to do so by acquiring the groves in the marketplace. They did not want the federal government to use its powers of condemnation because of

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<sup>67</sup> Schrepfer, *Fight to Save Redwoods*, 119-130, and Barbour, *Coast Redwood*, 146.

the potential to disrupt negotiations with private landholders, and because they believed private citizens should take the initiative to protect redwoods. However, once a national redwood park became a real possibility, the League engaged in the process to make sure that a national park contained the “best” trees, and that the park disrupted industrial cooperation as little as possible.

The problem was that the Club’s goals and the League’s goals were not compatible. In September 1964, the Park Service proposed a 30,000 to 50,000-acre park located around Redwood Creek. The League had pushed for a location near Mill Creek because of its wide alluvial flats and grand grove of very tall trees, and because the Mill Creek site was smaller and more removed from the major corporate landholders of the Northcoast. Thus, a Mill Creek site might cost less, and was less likely to raise the hackles of the biggest timber companies. The Club had pushed for the Redwood Creek location because the area contained a much larger ancient forest that covered a diverse biologic and geologic range. However, the Club had proposed a 90,000-acre park, so they weren’t satisfied with the Park Service proposal either. The disagreement over the location of a national park was only the beginning of the temporary alienation of the Club and the League because their different operating models and strategies put them on a track that escalated and publicized the conflict between them.

The desire of the Club to represent the public and to fight for ecosystem protection, and the desire of the League to use quiet diplomacy and to not alienate business and industry leaders, created an awkward situation for Congress and the Johnson Administration. After the 1964 Park Service report, the Club organized students and professors at Humboldt College to write letters in support of the Redwood Creek site.

Sierra also ran advertisements in newspapers across the country. Those two actions marked a dramatic change in redwood politics. They were signs that the public, as with the Hetch Hetchy and Dinousaur conflicts, would be called upon to engage in the movement to bolster the efforts of organizational leaders who lobbied and negotiated in the halls of the legislatures. They were not welcome signs for the League, who believed genteel discussions, not mass protest, provided the best results for the redwoods and society – the former was, after all, a metaphor for the latter. In 1966, much to the surprise of the Club, a bill was introduced to create a 40,000-acre park at the Mill Creek site. The Club publicly accused the League and the timber industry of colluding to reverse Park Service policy in back room negotiations, and then in their own back room deal of sorts, the Club was able to attach an amendment to the park bill that substituted its ninety thousand acre plan at Redwood Creek for the bill's own Mill Creek plan. The bill and the amendment were defeated, and the debate in Congress continued. Most environmental groups, along with the United Auto Workers, supported the Club's position, and it appeared that an ugly round of redwood infighting might threaten the legislation altogether.

The Northcoast timber industry reacted rashly, however, and thus provided the political cover that enabled President Johnson to demand a park bill, and that enabled the Club and the League to reconcile their differences and fight for a common bill. After the 1966 bill was defeated, the timber industry apparently decided to help Congress define the boundaries and location of any national park in the redwoods. Miller Redwood Company clearcut land right up to the boundary of Jedediah Smith Redwoods State Park, then harvested a line of trees right through the middle of the part of its property slated to

become part of the national park adjacent to Jedediah Park. Miller then logged a circle around the Mill Creek site. The three harvests isolated Mill Creek and Jedediah Smith Park from the surrounding forests, and fragmented the ancient forest on Miller land. Meanwhile, Georgia Pacific began a harvest operation near the Redwood Creek site, and the League announced that it would no longer oppose the Redwood Creek site. The joint work of Sierra and the League helped push President Johnson to plea for Congress to “save the redwoods” during his 1968 State of the Union Address, and on October 2, 1968, Johnson signed the law that authorized a 58,000- acre Redwood National Park at the Redwood Creek site.<sup>68</sup>

The confluence of the postwar changes in timber regulation, within The Pacific Lumber Company, and inside the redwood preservation movement opened a new era in redwood politics, an era during which conflict escalated, relationships frayed periodically, and the nation’s eyes turned to the last privately owned ancient redwood forests in the world. Though the late twentieth century redwood wars would be fought in a greater number of arenas, and would be more public, more hotly contested, and more violent than the earlier eras of redwood politics, they were not separate from those earlier contests. The more recent activists drew from the pool of tactics developed by Robert Dudley, William Kent, Laura Mahan, Newton B. Drury, John C. Merriam, and David Brower. They also drew from the ideas handed down by Muir, Gifford Pinchot, Aldo Leopold, and Brower. They repeated the public relations campaigns suggested by Dudley and implemented by Muir, then perfected by Brower. They continued to look to private donors as had Drury, Kent, and Merriam. And they would take to the woods like

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<sup>68</sup> Susan Schrepfer, (*The Fight to Save the Redwoods*, 130-161) offers a very detailed account of the legislative and public campaigns to create Redwood National Park.

Mahan. Intellectually, they accreted the spiritualism of Muir, the ideals of the greatest good for the greatest number for the longest time from Pinchot, and the ecological perspectives of Leopold and Brower.

The Pacific Lumber Company continued to rely on its past philanthropy, paternalism and small town image to protect it from environmental activists and regulators. The Board of Forestry remained committed to development-focused corporatism. However, after the National Park fight shined a bright light on Northcoast forests and Northcoast timber companies, citizens redoubled their efforts and attacked the corporatist regime that governed timber harvest practices on private land. With most of the remaining ancient redwood forests protected inside state and national parks, the activists set their sites on the condition of the remaining old growth groves and of the second growth forests of the Northcoast. By doing so, they transformed redwood politics and put themselves on a collision course with two very formidable adversaries: big business and private property rights.

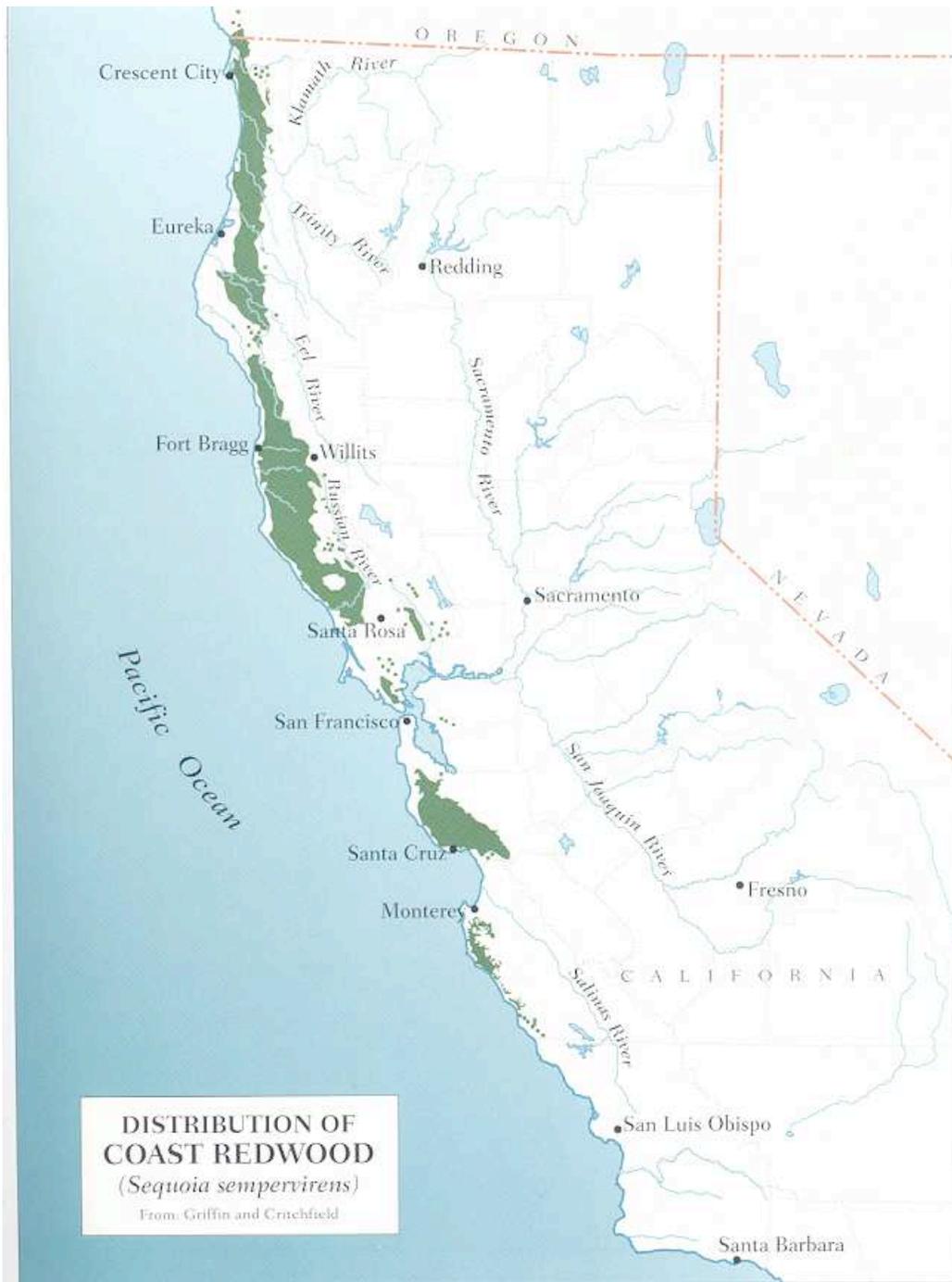


Figure 1: Distribution of Coast Redwood. (from Michael Barbour, Sandy Lydon, Mark Borchert, Marjorie Popper, Valerie Whitworth, and John Evarts, *Coast Redwood: A Natural and Cultural History* (Los Olivos, CA: Cachuma Press, 2001) 11).

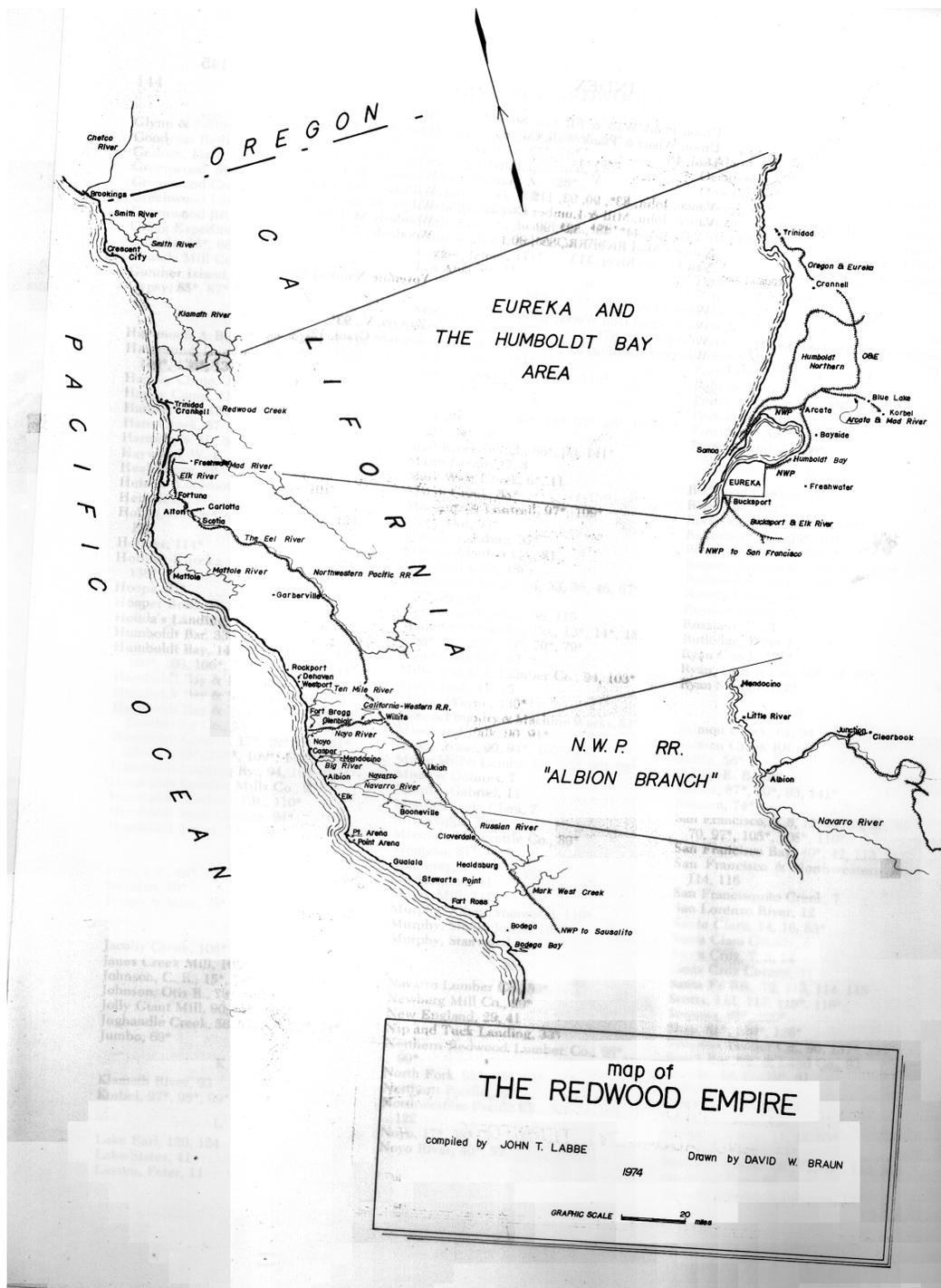
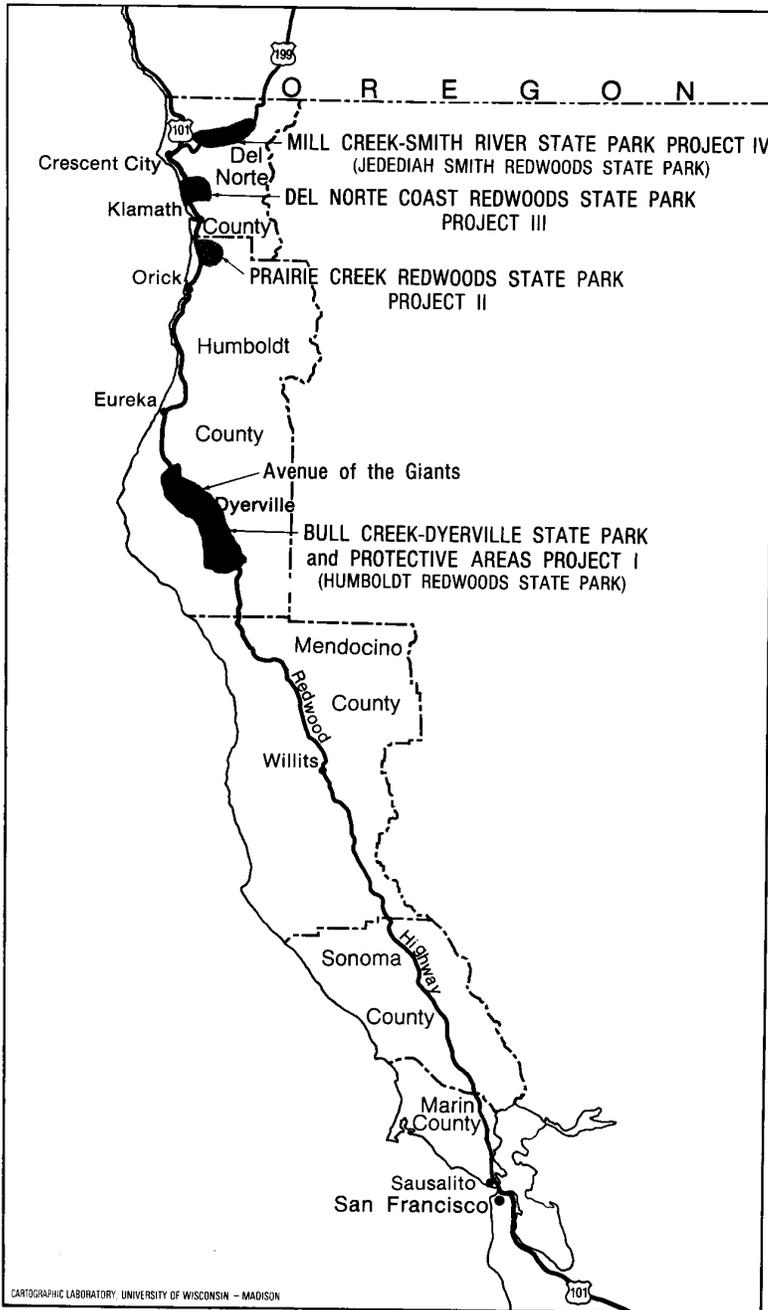


Figure 2: Map of the Northcoast (Humboldt and Mendocino Counties), (from Lynwood Carranco and John T. Labbe, *Logging the Redwoods* (Caldwell, ID: Caxton Printers, 1975) inside back cover.



Map 2. The four northern California redwoods state park projects, 1937. Project I, 21,150 acres, value \$4,315,000; Project II, 7,750 acres, value \$1,078,000; Project III, 2,800 acres, value \$448,500; Project IV, 141 acres, value \$36,500.

Figure 3: 1937 map of the northern California redwood state parks (from Susan R. Schrepfer, *The Fight to Save the Redwoods: A History of Environmental Reform, 1917-1978* (Madison, WI: University of Wisconsin Press, 1983) 19).

## **Chapter 3: The War Begins, 1968 - 1985**

This chapter, like Chapter 2, analyzes the development of the three main institutions involved in the redwood wars and the battle over Headwaters Forest: The Board of Forestry, the redwood preservation activists, and The Pacific Lumber Company. During the 1970s and early 1980s, tensions among the three institutions escalated, and the actions of each forced the others to adjust their goals and strategies. Citizen groups attacked the Board of Forestry's priorities, and although the courts destroyed official corporatism, the Board's corporatist traditions did not disappear. The Board continued to pursue development-focused policies, and resisted attempts to reign in its traditional independence and the independence of the Northcoast timber industry. During the 1970s, a new breed of activist emerged on the Northcoast with a set of tools different from those used earlier by the Save the Redwoods League. The new activists were experienced movement organizers who created new redwood preservation organizations on the Northcoast that used litigation, direct action, civil disobedience, and public relations to attack corporatism and industrial development-focused forestry. Meanwhile, The Pacific Lumber Company leaped headlong into the world of corporate conglomerates. Contrary to popular belief, the company did not suddenly enter the world of industrial logging in 1986 when Charles Hurwitz purchased Pacific Lumber. Pacific Lumber was always a sophisticated, shareholder-focused company, and in 1970, it accelerated and expanded its range of business activities. By the time of the Hurwitz takeover, Pacific Lumber was a full-fledged conglomerate already having abandoned its strategy of holding on to ancient trees as long as possible and had reintroduced clear cuts into its logging regime.

The Redwood wars began in earnest during the early 1980s, after redwood politics grew from skirmishes about park purchases into fights over the overall management of private timber land. The key developments that led to the widened redwood wars of the mid-1980s and 1990s -- especially the Headwaters Forest conflict -- were the development of litigation and civil disobedience campaigns by Northcoast activists; the changing patterns of the operations of Georgia-Pacific, Louisiana-Pacific, and Pacific Lumber; the migration of key activists to the Northcoast; and the interaction of those forces on the Mendocino-Humboldt Border during the late 1970s. Of particular importance were the citizen-driven transformations of redwood politics and The Pacific Lumber Company's energetic conglomeration and diversification.

As a result of the citizen campaigns, the focus of redwood politics shifted away from simple park purchases toward a more active and broader land management regime that opened doors for citizen engagement with state agencies. In response to the Board of Forestry's intransigence, some activists adopted direct action techniques to compliment the legal campaign, and in the process, they raised the stakes and volatility of the conflicts. Meanwhile, Pacific Lumber attenuated its ties to its patriarchal image, and opened itself up to the advances of Wall Street investors in ways that eventually led to the unsolicited Maxxam takeover of the company in 1985.

Those developments led directly to the Headwaters Forest conflict because they transformed California forestry regulation; provided the Headwaters activists with their most effective tool; steered Pacific Lumber into the world of mergers and acquisitions that placed the company in the crosshairs of corporate raiders; and delivered to the Northcoast a group of activists, reluctant as they often were, with leadership and

movement experience, as well as with staunchly rural, anti-corporate, conservation, and ecologic ideologies. For redwood activists, the development of the legal tools to attack the management of the redwood forests that remained in private hands was the single most important factor in their later success. It was a development that forced Pacific Lumber, the Board of Forestry, the California Assembly, Congress, the Executive Branch, the federal courts, national environmental groups, and the national media to accommodate the actions and demands of local Northcoast activists.

### **The Decline of Corporatism**

The first time Charles Hurwitz, CEO of Maxxam Group Holding, Inc., addressed his new employees at The Pacific Lumber Company in 1986, he replied to a question about his intentions by telling the crowd, “There’s a little story about the golden rule. Those who have the gold, rule.” That twist of the biblical Golden Rule about treating others as you’d like to be treated became shorthand for an oft-told morality tale in the popular press about a conflict between Wall Street and local environmentalists over the fate of Headwaters Forest. Hurwitz’s quotation also epitomized the history of California forestry regulation to that point. Until 1971, state law granted the timber industry the authority to regulate itself in order to maximize timber production. Starting in the late 1960s, however, citizens successfully leveraged the courts to challenge the state’s timber regime, with its focus on timber production. By the time Hurwitz orchestrated the takeover of The Pacific Lumber Company and uttered his infamous phrase in 1986, the California Board of Forestry – although still heavily influenced by the needs of the timber

industry – had endured two decades of legal assault on the state’s long-standing production-focused logging practices and institutions.<sup>69</sup>

Litigation was the local reformers’ most successful tool in the case of redwood politics. A small group of citizens leveraged the power of the courts and the legislature, while simultaneously garnering more power themselves. Their litigation efforts accomplished four things that advocacy, protests, and direct action alone could not accomplish. First, citizen suits forced the state to legislatively abandon the official corporatist and development-only focus of state forestry laws. Second, the cases forced the Board of Forestry to back away from its traditional alliance with the timber industry at crucial times. Third, the litigation permanently blocked proposed harvests of many old-growth redwood groves. And finally, the cases drove President Bill Clinton, Governor Pete Wilson, and Pacific Lumber to negotiate a settlement of the Headwaters Forest conflict. As scholars have pointed out, public demonstrations created the necessary political will to act at times during the establishment of the modern environmental protection regime, advocacy helped build the national and state laws, and national litigation pushed the implementation of the laws along. In California, however, the long corporatist tradition mitigated the usefulness of those tools because the Assembly had previously abrogated its legislative duties to the timber industry. As a

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<sup>69</sup> The quote can be found in numerous articles, including, Ellen Schultz, “A Raider’s Ruckus in the Redwoods,” *Fortune*, April 24, 1989, 72, and John Skow, “Redwoods: The Last Stand,” *Time*, Sunday, June 24, 2001 (accessed at <http://www.time.com/time/magazine/article/0,9171,1101940606-164513,00.html> on March 7, 2008). The best description of the incident at Scotia is by David Harris, *The Last Stand: The War Between Wall Street and Main Street over California’s Ancient Redwoods* (New York: Times Books, 1995).

result, citizens took their case to the courts to dismantle corporatism and production-focused timber regulation.<sup>70</sup>

The California forestry challenges deserve to be counted among the most important environmental law developments in the postwar United States because they transformed fundamentally transformed an entire system of governance. The environmental litigation of citizens at the federal level expanded, clarified, and enforced particular aspects of the modern federal environmental protection regime. For example, NEPA and other laws expanded the responsibilities of federal agencies to non-market landscape values such as endangered species habitat, and it empowered citizens to participate in agency decisions and act as private Attorneys General. More than that, citizens turned to the courts using NEPA and other legal tools to force agencies to better consider public and ecological health, and to comply with the new environmental laws. In the case of the Forest Service, local citizen groups sued the agency during the early 1970s and drove Congress to pass sweeping legislation that overhauled the agency's mission and oversight. However, I argue that as dramatic as the changes in environmental regulation and oversight were at the federal level, the fundamental structure of governance that was handed down from the Gilded Age and the New Deal remained unchanged. The U.S. regulatory system maintained its command-and-control structure. The Forest Service still maintained a client-agency relationship with the timber

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<sup>70</sup> Some good analyses of general postwar citizen group legal history are Hays, *Beauty, Health, and Permanence*, Chapter 14, Lazarus, *The Making of Environmental Policy*, Salzman, *Environmental Law and Policy*, Joseph L. Sax, *Defending the Environment: A Strategy for Citizen Action*, (New York: Alfred A. Knopf, Inc., 1971), David B. Sicilia, "The Corporation Under Siege: Social Movements, Regulation, Public Relations, and Tort Law since the Second World War," in Kenneth Lipartito and David B. Sicilia, *Constructing Corporate America: History, Politics, Culture* (Oxford: Oxford University Press, 2004), and Richard B. Stewart, "A New Generation of Environmental Regulation?," *Capital University Law Review* (2001), 21-182.

industry. The litigation campaign orchestrated by Northcoast activists was different because it dealt with state law and private land, it was designed to gut a governance structure and philosophy -- corporatism, and it was set up to destroy the vestigial remains of the corporatist tradition.<sup>71</sup>

The federal cases are important because they clarified legislative mandates and forced agency action to fulfill new legal obligations, but they did not re-order institutions in the same way as the Northcoast activists' efforts in California. The litigation involving the implementation of the Clean Air and Clean Water Acts, the Endangered Species Act, and the National Forest Management Act are prominent in the literature. Those cases helped define the scope and intent of the modern environmental protection regime. The literature is rich with analysis of those cases and their effects. This chapter focuses on the eight most important cases in the movement to transform California forestry governance. Because the movement set its sights on the fundamental transformation of institutions, on increased regulation of private property, and on giant redwoods, it led to, and was part of, one of the most important environmental battles of the late twentieth century.

## **The First Litigation and the Deconstruction of Official Corporatism**

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<sup>71</sup> The most well known environmental cases include *Scenic Hudson Preservation Conference v. Federal Power Commission* (1972) because it was the first time an environmental group was granted legal standing. Subsequently, *Sierra Club v. Morton* (1972) changed the traditional injury-in-fact standing requirements to allow citizens to use the citizen suit provisions of the federal environmental laws if they could demonstrate they had suffered recreational or aesthetic injuries. Previously, standing was granted only if the plaintiffs could demonstrate specific economic or personal harm to themselves. The literature also prioritizes the cases that clarified the 1970s environmental laws. *Tennessee Valley Authority v. Hill* (1978) clarified that the Endangered Species Act was to be implemented without consideration of the economic impact of protecting species. Likewise, *Lead Industries Association v. EPA* (1980) established the principle that the EPA must *only* base air quality standards on health considerations, not on economic or technical considerations (*Scenic Hudson Preservation Conference v. Federal Power Commission* (407 U.S. 926, 10), *Sierra Club v. Morton* (405 U.S. 727, 25, 73), *Tennessee Valley Authority v. Hill* (437 U.S. 153, 261), *Lead Industries Association v. EPA* (647 F.2d 1130, 81).

The inability or unwillingness of the postwar Board of Forestry to accommodate the public's desire to consider the non-economic value of the forest led directly to citizen actions that repealed the 1945 Forest Practice Act and the Board it authorized. In 1969, Bayside Timber Company obtained a logging permit from the Board for land in San Mateo County near a residential neighborhood. Down-slope residents in the Skylonda neighborhood objected to this logging plan because of projected erosion and watershed damage, fire hazards, traffic congestion, and the destruction of the neighborhood's scenic beauty. The residents organized themselves into the Skylonda-Skywood Citizens Committee and successfully pressured the County Board of Supervisors to reject Bayside's road-building permit. Bayside Timber argued that the state law pre-empted the county's authority and sued the county. With the aid of the Sierra Club, the county prevailed in 1971, when the First District Court of Appeals in California ruled in favor of the county's right to block the logging. The Court declared that the 1945 Forest Practice Act unconstitutionally delegated legislative authority to "persons pecuniarily interested in the timber industry."<sup>72</sup>

The Court identified two main problems with the 1945 Act, despite recent its amendments. First, the act authorized the governor to appoint a five-person Board comprised of three representatives of the timber industry, one from the grazing industry, and one from the general public. Second, all forest practice rules were to be approved by two-thirds of the timber owners in any forest district before finalized by the Board. The two sets of requirements established a system whereby the industry self-regulated and

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<sup>72</sup> "landmark Decision by Council," *The San Mateo Times*, July 23, 1969, Section II, page 25. *Bayside Timber v. Board of Supervisors*, California 1<sup>st</sup> Appellate District, Division One, 1971. (20 Cal.App.3d 1, 7).

had the additional power to legislate its own financial interests. While the *Bayside* case was working its way to appeal in 1970, the legislature attempted to fix the self-regulation problem by increasing the Board to seven members. The additional two members were to be public members with “an interest in and knowledge of the environment.” The Court noted that the additional Board members did not change the fact that two-thirds of a district’s private timber owners had to approve all forest practice rules, and so the court declared the 1945 act unconstitutional. Northcoast timber operators were “stunned” and prepared themselves for, according to reporter Dan Walters, a “bitter legal and legislative fight over who should manage the state’s timber resources.”

As the first successful attack on the Board’s independence and the dominance of development-focused corporatism, the *Bayside* decision marks the beginning of citizen actions to overhaul California’s forestry regime. Previously, the Sierra Club and the Save-the-Redwoods League had focused largely on removing ancient redwoods from timber production via park creation. *Bayside* opened the door for the state to manage timber operations more tightly in order to protect a more expansive definition of public interest in the state’s forests.<sup>73</sup>

Like NEPA’s passages establishing federal environmental policy procedures, passage of the Forest Practice Act in 1973 marked a sea change in private land use law in California. This was because the law was designed to shift the state’s policy away from

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<sup>73</sup> Sec. 4572 of the 1945 FPA, as amended in 1970. Quoted on 9 in, 20 Cal.App.3d 1. Dan Walters, “Timbermen Stunned as Forestry Act Declared Void,” *The Times Standard*, September 21, 1971, page 1. 20 Cal.App.3d 1, 9. Sharon Duggan, “Citizen Enforcement of California’s Private Land Forest Practice Regulations,” *Journal of Environmental Law & Litigation*, Spring 1994 (8 JENVLL 291). Duggan rightly argues that *Arcata* provided motivation for citizens to watchdog the timber harvest plan review process (page 4). However, *Bayside* marks the beginning of the citizen watchdog era because citizens and citizen groups pressured the County Board of Supervisors to reject a harvest plan and argue the unconstitutionality of the 1945 FPA on appeal.

development-first corporatism and toward resource conservation and public oversight. The 1972 and 1973 legislative session took up the issue of forestry regulation in what one reporter called a “basic philosophic tug-of-war.” The question, as the reporter saw it, was “whether the public interest in California’s 8 million acres of privately owned timberland takes precedent over private property rights.” In early 1973, the state Senate unanimously approved a bill offered by Republican John A. Nejedly that he claimed “[went] as far as we can go in regulation of private property.” The Assembly reviewed a different bill offered by Democrat Edwin L. Z’berg that required timber operators to put up a performance bond before beginning any logging operation, in addition to the increased citizen and agency oversight measures included in the Nejedly bill.

Environmental groups such as the Sierra Club and the Planning and Conservation League negotiated with the legislature and the industry throughout the spring to develop a compromise bill both houses would approve. However, in July, the Planning and Conservation League withdrew its support from the compromise bill because the group opposed the removal of the requirement that subjected timber harvest plans to public hearings, the exclusion of environmental impact reports for harvest plans, and the removal of the performance bond.

Despite the Planning League’s opposition, the bill passed with the support of the Reagan Administration, the timber industry, and the Club. In part, the bill succeeded because Nejedly argued that the California Environmental Quality Act of 1970 required Environmental Impact Reports for development projects and so to include the requirement in the Forest Practice Act would be redundant. Though the new law marked a dramatic transformation of California timber regulation, environmental groups, the

Board, and the industry would battle repeatedly over the relationship between the Forest Practice Act and the California Environmental Quality Act for the next twenty years.<sup>74</sup>

The new law reflected the more powerful status of scientists and environmental groups in postwar environmental politics, and was based on the Assembly-ordered 1972 University of California at Davis Report's recommendation of a system of "resource conservation standards to protect watersheds and ecological values." The law charged the Board and the Division of Forestry it oversaw with creating forest practice rules to end the depletion of timber resources, thereby "giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment." The law also required timber companies to submit Timber Harvest Plans before any new cutting, and to allow the Department of Fish and Game and the Water Quality Control Boards to comment on the plans.

The most important sections of the new law for citizen groups provided greater citizen oversight of the Timber Harvest Plan process. The new legislation mandated public review of Timber Harvest Plans before final approval, while another section allowed citizens to challenge Forestry and Board decisions in court (following the model of the NEPA and the federal Clean Air and Water Act amendments of 1970 and 1972, respectively). The citizen suit provision specifically allowed citizens to sue Forestry and the Board to obtain judicial review of administrative decisions. Additionally, the state

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<sup>74</sup> Staff Writer, "Ecologists and Timbermen Gird for Legislative Tug-of-War," *Los Angeles Times*, January 15, 1973, pg. 3; William Endicott, "Senate OKs Stiff Rules on Logging," *Los Angeles Times*, March 1, 1973, A3; William Endicott, "Conservation Group Withdraws Support of Logging Control Bill," *Los Angeles Times*, July 20, 1973, A3; "An End to Logging Confusion," *Los Angeles Times*, September 14, 1973, B6.

Code of Civil Procedure granted citizens the right to challenge discretionary agency actions.

Environmental activists eagerly embraced these new tools and were able to aggressively use the citizen suit provisions because, unlike federal environmental cases, issues of standing regarding environmental group plaintiffs never became an issue in California. The courts had long recognized an exception to the specific economic injury/interest test for cases involving a “public right...to procure the enforcement of a public duty.” The new act also reconstituted the Board with five members from the public, three from the forest products industries, and one from the livestock industry, a move naively meant to break the timber industry’s grip on the Board. Out of this system, a legal and political battle arose over control of Board policies and California’s last unprotected ancient forests.<sup>75</sup>

## **The Resilience of De Facto Corporatism and of the Citizen Campaign**

The Board, like its federal counterparts, largely resisted its new responsibilities during the 1970s, and citizens continued to challenge the state’s corporatist tradition for logging regulation, just as citizen groups challenged federal agency actions under NEPA. In 1973, over the objections of the National Park Service, the Board ruled that clear

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<sup>75</sup> Institute of Ecology at the University of California at Davis, *Public Policy for California Forest Lands* (U.C. Davis, 1972), quoted in Duggan, *Guide to Forest Practice Act*, 2-3. See Princetl, *Transforming California*, 167-168 and Barbour, *Coast Redwood*, 188-189. For a detailed review of the sections of the 1973 FPA (CA Pub. Res. Code sec. 4511 et seq.) see Duggan, *Guide to Forest Practice Act*, 6-9 and 790-796. The citizen suit provision of the Forest Practice Act is contained within Public Resource Code section 4514.5. The ability to challenge discretionary actions is found in Code of Civil Procedure Sections 1085 and 1094.5. See Duggan, *Guide to Forest Practice Act*, 797-798 for a discussion of standing issues in California.

cutting in the Redwood Creek watershed did not harm Redwood National Park. It also approved an Arcata National Corporation harvest plan within the watershed. The Natural Resources Defense Council, in line with their federal efforts to clarify and enforce NEPA, sued the State Forester and Arcata National, arguing that the plan did not adequately consider environmental harm as required by the California Environmental Quality Act (CEQA, the state equivalent of NEPA), which required environmental impact studies prior to any state agency taking actions that could cause significant environmental impacts. The law also required state agencies to propose mitigations for environmental impacts. Arcata National argued that CEQA guidelines did not apply to the Timber Harvest Plans because plan approval was a ministerial duty of Forestry, not a discretionary action. Superior Court Judge Broddus ruled in 1975 that Timber Harvest Plans were a discretionary action and thus governed by CEQA, and further ruled that the content of the contested harvest plans failed to fulfill the Environmental Impact Report requirement of CEQA. Development-focused corporatism was hit with a second major blow when Arcata National unsuccessfully tested the industry and the Board's autonomy in a 1976 appeal of Judge Broddus' ruling.<sup>76</sup> The *Arcata* case and the surrounding controversy led to the expansion of Redwood National Park in 1978 to include Redwood Creek within the park's protected boundaries.<sup>77</sup>

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<sup>76</sup> *National Resources Defense Council v. Arcata National Corporation and Lewis A. Moran, State Forester*, Court of Appeals of California, First Appellate District, Division Two, July 8, 1976 (59 Cal.App.3d 945). 58 Ops.Cal.Atty.Gen 250 (1975). See Susan R. Schrepfer, *The Fight to Save the Redwoods: A History of Environmental Reform, 1917-197* (Madison: University of Wisconsin Press, 1983), 194 and 197 for a discussion of the Board's refusal to heed National Park Service orders to enforce the CA Forest Practice Act and stop logging in the watershed. The California Environmental Quality Act is California Public Resources Code (CA PRC) section 21000-21006, 21050, 21060-21072, 21080-21098, 21100-21108, 21150-21154, 21156-21159.9, 21160-21162, 21165-21177.

<sup>77</sup> *National Resources Defense Council v. Arcata National Corporation and Lewis A. Moran, State Forester*, Court of Appeals of California, First Appellate District, Division Two, July 8, 1976 (59

The Board's continued resistance to its duties to CEQA and the non-market mandates of the Forest Practice Act encouraged citizens to continue their legal challenges to corporatism. In 1978, Sonoma County residents Francine Gallegos and Louise Patterson, along with the Camp Meeker Improvement Association, obtained a writ of mandate to negate the Board's approval of a Chenoweth Lumber Company harvest plan, one that the Department of Health concluded would "threat[en]...the quantity and quality of water in the Camp Meeker area." In a sequence of events that became a pattern through the 1980s, Forestry rejected the Chenoweth harvest plan based on the Department of Health's concerns, but Chenoweth appealed to the Board, the Board overturned Forestry's dismissal, and citizens sued.

Gallegos *et al.* successfully argued that the *Arcata* ruling did not capture all of the ways CEQA applied to timber plans. Specifically, the plaintiffs charged the Board with failure to comply with CEQA requirements because the Board had not based its decision on "substantial evidence" and had not responded to public comments regarding the Chenoweth harvest plan. The appeals court agreed with Gallegos *et al.* and the *Arcata* court that harvest plans had to fulfill CEQA requirements for Environmental Impact Statements. The Gallegos court went even farther and demanded that the Board and Forestry respond *in writing* to public comments regarding significant environmental impacts of a harvest plan, and that the response needed to explain Forestry's decision in a "reasoned" manner based on "substantial evidence." Even though official corporatist rule

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Cal.App.3d 945). 58 Ops.Cal.Atty.Gen 250 (1975). See Schrapfer, *Fight to Save Redwoods*, 194 and 197 for a discussion of the Board's refusal to heed National Park Service orders to enforce the CA Forest Practice Act and stop logging in the watershed. The California Environmental Quality Act is California Public Resources Code (CA PRC) section 21000-21006, 21050, 21060-21072, 21080-21098, 21100-21108, 21150-21154, 21156-21159.9, 21160-21162, 21165-21177.

had ended, the industry would continue to appeal to the corporatist-leaning Board when bureaucrats threatened to block logging plans. The Board rebuked the industry's appeals only after repeated defeats in court during the 1980s and 1990s demonstrated that the *Gallegos* ruling had to be heeded.<sup>78</sup>

Together, the *Gallegos* and *Arcata* decisions provided the foundation for nearly all subsequent local citizen challenges of harvest plans. The two rulings required that harvest plans fully comply with CEQA, including: the requirements that other relevant agencies be consulted, that feasible alternatives and mitigation be implemented, that the agency make the harvest plans available to the public, and that the agency respond to public comments in a reasoned manner. Forestry, the Board, and the timber industry resisted these mandates, but EPIC and other groups sued to force compliance with the laws and court precedents. It was through these legal channels that local citizens chipped away at the Board's corporatist orientation, and forced it to step away from its traditional alliance with the timber industry several times during the late 1980s and 1990s, most notably when it came to The Pacific Lumber Company and the battle over Headwaters Forest. Pacific Lumber occupied the center of the conflict because it owned Headwaters Forest, because the logging strategy it developed during the early 1980s placed the ancient trees under threat of harvest, and because the company placed itself in the sights of corporate raiders who elevated the collective anxiety of Northcoast activists.<sup>79</sup>

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<sup>78</sup> Barbour, *Coast Redwood*, 189-190. A writ of mandate compels a public agency to correct prior actions not consistent with the law. *Gallegos v. California State Board of Forestry*, California Court of Appeals, First District, Division 4, January 19, 1978 (76 Cal.App.3d 945).

<sup>79</sup> In addition to the published court opinions and regulations, Sharon Duggan offers a detailed analysis of codes, laws, and rulings of the 1970s regarding CEQA, the Timberland Productivity Act, and the FPA. The article also provides analysis of a few of the subsequent rulings related to defining the laws regulating timber harvesting in CA that this paper does not cover. See Sharon Duggan, *Citizen Enforcement of*

## Modernity Embraced

Long before Charles Hurwitz set his sights on The Pacific Lumber Company, the company had set its sights on other firms to diversify its assets and shield itself from business cycles and new social pressures. Throughout the postwar era, the media emphasized the company's differences with other corporations—especially its differences with Maxxam Inc. -- but a closer look reveals strong ties to twentieth century trends of conglomerate development, especially after 1970. At the same time, the history of Pacific Lumber and its acquisition by Maxxam is not the story of an inefficiently run company saved by a financier who tightened the reins on management and trimmed the fat like the so-called necessary takeovers described by Harvey H. Segal in *Corporate Makeover*.<sup>80</sup>

The 1980s and 1990s environmental challenge to Pacific Lumber generated the most lasting images in the popular literature, coverage that unfortunately shaped the postwar narrative of Pacific Lumber. For at least fifteen years, the environmental challenge to Pacific Lumber included litigation; direct action such as tree sitting (the most well known example is that of Julia Butterfly Hill during 1998 and 1999), suspending banners across highways (including the Golden Gate Bridge which Woody Harrelson participated in), and trespassing; and legislative advocacy. The conflict was thought to be resolved in 1996, when the Clinton Administration brokered a deal between

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*California's Private Land Forest Practice Regulations*, Journal of Environmental Law & Litigation, Spring, 1994 (8 J. Env'tl. L. & Litig. 291).

<sup>80</sup> Harvey H. Segal, *Corporate Makeover: The Reshaping of the American Economy*, (New York: Viking Penguin Inc. 1989).

Pacific Lumber, Congress, the Administration, and the state of California that allowed for the public purchase of 7700 acres of the 60,000 acre Headwaters Forest and placed the rest of Pacific Lumber's 200,000 acres under the management of a Habitat Conservation Plan. It was largely out of the news coverage of the conflict over Headwaters Forest that the standard narrative of Pacific Lumber was born.

The popular narrative revolves around the takeover as the key historical event in Pacific Lumber's development, and while too narrow in scope, it does highlight the one consistent thread running through the company's history. Throughout the twentieth century, Pacific Lumber attempted to simultaneously modernize and maintain its small town image. Unfortunately, Pacific Lumber's history is almost exclusively discussed with respect to the pre-1985 and post-1985 company as the only two relevant historical configurations. The standard pre-1985 history focuses on the idiosyncratic and anachronistic qualities like the persistence of the company town of Scotia, the land donations and sales made to state and national parks, the college scholarship fund, and the family-run nature of the business. The standard post-1985 narrative is about a company forced into the conglomerate web of a distant financier looking to sell off assets and make a quick buck from unsuspecting and poorly managed companies, and who subsequently steered Pacific Lumber toward an unsustainable business model sure to doom the workers, the shareholders, the redwoods, and the salmon. While much of this narrative rings true, it does not tell the whole story of the company. Pacific Lumber was, as demonstrated in Chapter 2, almost from the beginning, part family-run business that included some unrelated business units. During the 1970s, the company developed into a

conglomerate, and so while the company changed dramatically after the takeover, it was not at all unrecognizable from its previous configurations.<sup>81</sup>

In addition to challenging the popular narrative of the pre- and post-Maxxam Pacific Lumber Company, the history of Pacific Lumber's entrée into the modern conglomerate world challenges the most prominent framework for analyzing the postwar timber industry. In their history of Weyerhaeuser, Ralph W. Hidy, Frank Ernest Hill, and Allan Nevins asserted that technological advances, scientific management, and conservation through waste reduction and tree farming were the primary trends of the twentieth century timber industry. Pacific Lumber's history supports their contentions, but also sets the company apart from the likes of Weyerhaeuser, which focused their expansion efforts on increasing market share through expanded production and through related diversification efforts (i.e. adding paper products to the timber product lines). Pacific Lumber improved its market share by slowly cutting its prime asset—1000 year-old redwoods, and by holding on longest in a war of attrition, gained a monopoly position.. While Weyerhaeuser and others got into the paper business during the postwar era, Pacific Lumber behaved like a conglomerate, adding cutting and welding operations, a hotel, and a Central California tomato and rice farm.<sup>82</sup>

## **Conglomeration as Protectionism and Conservative Fiscalism**

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<sup>81</sup> This popular narrative is so strong that Representatives Pete Stark and George Brown of California published an Opinion Editorial in the *New York Times* describing Pacific Lumber Company as a “model corporate citizen” pre-takeover. George Brown and Pete Stark, “The Last Stand”, *The New York Times*, December, 1, 1995 editorial desk, sec. A, pg 33.

<sup>82</sup> Ralph W. Hidy, Frank Ernest Hill, and Allan Nevins, *Timber and Men: The Weyerhaeuser Story* (New York: The MacMillan Company, 1963). Michael V. Namorato, “Lumber and Wood Products, 24.0,” Chapter 6 in David O. Whitten and Bessie E. Whitten, eds *Manufacturing: A Historiographical and Bibliographical Guide*, (Westport, CT: Greenwood Press, 2000), 117-131; Zaremba, *Economics of American Lumber*, 2-3; and Ellefson U.S. *Wood-based Industry*, 359 also identifies transportation, automation, and conservation as the three major timber industry trends during twentieth century.

Beginning in 1970, Pacific Lumber dove headfirst into that era's conglomeration wave more aggressively than most timber companies and contrary to what casual observers might expect from a timber company with a small town image. In effect, the firm reinvented itself as a holding company by 1980. Its diversification plan was initiated in 1970 with the acquisition of the Victor Equipment Company, the nation's leading cutting and welding producer. In 1976, Pacific Lumber purchased 3400 acres of tomato, rice, and wheat farmland in the Sacramento Valley. The goal of the diversification was to insulate the company from the housing market cycles by adding assets that were thought of as cycle-free, and to protect itself from the pressure of new environmental values and politics. Another major part of the transformation into a conglomerate was the company's change in ownership and management. In 1975, the company was listed on the New York Stock Exchange, and no group, including the Murphy family, had more than a 5 percent interest. Additionally, Stanwood A. Murphy died in 1972 as the last Murphy to hold the title of President. During the rest of the twentieth century, the company was managed largely by men with finance and accounting backgrounds who kept their eyes on metrics and numbers more than on operations. John Campbell, a new employee during the 1970s, became a central figure in the company in part because he bridged the worlds of finance and manufacturing.<sup>83</sup>

Those initial forays into conglomeration were only the beginning of the transformation of Pacific Lumber. Between 1977 and 1983, the company acquired a firm

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<sup>83</sup> John Campbell, interview with author, Fortuna, CA, 24 April 2008 (tapes and notes in possession of author). The Pacific Lumber Company Annual Report, 1981, Washington, DC, The Library of Congress, Adams Building, Business and Science Reading Room, Historical Annual Reports, page 2; The Pacific Lumber Company Annual Report, 1982, 5; Stanwood A. Murphy Obituary, *The New York Times*, August 10, 1972, page 38; The Pacific Lumber Company Annual Report, 1976, page 1; The Pacific Lumber Company Annual Report, 1976, 10; The Pacific Lumber Company Annual Report, 1980, 6; and the 1980 Annual Report, 18.

that produced plasma metal cutting equipment; an automated arc welding company; a Swedish arc welding power supply manufacturer; a Massachusetts air-fueled gas torch manufacturer; a manufacturer of alloy welding rods; a 140- room hotel in San Francisco; and a Kansas manufacturer of electric welding tools. Subsequently, Pacific Lumber created Palco Industries, Inc., to house all of the cutting and welding operations, and in 1980, the company created Palco International Corporation to market the cutting and welding products on the international market. With its purchase of shares of additional companies (including Amalia Lumber Company and Photon Sources, Inc.), and Pacific Lumber's transformation from a timber company into a holding company that bought and sold assets to maximize returns on shareholder investments was complete. By 1981, 75 percent of Pacific Lumber's sales came from non-timber products. Two years later, Vice President Garner underscored the new strategy by deeming the firm a "net investor" to the *New York Times*.<sup>84</sup>

Despite this aggressive conglomeration, Pacific Lumber still behaved in ways atypical of postwar timber companies and of conglomerates and holding companies. While the lumber production of its peers fluctuated dramatically with demand during the 1970s and early 1980s, Pacific Lumber maintained relatively steady production. From 1974 to 1985, production levels for West Coast redwood and Douglass fir timber operators Louisiana-Pacific, Georgia-Pacific, and Simpson fluctuated on average by 18.68 percent, 20.66 percent, and 10.67 percent per year, respectively. Some years, production for LP and GP fluctuated by as much as 49%. During those same years,

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<sup>84</sup>Pacific Lumber Company Annual Report, 1977, page 3; Pacific Lumber Company Annual Report, 1978, page 3; Pacific Lumber Annual Report, 1979, page 3; Pacific Lumber Company Annual Report, 1980, page 2-3; Pacific Lumber Company Annual Report, 1981, pages 2,3, 14; "Briefs: Debt Issues," *The New York Times*, June 16, 1983, Sec. D, Page 8, Col. 4.

Pacific Lumber's production fluctuated on average only 8.68 percent, with a maximum change of 16.81 percent. Simpson's highest yearly change was 22.27 percent, by comparison. The stated reason for the relative Pacific Lumber stability was the company's commitment to harvesting on a "continuous yield" or "perpetual basis." The company's emphasis on continuous yield operations was in part driven by the company's self-proclaimed "unique" redwood production strategy. Rather than operate under the typical business model that involved stimulating demand, expanding operations to increase market share, and increasing profit margins via economies of scale, Pacific Lumber focused on improving margins by utilization of the entire log and improving its position in the market over time by holding onto old growth trees while others cut them rapidly and planted tree farms of young trees. Indeed, the strategy appears unique to the Northcoast because trade journals repeatedly published articles about the company's improvements in technology, and John Campbell repeatedly discussed the need for Pacific Lumber to better match industry operations in order to maximize profits.<sup>85</sup>

Pacific Lumber's acquisitions strategy also set it apart from other timber companies and other conglomerates during the late 1970s and early 1980s. The company seems to have never bought companies in order to sell off assets and use the remnant corporate entity for new business activities. In fact, Pacific Lumber began selling some of its acquisitions in order to refocus its energies on Scotia timber and on its cutting and welding manufacturing division. Accordingly, it sold Victor's retail welding supply

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<sup>85</sup> Pacific Lumber Company Annual Report, 1980, page 4-16 and Campbell interview. Campbell relied on the argument that young growth trees grow more each year than old growth, and so a young forest produced more new board feet per year. In 1988, Campbell told the *New York Times* that increased harvest levels were the industry norm and that clearcuts are a responsible form of logging (Robert Lindsey, "Ancient Redwoods Fall to a Wall Street Takeover," *The New York Times*, March 3, 1988, Sec A, page 16, Col. 1). In 1990, he told the *Sydney Morning Herald* that Pacific Lumber's job in the Timber Production Zone was to intensify management and grow more board feet (Wanda Jamrozik, "Black Future for Redwoods," *Sydney Morning Herald*, November 11, 1990, pg. 79

business, its power fluid business (Stoody Company), and its 70 percent stake in Amalia Timber (NM). When the company put the timber and cutting and welding workers on a four-day work week to avoid layoffs during the 1981-1982 recession, it provided further evidence of its commitment to manufacturing and longevity. Finally, despite its acquisitions and capital investments, the company maintained low levels of long-term debt throughout the 1970s and 1980s.

Like the company's early century cooperation with Save-the-Redwoods League, this was likely a case of business pursuing its long-term self interest, not simply acts of goodwill. A long life in manufacturing requires long-term stability in supply, demand, and output. A focus on continuous yield timber harvesting and slowly cutting old growth provided the company with a longer inventory horizon than most timber companies. The company's sales and donations of groves of ancient trees increased profit margins thanks to the lower cost of land sales versus the cost of felling and milling old trees. Conservationism and land sales and donations also helped prevent pitched battles with environmentalists. The company also could expect to benefit from rising prices as old growth redwood inventories declined nationally, while theirs remained steady. Additionally, the cutting and welding division provided the company with some insulation from business cycles due to the steady demand for industrial tools. When housing starts fell, the company relied on cutting and welding sales to weather the storm. Finally, the college scholarships, free life insurance policies, and an aversion to layoffs meant Pacific Lumber, just as most U.S. businesses had in the 1920s, could resist union efforts better than most modern companies focused on shorter term margins.<sup>86</sup>

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<sup>86</sup> The company's annual reports are very clear about their redwood strategy, divestiture efforts, and labor strategy. See 1976 report page 3; 1978 report page 3; 1979 report page 4; 1980 report pages 3,4, and 6;

Another reason the pre-Maxxam takeover Pacific Lumber Company should not be considered strongly committed to worker and environmental justice is the company's far-from flawless record with sustainable yield harvesting. The company's 1980 Annual Report promoted the Pacific Lumber's long-standing commitment to its self-defined 120 million board feet per year sustainable harvest. However, the company averaged 134 million board feet per year from 1974 to 1985, hitting the 120 million board feet level only twice in those seventeen years. And in September 1985, before the Hurwitz takeover, John Campbell, Pacific Lumber's Executive Vice President of Forest Products, and Bob Stephens, head of the forestry department at the company, proposed a new yearly standard of 170 million board feet. The two executives believed the 1956 timber cruise – an aerial survey -- underestimated the company's timber inventory. The company had also acquired additional acreage during the 1980s and 1990s, though the condition of the new land is unclear in the record. Some of Campbell's subsequent statements, however, possibly point toward a different motivation—keeping up with industry trends and standard practices, which did not include sustainable yield harvests.<sup>87</sup>

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1981 report page 2; 1982 report page 2; and "Brief," *The Wall Street Journal*, February 20, 1985, Sec. 1, Page 16, Col. 3. The quotes about "continuous yield" and "perpetual basis" come from the 1980 and 1976 Pacific Lumber Company Annual Reports, pages 4 and 1, respectively.

<sup>87</sup> Pacific Lumber Company Annual Report, 1980, page 4; Harris, *The Last Stand*, 45-47. John Campbell, interview with author, 24 April 2008. Campbell told me that he had pushed for clearcuts during the early 1980s and for increased harvests because he believed that the 1956 timber harvest was inaccurate and because clearcutting was a better system for regeneration and to reduce inefficiency – especially the inefficiencies created by working around trees to leave standing and because of timber loss due to "blown down" of trees left standing that are unprotected from winter storms. After the takeover, two quotes from Campbell corroborate his interview statements that efficiency and not simply achieving sustainable harvest levels was foremost on his and Stephens' minds in 1985. In 1987, he told *Business Week* that increasing activity was healthy (James R. Norman, "A Takeover Artist Who's Turning Redwoods into Quick Cash," *Business Week*, February 2, 1987, 64). Campbell relied on the argument that young growth trees grow more each year than old growth, and so a young forest produced more new board feet per year. In 1988, Campbell told the *New York Times* that increased harvest levels were the industry norm and that clearcuts are a responsible form of logging (Robert Lindsey, "Ancient Redwoods Fall to a Wall Street Takeover," *The New York Times*, March 3, 1988, Sec A, page 16, Col. 1). In 1990, he told the *Sydney Morning Herald* that Pacific Lumber's job in the Timber Production Zone was to intensify management and grow more board feet (Wanda Jamrozik, "Black Future for Redwoods," *Sydney Morning Herald*, November 11,

The company's historical strategy of old-time paternalism, conservationism, cooperation with the League, mergers and acquisitions, capital investments, and fiscal conservatism left Pacific Lumber in sound financial shape in 1985. From 1980 to 1985, Pacific Lumber averaged \$179 million in net sales, \$24 million worth of long-term debt, an 18 percent profit margin, a 0.15 debt-to-assets ratio, and approximately \$1 dividend per share (Table 1). As a result, in 1983, the S&P gave Pacific Lumber an A+ rating. Harvey Segal argued that the late 1970s and early 1980s mergers and acquisitions wave was often beneficial to American corporate culture because the acquiring company would focus management on improving profit margins instead of increasing output and managerial purview. Pacific Lumber did not fit Segal's criteria. The company's managers actively shed divisions they did not think met long-term investment standards such as the Victor retail division and the power fluid business. With respect to profit margin, 1982 was the company's worst year since 1970, but the next two years marked record highs, and 1982 was the only year the company's net percentage was below 12 percent.<sup>88</sup>

Pacific Lumber straddled the worlds of the modern corporation and the nineteenth century feudal company throughout the twentieth century in ways that complicate the popular narrative about the pre- and post-Maxxam takeover Pacific Lumber. And its postwar history may help modify the framework for analyzing challenges to corporate prerogatives. Though the modern corporation seems more like a shell containing assets, investments, cogs, and widgets, the history of Pacific Lumber demonstrates the role that

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1990, pg. 79). These quotes also point to the wide distance between the timber industry and environmentalists. The industry was interested in maximizing output via big harvests and fast-growing trees. Environmentalists were concerned with managing the land for multiple purposes and multiple types of ecosystems.

<sup>88</sup> "corporate balance sheet scoreboard," business week, 8/1/83 pg 64.

tradition and culture play in the development of a business. Long-held values and oft-told narratives strongly influenced the decision-making process of management and the board. The Pacific Lumber board of directors rejected John Campbell's 1985 proposal to increase harvest levels by nearly 30 percent because of the traditional emphasis on restraint and not following industry trends. Without its early commitment to cooperation with the Save-the-Redwoods League, the company may have come under greater scrutiny by the state, given its position as the largest old growth redwood landholder in the world.

All of this gave the company a degree of freedom not enjoyed by all or most of its competitors. That, in turn, left Pacific Lumber freer to develop its paternalist programs and carry out its logging programs. Without its history of paternal benefits for employees, workers may not have sided with the company so strongly during the Headwaters Conflict. Its image allowed Pacific Lumber to bust union efforts and harvest above its self-defined sustainable levels without drawing public ire in the era before the Maxxam takeover. At the same time, the company's self-promotion as a small town company belied its truer existence as a diversified corporation early on and a multi-national conglomerate by the end of the 1970s.

The popular narrative of small town "model corporate citizen" turned evil corporate cog mostly benefited those frustrated by the Maxxam takeover—environmentalists, Congressional leaders, common shareholders, pensioners, the Murphy family, and critics of the 1980s raider culture. Vilifying Hurwitz and Maxxam made it easier for them to make the case that "old PL" was preferable to the new one. However, the old PL was a "net investor" with a management team looking for ways to increase returns. It is therefore likely that there would have been a showdown over Headwaters

Forest with or without Charles Hurwitz' actions. A new breed of activist had taken root on the Northcoast during the 1970s, one determined to change industrial logging practices dating back to the early 1970s. When Pacific Lumber dove headfirst into conglomeration and metrics-oriented operations, a migrant with a keen eye for efficient operations and margin maximizing helped shift the company's vision away from a focus on ancient forest retention toward a firm commitment to young growth lumbering. Given the circumstances, the new activists and the company were almost assuredly headed toward conflict.

### **The Migration of New Leaders to the Northcoast**

During the late 1960s and early 1970s, at least five key figures in the redwood wars migrated to the Northcoast and forever changed redwood politics. The migration of John Campbell, Robert Sutherland, Richard Geinger, Kathy Bailey, Dan Hamburg, and others to Mendocino and Humboldt Counties sparked dramatic changes in local politics, in the redwood timber industry, and in the local culture. Like the early century local activists, the new residents who became environmental activists were willing to make waves, and brought movement experience and a distinct ideology to the Northcoast that appealed to back-the-landers, young people, and many long time rural residents alike.

For his part, John Campbell, who immigrated from Australia to Humboldt County during this same period, delivered Pacific Lumber an entrepreneurial, erudite, and ambitious leader who, like the company itself, straddled two worlds: that of the worker and operator, and that of the modern corporation driven by metrics and massive data analysis. Throughout the 1970s and 1980s, Pacific Lumber and the Northcoast grew together; the Northcoast assimilated waves of urban/suburban refugees, and Pacific Lumber assimilated its own waves of acquisitions. The actions of the new residents placed the company and the activists on a collision course with what became known as Headwaters Forest situated between the two.

Many of the new residents of the Northcoast moved directly from the Bay Area to escape the crumbling counter culture scene and the increasingly volatile politics of the Vietnam War era. Four migrants from this period played especially important roles in the redwood wars and the battle over Headwaters Forest: Richard Geinger and Robert Sutherland in southern Humboldt County (though technically Geinger resided just over the border into Mendocino County, he worked out of Garberville in Humboldt), and Kathy Bailey and Dan Hamburg in Mendocino County. The stories of what drove each of them to the Northcoast help explain why each engaged redwood politics and why each became invaluable activists during the conflict over Headwaters Forest. Geinger and Sutherland helped create the Environmental Protection Information Center that would lead the litigation campaign during the Headwaters battle. Geinger was the lead activist during the first major battle of the redwood wars and, along with Sutherland and others, organized the rural southern Humboldt community against the logging practices of Louisiana-Pacific, Georgia-Pacific, Pacific Lumber and the Board of Forestry.

Sutherland, in particular, played a key role developing the early litigation strategy and encouraged the use of direct action. Bailey pushed and pulled the California chapter of the Sierra Club to fully engage in the conflict and was instrumental in leveraging the prestige and resources of the national group to aid the locals' cause. Bailey and Sutherland were also founding members of the group that put industrial logging practices and Headwaters Forest in front of California voters, and Bailey was instrumental in the operation of the Headwaters Forest Coordinating Committee. Dan Hamburg was elected to Congress in 1993 and helped to nationalize the conflict over Headwaters Forest. Even after leaving the House of Representatives, Hamburg influenced the conflict through his press work. Though Northcoast natives and subsequent migrants played prominent roles in the activist community, at least one of the four activists who were part of the earliest wave of migrants was involved in a leadership role in every phase of the battle over Headwaters Forest, save for the massive direct action campaign that dominated the media coverage of the conflict.

### **Richard Geinger: Developing Eyes on the Ground and in the Halls of State**

Richard Geinger is a natural activist, though he never intended to be one. Geinger grew up in New York an avid hiking and canoeing enthusiast. He received a Masters of the Arts in Architecture from the University of Pennsylvania, and lived in the Bay Area during several summers in the late 1960s. He moved to the Northcoast in 1971 with his wife Ilona "Noni" Chalfa, whom he met in Philadelphia, to work as an apprentice homebuilder with Whitethorn Construction, located due west of Garberville. The company went bankrupt, and Richard and Noni moved to the Lost Coast to homestead.

In 1973, the family moved into an electricity-free cabin off a foot trail near Whale Gulch barely back from the Pacific Coast near Shelter Cove. His involvement in redwood logging politics was a direct result of the location of his cabin, his desire to live a lifestyle more like the Native American residents of pre-colonial America, and his work in watershed restoration. The Wolf Creek Timber Company owned the land along the Lost Coast until Boise Cascade purchased the land during the early 1970s. Boise Cascade initiated a plan to harvest the coast from the Usal Basin up to the Mattole watershed. Before the company finished the planned harvests, it sold its holdings to Georgia-Pacific, which continued with its coastal clear cutting plan in 1977. Concerned about those logging plans, some local mountain residents, especially Geinger, organized dozens of people to petition the state Park Commission to create a park out of the G-P land along the coast. In part the activists were concerned about landscape preservation as an aesthetic and spiritual value. And as with Pacific Lumber, self interest played a prominent role. The homesteaders worked to prevent industrial forestry from encroaching on their countercultural refuge as a way to protect their culture and their homesteading livelihoods. In 1975, the state bought the Bar Harbor Ranch near Geinger's cabin and held hearings to discuss a potential Sinkyone Wilderness Park (named after the nearly extinct tribe of local Native Americans). Geinger took up the park cause with great fervor, and in 1979, he lamented "trying to lead three lives: homesteader, activist, and watershed restoration as a vocation." Geinger conducted stream surveys and used his design skills to repair watersheds with log jams and other architectural structures that mimicked the fallen logs and woody debris that clear cutting and subsequent winter rains removed from the Mattole and Eel River watersheds. It was

his persistent activism, however, that left the most enduring mark on the local redwood forest.<sup>89</sup>

### **Robert Sutherland: Strategic Innovation**

Robert Sutherland, like Geinger, wanted to live a more rural and peaceful lifestyle. Sutherland grew up in Cleveland, Ohio and Saint Louis, Missouri, the son of Nobel Laureate Earl W. Sutherland. Robert went to art school in Cleveland, then moved to New York City and tried to make it as a painter for ten years. Like his father, Sutherland was interested in science, especially birds, and it was his combined interest in birds and art that led him to California and eventually to the Northcoast. He worked at the Natural History Museum in New York and was the Conservation Chair of the Linnean Society of New York. Sutherland moved to San Francisco in 1966 after a visit during which he “noticed that his friends were looking healthier and happier” than when they had lived in New York. Upon his arrival in San Francisco, Sutherland organized a commune on Oak Street in the Haight-Asbury district, and subsequently got involved in the music and politics scene of the Haight. His organizing work there culminated in the 1968 Human Be-in in Golden Gate Park. Sutherland was never too removed from the politics of aesthetics and nature, however, especially during the Golden Gate Park National Recreation Area creation process. As Sutherland tells it, he “got burned out on LSD and trying to keep the scenes together in the Haight” after the community was invaded by speed. After he moved his office out of the Grateful Dead house at 710

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<sup>89</sup> Richard Geinger, interview with author, Redway, CA, 22 March 2007 (tapes and notes in possession of author); Richard Geinger, correspondence with author; Richard Geinger, interview with Greg King, The “The Econews Report”, KHSU radio, 1 March 2007 (audio file archived at <http://nec.streamguys.us/richardgeinger.mp3> . Accessed 12/11/2008).

Asbury because of the chaos, a friend asked Robert why he wasn't living in the woods somewhere to focus on art and a more peaceful existence.

Sutherland did move to the Northcoast, and along with Geinger, was an early organizer of the locals. He spent significant time in Humboldt during the early 1970s, but didn't move to the rural county full time until 1973. One of the first things he did there was begin referring to himself as The Man Who Walks in the Woods because he wanted to rid himself of traditional labels and give himself a name that described who he was and what he did. His engagement with local politics grew out of his hikes. While on a hike along the Mattole River, Sutherland, now Woods, spotted Western Timber Services workers rinsing out their helicopter pesticide spray tanks directly into the river. Woods was already concerned about the effects of aerial pesticide applications on local organic gardens, and the hiking incident introduced a new concern about local watersheds. According to Woods, he attempted to negotiate with the timber companies that used the helicopter service, but that failed, though the companies eventually did stop spraying to avoid bad press. The pesticide issue was typical of the local politics Woods valued most -- issues that affected his immediate neighbors. In 1977, the herbicide issue resurfaced, and this time, Woods, Geinger, and two other locals, Marylee Bytheriver and Ruthanne Cecil, created the Environmental Protection Information Center as an ad hoc group to respond to local environmental threats. The new group flourished for about six months, during which time they built a pesticide education program for residents, put together a lawsuit to stop the aerial use of phenoxy hormones and 245T, and worked with Oregon State University and the state of California to conduct pesticide tests in the area. After the pesticide campaign, EPIC laid dormant for two years.

Though his interests were always local, logging issues eventually dragged Woods into state politics. Like Geinger, he wanted the Sinkyone protected from logging and development for broader ecological and cultural issues as well as out of self interest. Because park creation and logging regulations involved state agencies, the local activists were forced to engage state politics to protect their neighborhood. In 1980, Geinger and Gregory O'Brian approached Woods to reorganize EPIC. Woods agreed, but only if he could incorporate EPIC as a permanent not-for-profit citizens' group with by-laws, tax exempt status, and a board of directors. Woods envisioned a "workers' cooperative, not a group for hoity-toity middle class people to tell locals what to do" about local environmental issues. He wanted the people who filed the paperwork and studied the proposed timber harvest plans to run EPIC, and he wanted it to be a place where everyone in the community could participate if they wanted to. The second incarnation of EPIC would indeed become a powerful tool for local activists, and would help shape redwood forestry practices and endangered species law, with the help of Earth First! and the Sierra Club.<sup>90</sup>

### **Kathy Bailey: Reluctant Activism and Neighborhood Issues**

Like Geiger and Woods, Kathy Bailey moved to the Northcoast during the spring of 1970 to get away from politics, but was rather quickly sucked back into its gravitational field. Kathy grew up in Minneapolis and was a scholarship student at the exclusive Northrop Collegiate School. From a young age, she was enamored with the western United States, and after several family car trips, decided to attend the University

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<sup>90</sup> Robert Sutherland, interview with author, Arcata, CA, 22 April 2008 (audio tapes and notes in possession of author).

of New Mexico. During the second semester of her freshman year, she became aware that the United States was conducting a war in Vietnam. Her reaction was immediate and visceral, and motivated her to join a “five-person SDS group [Students for a Democratic Society]” on campus. She organized a demonstration against the Boy Scouts, and was then invited to a leadership training program in Severe County, Tennessee, run by the Southern Conference Education Fund. The training involved organizing poor, rural whites during the election year. Instead of going back to New Mexico, she moved to New York City to pursue anti-war activism, then enrolled in Franconia College in New Hampshire to continue her studies and anti-war work.

Seemingly on a whim, she and her then husband moved to the Bay Area in 1968, and Bailey began work with Todd Gitlin’s paper, *The Dock of the Bay*. The paper folded very quickly after Gitlin’s near-nervous breakdown, however. She worked as an editor for *Ramparts* for a while, but after the bombing of the Chase Manhattan building, the raid of the Oakland Black Panthers, and the rise of the Weather Underground, Bailey was burned out and ready for a change in her life. So shaken by the movement’s violence and movement in-fighting, she reached the point where she “couldn’t leave the house not stoned.” Separated from her husband, Bailey left the Bay Area in 1969 and moved to New Orleans with a friend. During the spring of 1970, a Bay Area friend called and announced that she was going to buy land in Mendocino County and wanted Bailey’s help. Bailey agreed, and like Geinger and Woods, she moved to the Northcoast to live a simpler life.

Bailey stayed out of politics for a number of years, but in 1976 she received a call that shook her back into activist mode. When she first arrived in Mendocino County, she

struggled to get by. She worked at Clearwater Farms for sub-minimum wage pay and a box of surplus government food, and wrote for the *Anderson Valley Advocate*. In an effort to improve her finances, Bailey obtained a real estate license. She had a “few lucky moments” as a real estate agent, including a sale to the Navarre Vineyards. Bailey moved off the commune on Greenwood Ridge and bought some land of her own with the small windfall. She continued to sell land and to write for the *Advocate*. In 1976, Gail Lucas, a volunteer with the California chapter of the Sierra Club, pitched Bailey on a story about the use of Agent Orange by the timber companies after a clear cut. Kathy had a seven-month old boy, and as she told it, her motherly instincts took over and she worked to ban the use of Agent Orange in her community. Bailey organized a county ballot initiative, and in 1979, the county passed an ordinance that banned the aerial application of pesticides on timberland. While successful, her foray into local environmental politics was brief. She married a local lawyer, and they had a daughter together. When her daughter was school-aged, Bailey won a seat on the school board, and for six years she worked in that role to improve her daughter’s education. The redwood wars finally pulled her back into the fray, however, and neighborhood issues once again propelled her involvement.<sup>91</sup>

### **Dan Hamburg: Politics and Organizing**

Like Robert Sutherland and Kathy Bailey, Dan Hamburg grew up in the Midwest, fled the Bay Area during the Vietnam Era, and migrated to the Northcoast to be a part of a small, rural community. Hamburg was raised in a liberal Democrat household in St.

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<sup>91</sup> Kathy Bailey, interview by author, Philo, CA, 20 March 2007 (tape recordings and notes in possession of author).

Louis. His dad proudly wore his “hole in the shoe” button in support of Adlai Stevenson, and referred to General Eisenhower as “old bubble head.” His family demonstrated against Goldwater in 1964, and when Hamburg began college at Stanford, he dove headfirst into student politics. Hamburg joined a group of campus radicals and organized against the Vietnam War, including the April 3<sup>rd</sup> Movement of 1969 that included the occupation of the Applied Electronics Lab. Through his activism, Hamburg developed his political skills and forged a lifelong friendship and working relationship with California native Kate Anderton, who would later become his Chief of Staff while in Congress.

Heavily involved in radical politics, Hamburg only slowly developed into an environmental activist. His first recollection of concern for humanity’s impact on the planet was from his senior year at Stanford. While hiking up into the mountains above Palo Alto, he noticed how much more developed and polluted the city had become during the four years he lived in the area. After graduating in 1970, Hamburg moved to Ukiah, the county seat of Mendocino, as a part of the back to the land movement. He wasn’t sure what he wanted to do with his life after college, and some friends, including Anderton, had moved to Mendocino to establish the Mariposa School in Ukiah. So, in 1971, Hamburg purchased 38 acres of land and taught at the alternative Mariposa School that tried to connect kids to the natural world around them. That year, he met Carol “Carrie” Blood and her three children, and the couple married in 1974. Community politics was never far from the new family, however. In 1972, Hamburg and friends staged the first ever Ukiah anti-war demonstration in front of the courthouse. Hamburg unsuccessfully ran for the Ukiah City Council in 1975, but a friend on the council

appointed him to the County Planning Commission, where he worked to prevent so-called leap frog developments that extended beyond city infrastructure. In 1977, the Hamburg's worked with Kathy Bailey on the Agent Orange initiative. During the campaign Hamburg suddenly became aware of the vast forest "out there" in the hinterlands. In 1980, he was elected to the Mendocino Board of Supervisors, and his that experience as a board member pulled him into the forestry arena.

The Board of Supervisors exposed Hamburg to the influence the timber industry on local politics, and to the related increased level of timber harvests during the late 1970s and early 1980s. His lack of support for shopping mall and subdivision development put him at odds with the other Supervisors, but it was his lack of support of the timber industry that had the most dramatic impact on his political career. In early 1981, Hamburg and another Supervisor took their sons to the Weaverville, California, Congressional hearing on wilderness designation (the Roadless Area Review and Evaluation). Hamburg spoke out in favor of protecting roadless areas within the National Forests, and the assembled crowd was not pleased. According to Hamburg, his group left the hearing with their sons clutched tight and in fear of their lives. Nearly immediately, the Employers Council of Mendocino initiated a recall of Hamburg. The recall was unsuccessful, and Hamburg spent the next four years focused on timber and fishing issues related to the Northcoast, especially efforts to prevent the conversion of agricultural and timber production land into residential and commercial developments. In 1985, he left the Board so that he and Carrie could pursue other interests. They spent the better part of the next five years in China running a cultural immersion program for American tourists

who wanted to experience rural China. Like Kathy Bailey, Hamburg, would return to forestry issues on the Northcoast, however.<sup>92</sup>

The wave of early 1970s migrants to the Northcoast were political organizers and became environmental activists during the subsequent three decades. Unlike the professional activists commonly portrayed in the historical literature, the first wave of Northcoast migrant activists largely rejected middle-class values and middle-class work. They focused their activism on local social and environmental issues, yet wound up dramatically influencing the development of the modern environmental protection regime.<sup>93</sup>

### **John Campbell: Industrial Innovator**

John Campbell was an unlikely migrant to the Northcoast because he was a cosmopolitan and entrepreneurial adventurer. A native Australian, he grew up on a family farm in the Burratorang Valley with the expectation that he would become a “gentleman farmer,” as he put it. However, “the government, in its wisdom,” decided to build a dam downstream from the Campbell family farm, and their property was confiscated to make way for the project. The family subsequently moved to a beach town near Sydney. The memory of that event seems to have had a profound effect on John’s view of government. In 1964, after traveling around Europe upon graduation from North Sydney Technical College – a trip that apparently included the introduction of surfing to the Cornwall coast of England-- John moved to New York City to work for the

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<sup>92</sup> Dan Hamburg, interviews with author, Ukiah, CA, 1 May 2007 and 20 May 2008; Dan Hamburg correspondence with author (all tapes and notes in possession of author).

<sup>93</sup> As described in chapter 1, the nationalization and professionalization narrative is most prominently defined by Hays, *Beauty, Health, and Permanence*; Nash, *Wilderness and the American Mind*; Gottlieb, *Forcing the Spring*; among others.

Australian consulate. John and some friends decided to move out of the city after the murder of a friend, and they rented a car to drive across the continent. In 1965, while in Tahoe, California, John met Cynthia Carpenter. The two married in September 1966 and moved back to Sydney where John worked as a salesman during the day and owner/restaurateur of Sydney's first wine bar at night. Cynthia, however, wanted to move back to the States, and John, unsurprisingly given his adventurous nature, did not object, so the young couple moved to her hometown of Scotia, California.

John's marriage to Cynthia, and their subsequent move to Scotia, were the first steps in a life that would become synonymous with redwoods and the battle over Headwaters Forest. The Pacific Lumber Company became an obvious employment option because Cynthia's father was Edward Carpenter, an executive at Pacific Lumber, and later the company's CEO. John soon discovered that there were really only three industries in Humboldt at that time: fishing, logging, and dairy farming. John accepted a job with Pacific Lumber's sales department in Chicago. Before they moved there, however, the company required that John spend a year working in the lumber mill to learn the business. At the end of the year, the Superintendent of Production asked John to stay and work in manufacturing because he had a sharp mind and worked well with the loggers and mill hands.

It was John's eye for efficiency, combined with his ability to lead, that apparently led the Vice President of Sales, Edward Hoover, to agree to allow John to stay in Scotia to build a new mill in Fortuna that would manufacture lumber made from second growth redwood timber. John was also charged with developing a market for second-growth lumber, which had more knots and imperfections than old-growth redwood lumber.

Previously, Pacific Lumber exported young growth logs to Japan, Korea, and China. However, as more of the company's land was harvested, and because the company had purchased cutover land earlier in the postwar era, Pacific Lumber managers decided to mill its own second growth lumber rather than export an increasing percentage of their harvests. The new mill opened February 1972 with a brand new computer system to track inventory, but no market for its product, save for a local company that wanted to use second-growth redwood to build deck furniture and planters boxes.

John saw an opportunity to get in on a new market. As people moved to the Sun Belt and purchased second homes in warm climes, and as "outdoor living" grew in popularity, Campbell saw a new opportunity for redwood lumber, if only builders and carpenters trusted young growth redwood lumber. To improve his new mill's position, John lobbied the California Redwood Association and convinced them to create a series of product grades for second-growth lumber similar to the grading system for old growth. The new market took off, and by 1976, Campbell boasted that the mill netted \$1 million per month. In 1979, after Campbell and the two other managers of Fortuna had computerized the entire mill, Campbell was promoted to the position of Resident Manager of Scotia, a job that is part mayor of the company town and part supervisor of the logging and milling operations of the company.

Campbell shined as resident manager, and developed and implemented many of the operational changes that made Pacific Lumber an attractive target for Charles Hurwitz as well as an attractive target for environmental activists. He convinced the board to modernize the old growth mill in Scotia despite the economic downturn of 1980-81 and the related reduction of lumber demand, and he convinced the board to simultaneously

close the plywood plant due to the increased competition from particle board. Campbell believed he could increase profit margins by eliminating a product line that performed poorly while improving the production efficiency of a different product that would command high prices once the recession ended. His operating theory was that the timber industry would rebound and that Pacific Lumber needed to keep cutting and milling in order to be ready when the market turned upward again.

Another key part of the strategy was land acquisition. In 1981, John discovered that Louisiana-Pacific wanted to leave the Northcoast, and so he purchased 22,000 acres of their land along the Van Duzen, near Rockefeller Forest, as well as a tract outside of Rio Dell. Campbell purchased an additional 27,000 acres from various small holders in the area in order to eliminate inholdings in Pacific Lumber land. He also challenged the company's decades-old policy of selective cutting. At a time when the company was thinning out the second growth and taking out some residual old growth trees on its property, Campbell took the firm's directors there on a field trip. He pointed out the damage to young trees, caused when cats and bulldozers traveled through the area to cherry pick the residual old growth trees out of the sea of young trees. The company destroyed the future, Campbell opined, by selective harvesting because it crushed the really young trees growing alongside the residual ancient trees. What he wanted was a company that focused on new growth, not holding onto old growth.

He then took the board to see an area that had been clear cut during the first sixty years of existence. The trees were all of even age and size, and he recommended that he be allowed to go in and clear cut the area again because it would be clean and efficient. The board agreed, and in 1982, the company submitted its first clear cut plans to the

Board of Forestry for the first time in decades. In 1984, John was made Vice President of Forest Products. By 1985, when Hurwitz took over the company, Campbell had thirteen or fourteen clear cut plans in the Forestry system, and had established himself as the lumber leader of Pacific Lumber Company. But his company was not the first target of the redwood wars; Pacific Lumber only became a target after the takeover drama drew the eyes of Northcoast activists north after doing battle with Louisiana-Pacific and Georgia-Pacific in Mendocino County and along the southern Humboldt border.<sup>94</sup>

## **The Redwood Wars Begin: The Second Wave of Citizen Assaults**

The redwood wars began in earnest during the early 1980s, when environmentalists, the timber industry, and the Board of Forestry forged the patterns of behavior and organizational strategies they would employ throughout the Headwaters conflict. The Board of Forestry remained committed to its belief that the agency's job was to facilitate timber production, and resisted its new duties as defined by the Forest Practice Act, the California Endangered Species Act, the California Environmental Quality Act, and the court precedents that clarified and enforced those duties. The timber industry fought to maintain the autonomy to determine land management practices, and experimented with various legal arguments to hold off the rising tide of regulation. When the legal tactics failed, the industry negotiated with legislatures to minimize regulations; and when the

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<sup>94</sup>John Campbell, interview with author; Bruce Weber, "John Campbell, Logging Chief, Dies at 67," *The New York Times*, October 24, 2008, A29.

legislative efforts failed, the industry leaned on its old ally, the Board of Forestry, to approve timber harvest plans quickly in order to turn timber into lumber before the courts and the legislature could act.

For their part, environmental activists developed a comprehensive strategy that effectively thwarted the industry's and the Board's efforts to operate as they had for the nearly eighty years prior to the *Bayside* decision. The activists expanded and improved their legal campaign to stop specific harvest plans that threatened old growth groves and continued what they saw as the unsustainable practices of the industry. The activists worked with the legislature to create new parks and to alter forestry practices, although the various citizen groups did not always work toward the same end. Often, the Northcoast activists opposed the Sierra Club's positions on forestry and park bills. And when groves were threatened with logging, the activists, picking up where Laura Mahan left off, "occupied" the groves and laid their bodies in harm's way to physically prevent logging until a stay could be ordered by a local court.

The result of the various institutions' strategies followed a predictable pattern: industry would file a timber harvest plan, EPIC would challenge the plan, the company and the Board would demur, a temporary restraining order would be granted, that restraining would expire before the trial, the timber company would send loggers to the harvest area, activists would physically prevent loggers from cutting, law enforcement would arrest protesters, another restraining order would be granted, a long trial and subsequent appeals would deny the harvest plan, the company would file another harvest plan, and the cycle would repeat over various harvest plans until either the groves were purchased from the timber company or the company sold its land and mills to another

timber company and then left the Northcoast. This pattern was first established in Mendocino County with Georgia-Pacific, after which activists took the campaign to other companies on the Northcoast, most prominently, The Pacific Lumber Company. The redwood wars grew out of the repetition of that pattern many times over during the late 1970s through the end of the century.

## **Organized Localism and the Redwood Wars**

Although the Sierra Club was instrumental in the fights over Redwood National Park and in the 1976 amendments to the Forest Practice Act and continued to play a major role in California logging politics, the legal campaign to destroy the corporatist traditions of the Board was largely driven by a small group of Northcoast residents. The activists were committed to Pinchotian conservationism and ecological environmental values, and decidedly uninterested in state or national politics or citizen groups. This cadre included Humboldt and Mendocino residents Kathy Bailey, Sharon Duggan (a native Northcoast attorney working in the Bay Area), and other activists who established the Environmental Protection Information Center (EPIC).<sup>95</sup>

EPIC was the unquestioned leader of the litigation campaign that attacked California corporatism, and one of the earliest environmental groups on the Northcoast. The group originally was formed in 1977 in Southern Humboldt County (approximately 200 miles north of San Francisco along the coast) by residents Marylee Bytheriver, Ruthanne Cecil,

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<sup>95</sup> See Schrepfer, *Fight to Save Redwoods*, for a detailed account of the 1968 and 1978 efforts to create Redwood National Park, 129-228.

and Woods. In 1981, EPIC was formally incorporated by Woods with a broader set of goals:

1) preserve critical old growth forest remnants and the biological diversity they contain; 2) reduce the degradation of timberlands through improvement of forest practices (toward sustainability); 3) stabilize the local economy through sustainable production in healthy, diverse forests; 4) educate the citizenry regarding their public interest in the forests, its intrinsic value, and the avenues of influence available to them through state and federal agencies; and 5) channel information on environmental matters of all kind.<sup>96</sup>

The local organization from the small town of Garberville (population approximately 2000) quickly became a major player in logging regulation by aggressively using the citizen suit provisions of CEQA and the Forest Practice Act to challenge Board actions. In doing so, EPIC's paralleled the legal actions of national environmental groups that increasingly turned to the courts in response to the Reagan administrations decreased enforcement of environmental laws. Unlike the national efforts, however, EPIC's work was built on a local vision of responsive government and sustainable communities intended to produce timber, jobs, and wildlife habitat in perpetuity.

However, forestry operations were governed at the state level, endangered species law at the state and national levels, so the local activists were forced to engage litigation and politics outside their local region in order to effect local change, just as groups such as the Headwaters Alliance and the Oregon Natural Resources Council (ONRC) were forced to engage the federal courts and the Forest Service to protect local landscapes on federal land during the 1970s and 1980s. Unlike the Pacific Northwest movement, however, nearly all the national environmental groups chose not to engage in the

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<sup>96</sup> "Organizational History and Goals," Redway, CA, Environmental Protection Information Center, "EPIC Publications" Binder.

redwood wars . EPIC drove the litigation strategy, and often split the bills with the Sierra Club – but only on the insistence of local Club activists who convinced Sierra officers of the importance of the work to California Sierra Club.<sup>97</sup>

Though the locals’ goals were broad, they were focused on local quality of life. Bailey, Woods, Richard Geinger, attorney Sharon Duggan, and the other local activists involved in the campaign against corporatism were local activists first and foremost, and if they could have avoided state and national authorities, they would have. In fact, Woods wanted EPIC to only work on southern Humboldt issues. Duggan was a Northcoast native, and her interest in forestry litigation stemmed from a concern about the rapid changes in the landscape and forest health of the Northcoast. Duggan grew up while the local timber companies were selling their land to Georgia-Pacific and Louisiana-Pacific, which led to increased industrial timber operations, including greatly expanded clearcuts and the related watershed damages. In addition to a forest health, Duggan wanted a healthy forest industry that provided stable long-term jobs for the community. Duggan’s father owned a tax service that catered to Pacific Lumber workers, so she and her family were committed to the stability of small town Scotia and Rio Dell. As a law student, Duggan accompanied Geinger and Woods on the field trips that engaged Barry Keene, Doug Bosco, and Dan Hauser with the Sinkyone issue. When Woods and Geinger decided to sue the Department of Forestry over the Sally Bell harvest plan, they contacted Duggan to lead the litigation along with the experienced local

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<sup>97</sup> From “Organizational History and Goals”, date unknown , Archives of the Environmental Protection Information Center, “EPIC Publications” binder, EPIC offices, Redway, CA.. Roger W. Findley, Farber, Daniel A., and Freeman, Jody, *Cases and Materials on Environmental Law, 6<sup>th</sup> ed.*, St. Paul, MN: Thomson/West, 2003.page 688-689. See Durbin, *Treehuggers*, for the story of local Oregonians and Oregon groups that fought to stop logging on federal lands during the Spotted Owl conflict regarding the implementation of NFMA.

attorney Michael Solomon and former Ninth Circuit clerk Jay Moller. That their litigation efforts had state and national implications was due to the avenues available to the activists to pursue local change, not because they set out to change state or national law.<sup>98</sup>

## **Sally Bell Grove: The First Battle of the Redwood Wars**

*EPIC v. Johnson*, EPIC's first lawsuit, was initiated in 1983, and resulted in a landmark appellate decision that further undermined de facto corporatism and paved the way for much of the environmental community's forestry reform efforts in California, especially in the state's remaining unprotected and privately-owned old growth forests. The *Johnson* case challenged the 75-acre harvest plan on Georgia-Pacific land in northern Mendocino County, near the Sinkyone Wilderness State Park. Forestry approved the clear cutting of the Sally Bell Grove, an old-growth redwood grove and the last remaining stand of trees in the immediate area after G-P clear cut operations moved north from the Usal Basin to the edge of the Sinkyone.

The Sally Bell Grove was traditionally referred to as the Little Jackass Creek watershed, but the local environmentalists wanted to name it something that sounded worthy of protection. Sally Bell was one of the last living full-blooded Sinkyone Indians, and a person known in the local lore. When she was a small child, she had witnessed the

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<sup>98</sup> Kathy Bailey, interview by author (tapes and notes in possession of author); Kevin Bundy, interview by author, 26 April 2007, San Francisco, CA (tapes and notes in possession of author); Sharon Duggan, interview by author, Oakland, CA, 27 April 2007 (notes and tapes in possession of author); Richard Geinger, interview with author; Paul Mason, interview with author by phone, 16 February 2007; Robert Sutherland, interview by author, (all tape recordings and handwritten notes in possession of author).

murder of her entire family by local whites at Needle Rock. The child narrowly escaped, married Tom Bell, and they lived out on the Lost Coast for the rest of their lives. The grove, like the story, was dramatic in appearance. It was situated on a steep slope bound by the Pacific Ocean to the west and clear cuts on the other three sides. Thus, the grove acted as the hill's "keystone" by anchoring the slope's soil and preventing it from wasting into the ocean. The grove also contained a Native American Archeological site. The naming of the grove by Northcoast activists began a pattern: when a grove of redwoods was threatened activists gave it an easily identifiable and relatable name. In the Sally Bell Grove case, the name signified the cultural and natural heritage threatened by what the activists saw as violent actions by Georgia-Pacific. The name helped generate public support. During the later battles with Pacific Lumber, activists would name dozens of groves in a similar fashion, including Headwaters Grove.<sup>99</sup>

The *Johnson* case was the culmination of nearly a decade of tension over the northwest coast of Mendocino and the Sinkyone, and the development of the conflict dramatically illuminates how the new constituents, ideas, strategies, and goals of the activists gradually worked their way into redwood politics. Locals grew concerned about the state of Northcoast forestry during the early 1970s, when the Atlanta-based Georgia-Pacific acquired The Union Lumber Company of Mendocino County as well as surrounding family ranches in what locals referred to as an "unprecedented consolidation of land."

In 1976 -- though the Forest Practice Act, CEQA, and the *Gallegos* case permitted citizens and the state to more actively manage private timberland -- the primary means of

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<sup>99</sup> *EPIC v. Johnson*, California Court of Appeals, 1<sup>st</sup> District, 25 July 1985 (170 Cal.App.3d 694, 4 and 12 re: "keystone" determination).

protecting ancient redwoods was still through park acquisition. Governor Ronald Reagan's Park Director, William Penn Mott, proposed an expansion of the Sinkyone Wilderness State Park from approximately 3600 acres to more than 12,000 acres, land that included much of Georgia-Pacific's Mendocino land. The company's head forester, Jere Melo, in response to the proposal, filed a logging plan with the California State Coastal Commission for G-P's entire seven-mile stretch of coastline in Northwest Mendocino and Southwest Humboldt. The Commission balked, and Melo withdrew the plan with the intention of submitting several smaller harvest plans for the coastline. The Commission rejected his subsequent plans. That same year, the Department of Forestry was given jurisdiction over all logging operations in the state – a move that probably was welcomed by the timber industry, thanks to the agency's corporatist, development-focused tradition.<sup>100</sup>

During 1978, EPIC and Georgia-Pacific began to butt heads over the Sinkyone. In March, G-P began to clear cut Jackass Creek and Anderson Gulch. On the equinox, the first Watershed Gathering was held at Needle Rock in the Sinkyone, and the Sinkyone Council, headed by Richard Geinger, and EPIC, led by Woods, decided to organize locals to oppose logging in the area, with mixed results. In 1980, California voters passed a \$3.2 million bond to expand the Sinkyone, the Sierra Club made the Sinkyone a top priority, and the Save-the-Redwoods League unsuccessfully attempted to negotiate with Georgia-Pacific. The company was not a willing seller and because activists had not fully embraced the new legal tools to enforce the new environmental and forestry laws, there was little they could do to prevent the harvest of the old growth in northwestern

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<sup>100</sup> Carranco, *Logging the Redwoods*, 77; David Cross, "Sally Bell Redwoods Protected! Sinkyone Coast Purchased for Park," *Earth First! Journal*, Vol. 7, No. 3, February 2, 1987, 1-4.

Mendocino. Backed into a corner, the activists finally embraced litigation and direct action, and in the process they laid the groundwork for the battle over Headwaters Forest.<sup>101</sup>

The redwood wars began in earnest in 1983 because that year Earth First!, the Northcoast activists, the Sierra Club, the Save-the-Redwoods League, the California courts, the California Assembly, the Board of Forestry, and national timber companies collided along the Mendocino-Humboldt border. For the rest of the century, those institutions battled for control over the management of the world's remaining ancient redwood forests using the same basic tactics and strategies they developed in 1983. In many ways, 1983 looked like a reprise of 1924. Local activists took more aggressive steps than regional institutions. Northcoast locals occupied a harvest area to prevent logging. An elected body tried to mediate a conflict in the woods. The courts were called upon as the final arbiter, and a corporate timber company refused to play the role of willing seller. There were two major differences, however. EPIC developed a litigation strategy that could permanently halt timber plans, whereas the 1924 legal strategy was to obtain a Temporary Restraining Order to stop logging in order to negotiate a land purchase. EPIC was convinced that old growth could be protected on private land via the new environmental regulations. The second difference was the development of direct action as a sustained political strategy and a sustained legal tactic.

The pattern of the Sally Bell conflict in many ways foreshadowed the conflict over Headwaters Forest a decade later. The year began with hope that the conflict would resolve itself quickly, but by summer, the Northcoast activists and the Sierra Club were at odds, the Governor had vetoed the bill that authorized land acquisitions in the Sinkyone,

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<sup>101</sup> Cross, "Sally Bell Redwoods Protected!" 4.

and Georgia-Pacific seemed poised to end the conflict via chainsaw. Since 1979, Richard Geinger had taken elected officials such as Assemblyman Doug Bosco and State Senator Barry Keene on several field trips into the Sinkyone, where the groups visited the clear cuts around Little Jackass Creek. In 1983, Geinger and Woods met up with freshman Assemblyman Dan Hauser and his Boy Scout troop. The group hiked through the Sinkyone, and the activists pointed out the damage to the watershed from recent logging. The field trip seems to have had a significant impact on the hikers because Hauser introduced a bill that legislative session to purchase the G-P Sinkyone property. Geinger spoke at the Assembly hearings related to Hauser's bill, and along with the Sierra Club, worked to push a Sinkyone bill onto the floor for a vote. The bill that reached the floor that summer eliminated the \$3.2 million bond passed in 1980, and instead gave the state the right to lease a one thousand-acre coastal strip from G-P to provide a hiking trail through the Sinkyone. The bill additionally authorized a land swap with G-P; the company would receive 300 acres of timberland from the state, plus \$420,000 and a salvage logging permit within the leased coastal corridor. In exchange, the state would receive the company's Duffy Gulch property, near Sally Bell Grove. The Club supported the bill as the best that could be achieved.

Just as they often would during the redwood wars, the Northcoast activists largely rejected compromise and solutions that did not meet their vision for the Northcoast. Geinger and EPIC opposed the bill, and claimed that Hauser "got woodworked" because the salvage logging permit effectively eliminated environmental protections for the coastal strip, a logging road had already been built through the strip, and because Duffy's Gulch had already been clear cut by G-P. Governor George Deukmejian vetoed the bill

had been loaded down with pet district projects and the governor vowed to reduce spending during the recession. The events of the spring and summer intensified tensions and concerns on the Northcoast.<sup>102</sup> The event that truly signaled the beginning of the redwood wars, however, was the conflict that erupted when Georgia-Pacific filed a Timber Harvest Plan with Forestry for the Little Jackass Creek/Sally Bell Grove. When Forestry approved the Timber Harvest Plan on September 2, 1983, it opened a Pandora's Box of consequences that would transform Northcoast and American environmental politics. The Northcoast activists, Georgia-Pacific, and the Board all appear to have been primed for a showdown in Mendocino County that fall, each frustrated by the legislative process. In particular, EPIC and the Sinkyone Council prepared to challenge G-P logging plans in Sally Bell throughout the summer. They prepared on-the-ground resistance as well as a legal attack to any logging plans for the Sally Bell Grove. The on-the-ground resistance plan was developed in consultation with the group Earth First!. During late summer, Dave Foreman and Mike Rozelle of the nascent Earth First!, riding high on their defeat of the U.S. Forest Service in Oregon at Bald Mountain, journeyed to the Northcoast to investigate what was then a relatively minor conflict on the Northcoast. The litigation campaign was designed by Sharon Duggan, Robert Sutherland, Jay Moeller, and Michael Solomon. From 1983 until at least 1999, Northcoast activists blended direct action and legal action to transform the forestry regulatory regime of California and eventually the implementation of the federal Endangered Species Act.<sup>103</sup>

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<sup>102</sup> Cross, "Sally Bell Redwoods Protected!" 4; Duggan interview and correspondence with author; Geinger interview and correspondence with author.

<sup>103</sup> Duggan, Geinger, and Sutherland interviews and correspondence with author, Cross, "Sally Bell Redwoods Protected!" 4;

Earth First! was created by Foreman, Rozelle, and others to transform environmental politics by circumventing conventional political avenues and working directly at the point of production. Earth First!'s mission was not simply to stop the destruction of wild areas, but also to roll back development and expand the geographic scope of areas uninhabited by humans and their livestock. The founders were experienced organizers, having either worked with major national environmental groups such as the Sierra Club and The Wilderness Society, or with more broadly political organizations such as the Yippies. The original Earth First!ers were frustrated by the horse-trading in Washington, D.C., and in the state capitols, and wanted to create a group that would not compromise "in defense of the Earth." Their strategy employed direct action and media stunts – ala Greenpeace of the early 1970s. Unlike Greenpeace, however, Earth First! advocated ecotage – the destruction of property that destroyed wilderness. At Bald Mountain, Oregon, Earth First! built road blocks (some inanimate, some human), stood in front of chainsaws or in the path of partially cut trees, sabotaged equipment, and generally harassed loggers to prevent them from cutting trees. The direct action accomplished four things: it cost the timber company money, it slowed logging efforts, it attracted the media and offered an audience for their wilderness arguments, and it provided time for the group's attorney to obtain a Temporary Restraining Order that halted logging until a court could hear the activists' challenge to the legality of the timber harvest.<sup>104</sup>

Woods was convinced that the Northcoast activists needed to combine litigation with direct action in order to "hit the donkey" enough to make it move. The donkey was

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<sup>104</sup> Geinger, interview with author; Dave Forman, "Earth First!," Chapter 2 in *Confessions of an Eco-Warrior* (New York: Crown Publishers, Inc, 1991), 11-23; Scarce, *Eco-Warriors*, 67-78, Zakin, *Coyotes and Town Dogs*, Chapter 7, "Desert Heart, Devil's Highway" and 231 – 260.

Forestry and the timber companies. What transpired during September and early October illuminates the ways in which litigation and direct action worked together on the Northcoast. The actions and coordination also demonstrate the rural, communal, and political visions of the local activists.

Woods invited Dave Foreman and Mike Rozelle to visit the Sinkyone, and with Rozelle's assistance, Northcoast locals living around Garberville developed a plan to block any G-P activity near Sally Bell Grove. On September 2, they were put on notice by the Department of Forestry that logging would be imminent. On September 8, the California Parks and Recreation Commission apparently asked Forestry to work with Save-the-Redwoods League and the Trust for Public Land to "preserve [the] critical area of Sally Bell/Jackass Creek." Meanwhile, EPIC raised \$10,000 in preparation for a lawsuit against the California Department of Forestry, and on September 30 they filed the suit and challenged the agency's approval of the Sally Bell harvest plan. On October 6, G-P began logging in the groves. A "sentry" in the woods radioed to the EPIC office and alerted them to the logging activity. The Garberville Theater then posted a notice on its marquee that read, "G-P Cutting Sinkyone. Help Now. EPIC." When the loggers arrived at the grove on the morning of October 7, they were greeted by nearly forty activists, who had alerted the Eureka television stations about the action. According to press accounts, the activists "hugged trees and positioned themselves so the giant redwoods could not be toppled without falling on them." The television crews filmed the arrival of the sheriff's office, and a truce was reached between the activists and the company, though two-dozen people were arrested for trespassing. The same day, a Santa Rosa judge issued a Temporary Restraining Order that prevented Georgia-Pacific from

logging the grove. According to Woods, the action that day was only the third instance of tree-hugging direct action in the world: the first occurred in India, the second at Bald Mountain.<sup>105</sup>

Meanwhile, EPIC prepared its court case, and received more assistance from direct action later in the month. The EPIC trial was delayed and G-P apparently thought that the restraining order expired, so on October 24, the company resumed logging in Sally Bell Grove. The logging crew showed up with fifty sheriffs, but were still slowed down by protestors. One woman, local Mim Hill, was hit by a falling tree during the day. The restraining was reinstated on October 25, and twenty-two people were arrested for trespassing on the 24<sup>th</sup> and 25<sup>th</sup>. Dramatically, the sheriffs arrested several activists who had surrounded a giant tree known as “Medicine Tree.” Surrounding that tree was particularly dangerous because the logger had removed the wedge that held the tree up and was prepared to make the final cut. The *EPIC v. Johnson* trial was held in the midst of the action, and the odds were long for EPIC. The trial was thrown out of the Mendocino Superior Court and moved to Sonoma County. A retired judge was recalled to hear the case in Sonoma, and he promptly fell asleep during Duggan’s opening argument. Additionally, Georgia-Pacific, hired attorney was Jared Carter, a former clerk for U.S. Supreme Court Justice William O. Douglass, former Stanford law professor, and former Undersecretary of the Interior for President Nixon – a man with clout in the court room. Probably without much surprise to anyone, on October 27, the judge ruled against EPIC, but left the TRO in place until EPIC received a stay from the Court of Appeals on October 31.

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<sup>105</sup> Cross, “Sally Bell Redwoods Protected!” 4; Ann Levin and Mari Ragan, “Environmentalists Ready to Chain Themselves to the Trees if it Will Save Redwoods,” Special to the *Christian Science Monitor*, December 13, 1985, page 3; Geinger interview, “The Econews Report.”

While EPIC prepared for its appeal, local activists embarked on a new campaign to pressure Georgia-Pacific to sell Sally Bell Grove and other land to the state in order to expand the Sinkyone Wilderness State Park. In November, EPIC met with Sierra Club Executive Committee members to patch up their differences and to shore up the Club's support of their efforts. The Club endorsed the EPIC suit and asked the Sierra Club Legal Defense Fund to write an amicus brief. In January 1984, Northcoast activists traveled to Georgia to meet with G-P officials regarding a potential land deal, and Richard Geinger -- using an innovative tactic later adopted by Headwaters activists during the 1980s and 1990s and by national environmental groups during the 1990s -- attended a G-P shareholder meeting to plead his case to the company. By July 1984, Georgia-Pacific had agreed to postpone its efforts to log anywhere in the Sinkyone until 1985 in order to provide the time to negotiate a land swap.

A full year later, the situation on the Northcoast had not improved. During the early summer of 1985, the California legislature approved a \$7 million appropriation for a Sinkyone purchase, and Save-the-Redwoods League pledged an additional \$3 million, but Governor Deukmejian eliminated the appropriation and argued that the state should have focused on park purchases "closer to the state's population centers." In July 1985, EPIC won its appeal of *EPIC v. Johnson*. At that point, Georgia-Pacific was furious, and, like Pacific Lumber during the Headwaters conflict, argued that it was unfairly vilified, especially because the company had donated \$6 million worth of land to the state in

1969. In September 1985, the company refilled the same Sally Bell harvest plan and Forestry approved it, despite the prior *Johnson* ruling.<sup>106</sup>

When it filed the Sally Bell harvest plan for the second time, Georgia-Pacific set in motion the tail end of what would become the pattern of conflict during much of the redwood wars. In December, the Department of Forestry again approved the harvest plan, despite EPIC's announcement that it would sue the department again if it approved the plan. John DeWitt, Executive Director of the League, commented on the litigation threat by EPIC: "I imagine they will go out and chain themselves to the trees." Geinger, more cryptically told the press, "the trees are going to be protected." Georgia-Pacific, in what would become a common charge by industry spokesmen during the Spotted Owl and Headwaters conflicts, among others, accused the activists of trying to stop all logging on the Northcoast at the expense of the loggers and mill workers. On January 17, 1986, EPIC, the Sierra Club, Woods, Geinger, and others filed their petition for a Writ of Mandate. Once again, Save-the-Redwoods League and the Trust for Public Land were recruited to negotiate a land purchase with G-P. The trial for the second Sally Bell case was never heard. Instead, the Trust for Public Land purchased 7100 acres of land from Georgia-Pacific on December 20, 1986, and donated 3300 of those acres, including the Sally Bell Grove, to the Sinkyone Wilderness State Park.

The fight over the Sinkyone thus cooled, but the battles between the Northcoast activists and timber companies such as Georgia-Pacific and Pacific Lumber had really just begun. The basic patterns established during the Sally Bell fight – Timber Harvest Plan, environmental challenge to the plan, Forestry approval of the plan, suit filed to

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<sup>106</sup> The preceding two paragraphs drew from Cross, "Sally Bell Redwoods Protected!" 4; Levin, "Environmentalists Ready to Chain Themselves," 3; my interview with Geinger; Geinger, interview "The Econews Report;" and Daryle Cherney, interview with author, Redway, CA, 23 April 2008.

repeal the agency decision, direct action to stop logging and provide time for attorneys, activist victory in court, an attempted legislative solution to the escalating conflict – were repeated over and over during the Headwaters conflict until, like the Sally Bell conflict, a land purchase was orchestrated in an attempt to end the conflict.<sup>107</sup>

## **The Sally Bell Model: Repeat Often for Twenty-plus Years**

In addition to the experience of planning successful direct actions and other organizing tools, the Sally Bell conflict offered Northcoast activists a strong set of legal arguments for challenging the corporatist timber tradition. The arguments that EPIC and the Department of Forestry made during *EPIC v. Johnson* were notably similar to those made by plaintiffs and defendants, respectively, in nearly every case dealing with old-growth forests between 1983 and 1997. EPIC and its attorneys successfully argued that Forestry, in approving the plan, had violated three CEQA requirements: first, Forestry had not adequately responded to public comments on the harvest plan; second, Forestry failed to consider the cumulative impact of the harvests on the hillside; and third, Forestry failed to consult with relevant agencies with jurisdiction over the project (in this case the Native American Heritage Commission). Forestry did not dispute EPIC's claims. Instead, it argued that, according to the Rules, Forestry could only consider the

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<sup>107</sup> “Memorandum of Points and Authorities in Support of the Petition for Writ of Mandate, Complaint for Injunction, Declaratory Relief and Attorneys’ Fees,” *Environmental Protection Information Center, et al. v. Ross Johnson, Resources Manager of the California Department of Forestry, et al.*, Superior Court of Mendocino County, Case No. 51969, March 28, 1986, unprocessed Archives of the Environmental Protection Information Center, Eureka, CA storage shed; “Epic v. Johnson II”, in “Summary of EPIC Litigation,” unprocessed Archives of EPIC, Eureka, CA. Cross, “Sally Bell Redwoods Protected!” 4; Levin, “Environmentalists Ready to Chain Themselves,” 3.

Forest Practice Act when approving plans. Therefore, CEQA's requirements about consultation, cumulative impact, and public comments were irrelevant to Timber Harvest Plans. It appears that Forestry and the timber industry were hoping for a judgment that would overturn the previous rulings because they made the same arguments as in *Arcata* and *Gallegos*. At the same time, Forestry contended, contrary to EPIC's claim, Timber Harvest Plan review procedures implicitly addressed the cumulative effects of its decisions by minimizing the impact of each individual project. That assessment of cumulative impact analysis -- coupled with Forestry's continued use of the argument that CEQA did not apply to harvest plans -- demonstrates the degree of intransigence within the agency. By definition, one cannot analyze cumulative impact without studying past and future plans. The court ruled for EPIC in 1985 based on the plaintiff's arguments, striking another blow to the Board's industry-friendly economic development priorities.<sup>108</sup>

The *Johnson* cases provided EPIC with valuable experience, a strong precedent, and successful arguments. EPIC and other citizens used the *EPIC v. Johnson* model with increasing frequency and success. Prior to *Johnson*, there were only two published opinions for cases challenging harvest plans. After *Johnson*, environmental groups would challenge plans every year. But if EPIC members thought the Board and the timber industry would take this third defeat at the hands of environmental groups as a signal to reform the Forest Practice Rules and Forestry methodology, they were wrong.

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<sup>108</sup> *EPIC v. Johnson*, California Court of Appeals, 1<sup>st</sup> District, 25 July 1985 (170 Cal.App.3d 694, 4 and 12 re: "keystone" determination, 1-6 re: EPIC's arguments, and 9-12 re: CDF arguments and the courts analysis of the arguments. See pages 8-15 for the substance of the court's analysis.

Forestry and the timber industry would continue to argue they were exempt from CEQA, despite the growing stack of precedents building against that position.<sup>109</sup>

For the next twenty years, the Board, EPIC, Sierra Club, and the timber industry jostled repeatedly over the same issues. What became known as Headwaters Forest became the focal point of many of the battles between environmental activists and corporatism, producing two major state legal precedents. Litigation on the Northcoast outside of Headwaters Forest also produced a major state precedent, and the three state cases forced the Board to adopt new forestry rules and to twice withdraw its legal support from the timber industry and production-focused regulation. The Headwaters litigation additionally and unintentionally produced one major federal precedent (*Marbled Murrelet v. Pacific Lumber*) and the public purchase of part of the forest through the “Headwaters Deal” negotiated among the state of California, the federal government, and Pacific Lumber. Headwaters became the focal point because it was the only unprotected old-growth redwood forest of significant size left in the world, and because the forest’s owner, Pacific Lumber Company, adopted a new forestry policy during the mid-1980s that was designed to harvest the company’s remaining old-growth groves within twenty years.

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<sup>109</sup> Sharon Duggan cites *Gallegos* and *Seghesio v. County of Napa* (185 Cal.Rptr.224 982) as the two previous THP challenges on page 12, footnote 55 of her article “Citizen Enforcement”.



Figure 4: Map of Humboldt – Mendocino coastal border region, including Sinkyone Wilderness location, the Mattole watershed, and the town of Redway. (from GORP, found at [http://www.gorp.com/parks-guide/travel-ta-sinkyone-wilderness-state-park-northern-california-california-sidwcmdev\\_054007.html](http://www.gorp.com/parks-guide/travel-ta-sinkyone-wilderness-state-park-northern-california-california-sidwcmdev_054007.html)).

## **Chapter 4: Expanded yet Contracted: Radical Locals and the addition of the “New” Pacific Lumber to the Donkey Train, 1985 – 1989**

During the 1980s, the modern environmental protection regime withstood a barrage of attacks, and so did California’s de facto corporatist forestry system. However, whereas the business community led the national attacks, it was the Northcoast activists who were the aggressors in California. Federally, big business and industry attacked the costs of the new social regulations. The Reagan administration attacked big government and argued environmental laws stifled economic growth. In response, the mainstream national environmental groups established defensive campaigns to prevent rollbacks of the 1970s environmental laws. They prevented Congress from gutting the laws, and they worked to improve agency rules when faced with the erosion of bipartisan commitment to environmental protection. The movements towards the defensive and the insider game led to the creation of Earth First! in 1980 – to invigorate offensive and idealistic efforts.

On the Northcoast, it was the Sally Bell Grove case, not the national industry offensive or Reagan ascendancy that transformed the redwood wars again. Previously, conflicts over redwood groves were resolved by park land acquisition negotiations, and after World War II, conflicts over the redwoods more tightly focused on timber harvest practices, with litigation as the activists’ most successful tool. After 1985, activists tightly coordinated a litigation and direct action campaign, and the redwood wars were defined by the actions and reactions revolving around those tactics. Confident in the Sally Bell model, activists escalated their attacks, using the same defensive tools of the national groups -- the courts and agency meetings. Legislative campaigns took a back

seat. Those same activists, unlike their national counterparts, also embraced the radicalism of Earth First! and biocentrism, especially when faced with a transformed Pacific Lumber. The result was more than a decade of attacks, adjustments, and counter-attacks as Pacific Lumber and the activists vied for leverage in the battle over Headwaters Forest.

The developments of the second half of the 1980s illustrate the way the redwood wars complicate the professionalization and nationalization interpretation of postwar environmental policies. Northcoast activists crafted a local forestry reform campaign that forced transformations in larger institutions in order to better accommodate the locals' vision and valuations of the Northcoast redwood belt. After 1985, the non-middle-class nature of the Northcoast redwood movement also came into full view, as did the strategy the locals would pursue to force the state to accommodate their local vision for the Northcoast. The local activists – not DC-based environmental organizations or policy entrepreneurs -- drove the redwood wars onto more stages, increased their power within the state, and pushed the conflicts to new heights of notoriety, but by the end of the decade, the battles over forestry regulation in California focused increasingly on Pacific Lumber's land. The local Northcoast activists pushed their reform agenda up the ladders of state power and public visibility, and they shunned middle class values and work even as they took their case to the courts, media, and public. The exponential increase in the number of direct actions and lawsuits filed against Northcoast timber companies, and the reactions the actions provoked attracted the interest of the media and heightened the tensions of the redwood wars. Most importantly, from 1985 to 1989, Northcoast activists

increasingly centered their efforts on protecting what became known as Headwaters Forest on Pacific Lumber property.<sup>110</sup>

Local environmental activists increased their numbers, expanded their list of industry targets, and adopted an increasingly combative tone and set of tactics. To a large degree, a second wave of migrants to the Northcoast drove the expansion of tactics during this period and provided new leadership to the redwood preservation movement that, like the first wave of migrants in the 1970s, largely rejected middle class work and culture. The activists embraced direct action against logging companies and the Sally Bell model to challenge harvest plans in court. Their goal was to transform the Northcoast timber industry so that it would better consider the long term interests of forest inhabitants and workers. And the activist community increasingly turned their attention to Pacific Lumber, especially the Headwaters Forest complex. From 1985 to 1989, direct action and litigation strategies, in combination, prevented Pacific Lumber from harvesting the heart of Headwaters Forest, forced Forestry (though not the Board) to buck corporatist tradition and reject harvest plans that did not consider cumulative effects or wildlife mitigations, and pushed the redwood wars onto the “front pages” of state and national media outlets to pressure companies and agencies into action.

The Northcoast activists gained the upper hand in the redwood wars during this period largely because of a fundamental transformation within Pacific Lumber -- a transformation that led directly to its vilification, and drew the attention of activists from

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<sup>110</sup> See Dunlap, *Faith in Nature*; Flippen, *Nixon and the Environment*; Gottlieb, *Forcing the Spring*; and Lazarus, *Making Environmental Policy*; along with Hays and Nash in particular, for arguments about national groups and federal political operatives driving the development of the modern environmental protection regime. Marsh (*Drawing Lines in the Forest*), Dietrich (*Final Forest*), and Durbin (*Treehuggers*) are, again, three recent treatments of local activists influencing national environmental politics.

southern and central Humboldt. The structure of the company and its public image were transformed because Charles Hurwitz' Maxxam Group, backed by the junk bonds of Michael Milken, acquired Pacific Lumber. Almost immediately, the company lost most of its benevolent paternal small-town image. In its place rose the image of a callous and greedy corporate timber liquidator – no different than the image of Louisiana-Pacific and Georgia-Pacific in the region, and a reputation Pacific Lumber had tried hard to avoid. Many workers and environmental activists worried that the “new” Pacific Lumber would cut-and-run, leaving the forest and the county in poor economic and ecologic shape.

As Pacific Lumber labored to restructure its operations to meet John Campbell's vision as well as the company's new commitments in a highly leveraged business world, local activists moved to force the Department of Forestry to reform its practices and regulations by challenging the efforts of Pacific Lumber to increase its harvests of old growth redwoods. At stake was whether the state would support Pacific Lumber's contention that younger forests that grew faster were of greater value to the company and community, or whether the state would support the activists' claims that forests of mixed ages better served society. In the collusion of these forces, the battle over Headwaters Forest became the epicenter of a conflict that transformed state and national environmental politics and the future of the region's redwood-owning giant. Because the combatants focused on local concerns over private property prerogatives, national institutions did not intervene for another ten years when the locals drew them in to break the protracted conflict.<sup>111</sup>

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<sup>111</sup> The Sierra Club engaged in the Maxxam/Pacific Lumber litigation, but I really think of it as California Sierra Club, not the national organization. The Sierra Club national organization works on federal issues. The state chapters are autonomous, do their own fundraising (though they get money from national to do federal work), and have their own boards. In California, all state forestry matters were handled by state

## **Migration: The Second Wave of Radical Leaders and the Escalation of the Redwood Wars**

Another migration wave of activists energized the Northcoast environmental movement with their own brand of nontraditional beliefs. Those activists were largely responsible for the widespread adoption of direct action, the increasingly hostile tone of the activist community, and the unprecedented legal assault on development-focused forestry regulation – de facto corporatism. From 1977 to 1986, at least five key activists moved to the Northcoast and assumed leadership roles in the redwood preservation movement. Cecelia Lanman, Darryl Cherney, Gary and Betty Ball, and Judi Bari arrived, like Woods, Kathy Bailey, and the other earlier migrants, with political experience, and used that experience to promote grassroots activism in defense of their social and ecologic visions for the Northcoast. Cecelia Lanman brought mass organizing experience and eventually became the lead spokesperson and director of EPIC. Darryl Cherney arrived on the Northcoast with a wealth of media experience and a desire to remove himself from the perpetual rat race. Cherney quickly became an organizer and spokesperson for North Coast Earth First!, and one of the most nationally visible activists in the redwood wars. Gary and Betty Ball moved to Mendocino after years of organizing in Chicago and Colorado. On the Northcoast they established the Mendocino Environmental Center as a clearinghouse and meeting place for myriad environmental

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volunteers, and it was they who petitioned the national organization to help fund the litigation. And, the legislative advocacy was performed by the state volunteers until the Headwaters conflict was nationalized, when national lobbyists also engaged in DC and Sacramento.

activists. Finally, Judi Bari brought years of experience organizing unions and anti-war protests. She became the matriarch of North Coast Earth First!, and played a vital role connecting the biocentric philosophy of Earth First! to the concerns of the Northcoast activists for workers and community. In line with the long tradition of female leadership in the Northcoast redwood preservation movement, Lanman, Ball, and Bari, offered young Northcoast women powerful examples of female leadership and recruited other female activists to become movement leaders.

Like the early migrants of the late 1960s and early 1970s, most of the newer migrants were raised in Midwestern or Eastern middle-class homes and were college educated, but turned to the Northcoast in search of an alternative society. All shared an uncompromising constitution and a desire to confront corporate power. The organizing, research, and media skills of this group of activists helped expand the popularity of the redwood preservation movement on the Northcoast and beyond. Their visibility and unyielding positions made them easy targets for their opposition, and frequently made coalition work and conflict resolution with state and corporate actors nearly impossible.

### **Cecilia Lanman: Making EPIC a Permanent Organizing Body**

Cecilia Lanman's path to the redwood wars was in many ways similar to that of Kathy Bailey. From 1969 to 1972, Lanman studied political science at the University of Cincinnati and worked as an intern on political campaigns. In her early twenties, she and her then husband, Gil Gregori, moved to California, where she worked as the East Bay Coordinator of the United Farm Workers during the grape boycott. After the UFW campaign, she resumed her political science studies at California State University –

Hayward. In 1974, she abandoned her studies to work as a real estate agent and to manage apartment buildings in Oakland with Gregori. The two were not environmental activists, but they attended the very first EPIC meeting in 1977 while up north hunting for land. Woods recalled that at that meeting, Lanman announced she wanted to get involved with environmental issues when they finally moved to the Northcoast. Later in 1977, Cecelia, Gil, and their daughters Megan and Mariah, moved from Oakland to a ranch house on the Mattole River near Ettersburg in Humboldt County, just west of Redway/Garberville. The Grigoris managed and owned forestland as well as an organic apple and chestnut orchard. Additionally, Cecelia worked in stream restoration, pre-commercial tree thinning and post-harvest tree planting. In 1978-1979, Lanman attended Merritt College in Oakland as an intern in Early Childhood Education, and also sat on the Board of Directors of the Tiny Tots Nursery School Co-op.

In 1982, Cecelia and Gil finally began working with Richard Geinger, Woods, and their colleagues to expand the Sinkyone Wilderness Park, with Cecelia serving on the EPIC Board of Directors. Woods and EPIC promoted the development of a broad and inclusive board, and Cecelia, with her organizing experience, fit the bill. In fact, in 1986, Cecelia mediated the settlement among Georgia-Pacific, The Trust for Public Land, and the local Sinkyone activists. In 1986, Cecelia was named president of EPIC due to her leadership qualities and possibly due to a rift between Woods and some members of the board over the best use of the *Johnson* case attorneys fees award. As an EPIC board member and president, Cecelia took the litigation reigns away from Woods, and helped build EPIC into a full-time litigation, research, and advocacy organization for the Northcoast. In 1987, *California Journal* named Lanman the number one opponent of

CDF Director Jerry Partain. EPIC was well on its way to establishing itself as the leading forestry litigation group in California.<sup>112</sup>

### **Darryl Cherney: Reviving Earth First! and Bringing the Media to the Northcoast**

Though he described himself as a late bloomer -- the last kid on the block to kiss a girl and to smoke pot -- Darryl Cherney was in many ways a natural entertainer, and that trait served him well as an organizer and media contact for the various manifestations of North Coast Earth First!. Cherney moved to Garberville in November 1985 from his native Manhattan, where, at age five, Darryl worked with lefty producer Tony Schwartz (most famous for the “Daisy” television ads Lyndon Johnson ran against Barry Goldwater in 1964) on television and radio commercials. Cherney described himself as “fascinated” with politics from an early age, and volunteered with John Lindsay’s mayoral campaign in 1964. In 1968, at age twelve, he canvassed for Robert F. Kennedy, and in 1978 he participated in anti-nuclear demonstrations. By 1985, however, Darryl was searching for something else in life. After stints at the National Football League and Capital Sports Marketing, he earned a masters degree from Fordham University. Cherney said he fell in love with the redwoods in 1970 on a family vacation and dreamed he might one day live among them. Frustrated with New York City, he packed up and left for California in his Dodge Sportsman camper van.

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<sup>112</sup> Personal correspondence with Woods, November 18 and 19, 2009; Chris Bowman, “The Redwood Wars,” *The Sacramento Bee Magazine*, February 12, 1989, pg. 10, EPIC archives, Redway, CA, Publications binder; Cecelia Lanman, Resume, circa 1990, papers of Kathy Bailey, Philo, CA; “A Few of the People & Groups,” undated, anonymous memo, papers of Kathy Bailey, Philo, CA; “Headwaters Forest Act,” Hearing before the Subcommittee on Specialty Crops and Natural Resources of the Committee on Agriculture, House of Representatives, 103<sup>rd</sup> Congress, First Session, on H.R. 2866, October 13, 1993, Serial No. 103-42, (U.S. Government Printing Office: Wasington, 1994) 42; personal correspondence between author and Robert Sutherland, July 15, 2009)

Cherney moved west to reinvent himself and to figure out how he could help save humanity from itself. He intended to go to San Francisco, even pre-rented an apartment, but in November he picked up a hitchhiker named Kingfisher along the Oregon coast who proved fortuitous. Kingfisher led Cherney to Garberville because he said that was where people were really living off -- and working to save -- the land. Almost immediately, Cherney located the EPIC office where he engrossed himself in redwood logging issues – a particularly hot set of issues due to the Sally Bell situation, and because Pacific Lumber had just agreed to merge with Maxxam Group.

The EPIC office had an Earth First! sticker on the door. Cherney asked one of the local activists, Mokai, about the sticker, and was told that Earth First! was “just a bunch of people who do things.” There was an Earth First! group at Humboldt State University centered around Professor Bill Devall, co-author of *Deep Ecology*, a seminal work of biocentric ethics. But Earth First! had come-and-gone from southern Humboldt after EPIC won the Sally Bell court case and the grove was purchased by the Trust. Darryl liked the lack of structure within Earth First!. When he asked how one became an Earth First!er, and how one obtained approval to act, Mokai told him that “you just go ahead and do it; it’s cool.” Cherney did some office work for EPIC for five dollars per hour, but found a better niche for himself in 1986, when he participated in his first illegal direct action. From that March day until the early twenty-first century, Cherney’s identity was wrapped up in Earth First!.<sup>113</sup>

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<sup>113</sup> Darryl Cherney interview with Author, 23 April 2008, Redway, CA. All notes and audio recordings in possession of the author.

### **Betty Ball: Pulling People Together**

Betty Ball was trained as a caregiver and student of social behavior, twin tendencies that led her and her husband Gary to establish the Mendocino Environmental Center as a clearinghouse for local environmental political information and a meeting place for activists to cooperate rather than compete. Born in Milwaukee, the daughter of a YMCA Director and special education teacher, Ball was surrounded by community service. At the age of six, the family moved to Nebraska, then to Lubbock, Texas, where Betty completed high school. She attended Colorado University at Boulder for a year, then transferred to George Williams College in Chicago, where she earned a degree in social work in 1967. She stayed in Chicago for two more years as the Program Director for the Hull House.

Her Chicago experience seemed to instill in Ball a distrust of law enforcement; she participated in the 1968 Democratic Convention actions, as well as police retribution and surveillance resulting from a Hull House protest of a police station after the shooting of a program participant. Ball recalled an incident when police threw a canister of tear gas into her office through a door that opened onto the fire escape, and another when a colleague's apartment was repeatedly and covertly entered and searched. Ball resigned from Hull House during the summer of 1969, when the board decided to develop more middle-class programs like dance and theater that would generate more funding.

Ball moved back to Boulder and continued her care giving and political activism. She worked at a nursing home for a while, then moved to Nucla, Colorado to work as a welfare caseworker in the uranium mining community. She returned to Chicago a year later to enter graduate school at Jane Addams School of Social Work, then returned to

Boulder after a year, married Gary Ball and worked at a resource center for transients and at the National Institute for Criminal Justice and Community Relations. She and Gary later moved to Nederland, Colorado, where Betty worked as a counselor, town clerk, and part-time activist for a water renovation project. Looking for something else to do after a failed partnership in an optical retail business with Gary's father, the two went on vacation to the Lost Coast in northern Mendocino and southern Humboldt Counties. While on vacation, they developed a plan to open up an environmental center in California to help prevent local activists from competing for resources. In the spring of 1986, the couple moved to California, and within a year had moved to Ukiah and opened the Mendocino Environmental Center, which would become a primary nerve center for the redwood preservation movement.<sup>114</sup>

### **Judi Bari: Organizing, Pure and Simple**

Judi Bari brought a rough and tumble style of politics and organizing to the Northcoast, a style cultivated along the I-95 corridor of the eastern metropolis. Bari was born in Baltimore, Maryland, in 1949 and attended the University of Maryland, College Park, where she majored in “anti-Vietnam rioting.” Like Cecelia Lanman, Bari left school after three years, though while Lanman was organizing laborers, Bari worked as a laborer in a bakery. She was fired for decorating a cake with a hammer, sickle, and the caption, “U.S. Get Out of the War.” The bakers union successfully fought her dismissal, and a few years later when the bakers struck, Bari organized some of her fellow picketers to sneak onto the property at night to seal locks with liquid steel and to let air out of

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<sup>114</sup> A Few of the People & Groups,” undated, anonymous memo, papers of Kathy Bailey, Philo, CA; Ball, Betty by Jennifer Davis, OH1233, interview transcript, Maria Rogers Oral History Program Collection, Carnegie Branch Library for Local History, Boulder, CO.

managers' tires. Later, Bari unsuccessfully attempted to overthrow the same bakers union, then she left to work as a package handler at the U.S. Post Office. There, she founded her own union to compete with the three existing unions, and eventually consolidated them into a single union with herself at the helm. In 1979, she moved to Sonoma County, California, where she met and married Mike Sweeney; like Lanman and Geinger, the marriage failed. Bari worked as a carpenter in Mendocino County, raised her two girls, and developed an urge to stop the last ancient redwoods from falling at the hands of loggers. In 1988, Judi Bari joined the North Coast Earth First! activists in their efforts to eliminate industrial logging and old growth harvests. Her energy, organizing skill, and brash style won her many followers, cultivated many enemies, made her difficult to work with at times, recruited thousands of activists into the movement, and left an indelible impact on the course of the redwood wars.<sup>115</sup>

## **Taking It To The Streets... And The Woods: The Rise of Earth First! on the Northcoast**

The decisions to progressively escalate a direct action campaign on the Northcoast were ultimately the decisions that made the redwood wars a national story, and they were ultimately the decisions that protracted the conflict. Without the direct actions, the litigation efforts would have been less effective. Without the direct actions,

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<sup>115</sup>Judi Bari, *Timber Wars* (Common Courage Press: Monroe, ME, 1994), "About the Author;" Rik Scarce, *Eco-Warriors: Understanding the Radical Environmental Movement* (Left Coast Press: Walnut Creek, Ca, 2006) 81; Nicholas Wilson, "Judi Bari Dies But Her Struggle Continues," *Albion Monitor*, March 2, 1997, accessed on July 15, 2009 at [www.monitor.net/monito/bari/barideath3.html](http://www.monitor.net/monito/bari/barideath3.html)

Pacific Lumber and the community would not have reacted as violently to the activists' demands.

In the late 1980s, direct action and civil disobedience became the most identifiable aspects of the redwood wars, in large part due to the leadership of Judi Bari, Darryl Cherney, and Greg King, and their increasing focus on Headwaters Forest as the place to press their social and ecologic visions for the Northcoast. The success of the Sally Bell Grove actions did not immediately establish a tradition of direct action and civil disobedience on the Northcoast, but it didn't take long for the tactic to resurface among redwood preservation activists – certainly not as long as the time that elapsed between the 1924 Laura Mahan action and those at Sally Bell. It is unlikely that direct action or Earth First! would have entirely disappeared on the Northcoast, given its reputation as a haven for counter-culture types and people shaking off their self-defined middle class shackles. It is undeniable, however, that Bari, Cherney, and King seized upon direct action and an uncompromising vision of environmental activism to forge an activist culture around radical, biocentric, direct action in support of their social and environmental vision. Once established, the Northcoast remained awash in nearly daily direct actions for more than a decade. The intensity, frequency, and style of the actions brought unprecedented media coverage, state scrutiny, and industry backlash to the redwood wars.

*The Resuscitation of Earth First! on the Northcoast: Giving a Loud Public Voice to an Alternative Northcoast Vision*

At the, before the conflict became intractable, the revival of Earth First! on the Northcoast offered local activists of megaphone from which to broadcast their message of social transformation and a vehicle to disrupt timber harvests at the point of production. That megaphone proved to be quite effective and helped the movement achieve great public support because the first actions were aimed at publicity and not backwoods warfare.

Earth First! and direct action exploded on the Northcoast after 1985 due to Darryl Cherney's arrival in Humboldt County, his encounter with Sonoma native and investigative reporter Greg King, and the acquisition of Pacific Lumber by Maxxam in late 1985. Northcoast Earth First! grew rapidly, and quickly developed a national reputation as a thorny obstacle to industrial logging in redwood country. By 1990, thousands of activists flocked to the Northcoast to participate in Redwood Summer, a month of actions and rallies modeled after Mississippi Summer 1964. Subsequently, the work of the local activists propelled the Headwaters conflict onto the national stage, delayed scores of timber harvests, offered EPIC and Sierra Club time to secure Temporary Restraining Orders and emergency stays, and inspired Pacific Lumber management and many of its workers to harden their stance against the activists.

North Coast Earth First! proved to be effective in large part because it tapped into a shared set of frustrations and philosophies in the region. The Northcoast activists around Garberville embraced the philosophy of Deep Ecology first articulated by Arne Naess in 1976, made popular in the United States by Humboldt State professor Bill Devall and George Sessions, and put into political action by Earth First!. The basic tenet of Deep Ecology, often referred to as biocentrism, is that the Earth and its nonhuman

inhabitants have an inherent value independent of, and equal to, humanity, and that humans have a moral duty to protect and promote the survival of the Earth's systems as living environments. EPIC kept a copy of chapters of *Deep Ecology* in its office, and the biocentric philosophy immediately struck a chord with Cherney as a nontechnical way to understand the need to protect species and forests. In that respect, the members of EPIC and North Coast EF! greatly resembled the wilderness advocates critiqued by Callicott, Cronon, Guha and others. However, while more traditional Earth First!ers adhered strictly to the biocentric worldview, often to the point of misanthropy, Cherney, Bari, and the other Northcoast activists incorporated social justice values into their environmental worldview. That melding of social concerns and environmental concerns set the actions of Northcoast activists apart from other radical environmental groups, and helped turn out massive crowds at many of their public actions.<sup>116</sup>

Earth First! was reborn on the Northcoast in March 1986 at the site of its original birth – Georgia-Pacific property near the Sinkyone. Richard Geinger and Mark Mullens organized locals to illegally plant approximately three thousand Douglas fir and redwoods on a Georgia-Pacific clear cut near the Sally Bell Grove. Cherney asked if the guerrilla planting could be an Earth First! action, and Mokai agreed. Cherney sent out a press release in the name of Earth First!, and a photograph of the action ran in the local

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<sup>116</sup> Arne Naess, translated and revised by David Rothenberg, *Ecology, Community, and Lifestyle: Outline of an Ecosophy* (Cambridge: Cambridge University Press, 1989); Bill Devall and George Sessions, *Deep Ecology* (Salt Lake City, UT: G.M. Smith, 1985). For three of the most prominent critiques and discussions of Deep Ecology and the Earth First! movement, see *J. Baird Callicott, "The Wilderness Idea Revisited: The Sustainable Development Alternative," Environmental Professional 13(1991):235-247*, Cronon ("The Trouble with Wilderness") and Ramachandra Guha, "Radical American Environmentalism and Wilderness Preservation: A Third World Critique," in *The Great New Wilderness Debate*, 231-245. Cherney interview, Sutherland interview, Bundy interview. The group/s of activists on the North Coast doing work under the name Earth First! identified themselves with different monikers at different times, such as Redwood Action Team, Ecotopia Earth First!, Ukiah Earth First!, Humboldt Earth First!, the Albion Nation, and North Coast Earth First!. I use North Coast Earth First! when referring to the group writ large, and only use the sub-names when it is necessary to set some group or action apart from the whole.

paper, *The Redwood Record* (insert photo). The day of the action, Greg King, 25, a reporter from the *West Sonoma County Paper*, who was unaware of the tree planting action, pulled into the EPIC parking lot to ask for directions to the Sinkyone. King was a fourth-generation Northcoaster, and the King Range was named after his ancestor loggers. Greg recently had won an award for an article he wrote about the industrial logging of Sonoma, he had read the coverage of the Sally Bell conflict, and he wanted to see the grove. King drove a four-wheel drive truck, and Darryl walked up to him and said, “I’m Darryl Cherney. Can we borrow your car?” King agreed to give Cherney and other activists a ride to the tree planting, and when they arrived, King headed into the forest for a hike. He apparently hiked through the grove and out into a Georgia-Pacific clear cut, a scene that convinced him that the logging of ancient forests had to be stopped – period.<sup>117</sup>

King and Cherney wrote to each other throughout the subsequent months (Cherney did not have a phone in the geodesic dome he rented for \$125 per month), and soon became organizing partners on a mission to protect Headwaters Forest. Greg lived in Guerneville, Sonoma County, and was working on an article about Louisiana Pacific’s plans to clear cut all the company’s remaining 20,000 acres in Sonoma and to sell the cutover land to real estate developers. He told Darryl that the company’s foresters were threatening him. For his part, Darryl was looking into Maxxam and thinking about the implications of the takeover of Pacific Lumber. He asked EPIC, the Northcoast Environmental Center in Arcata, and the Redwood Chapter of the Sierra Club what they could do, but all were busy with other work and told Darryl he needed to take it on

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<sup>117</sup> Cherney interview; Harris, *The Last Stand*, 141-145; Greg King, Testimony to the Humboldt County Board of Supervisors Re: Emergency TPZ Ordinance, November 6, 2007, accessed July 28, 2009 at [http://www.asje.org/documents/GregKingHumboldtSupes11\\_06\\_07.pdf](http://www.asje.org/documents/GregKingHumboldtSupes11_06_07.pdf).

himself. During the late spring of 1986, Darryl used the EPIC phone to talk to Greg, who told him he thought it was time for Earth First! to meet. Greg had a copy of the 1986 Maxxam prospectus and purchased a single share of stock. The prospectus detailed the deal's financing as well as the plan to harvest Pacific Lumber's remaining old growth within the next two decades. King was determined to stop Maxxam in that effort. In June, approximately twenty activists met at Annwfn (pronounced On-a-van), a piece of land owned by the Church of All Worlds, a pagan church in Greenfield Ranch just north of Ukiah in Mendocino County. Greg, Darryl, Gary and Betty Ball all attended. At the meeting, they decided that some of them would go to the annual Round River Rendezvous of the national Earth First! movement to learn more about the larger EF! movement and to help build their own work on the Northcoast. After the Rendezvous, North Coast EF! held its second meeting at Greenfield Ranch to plan actions. Aside from a July rally outside the Ukiah offices of the Bureau of Land Management to protest logging on federal land, the first big actions on the Northcoast came during the fall.<sup>118</sup>

The decision to focus on Maxxam proved wise because it opened possibilities to harness broader community concerns about the takeover with activist concerns about the fate of Headwaters Forest. Once the actions began, North Coast Earth First! grew in size and reputation, as the organization publicized what its leaders saw as the common enemy of the activists and the loggers – Maxxam. In September 1986, Earth First! and Rainforest Action Network organized a national day of rainforest actions focused on Pacific Lumber. North Coast EF! organized a rally in Arcata, where Greg met Larry Evans and Kurt Newman, who would become tree sitters, forest mappers, and harvest

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<sup>118</sup> Cherney interview; Thomas Fields-Meyer, "Forest Gumption," *People*, November 11, 1996, Vol. 46, No. 20; Darryl Cherney, "History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA; King, Testimony to Humboldt County.

plan monitors. In October, after a regional EF! rendezvous near Santa Cruz, many of the California EF! activists rallied at Pacific Lumber headquarters in San Francisco to protest the new logging regime. Darryl organized a street theater presentation during which Tyrannosaurus Rex blew up the Maxxam monster. Darryl played Charles Hurwitz. The show included a love story between a logger and an Amazonian-style forest activist. Mike Rozelle played the logger, and he fought Hurwitz/Darryl when handed his pink slip, a clear display of North Coast EF!'s intention to build alliances with loggers. In December, Darryl helped organize a rally in Scotia near the Pacific Lumber mills. "Paul Bunyan" spoke at the rally, while attendees held signs that said, "Will Jobs Be Gone in 20 years?" Prior to the rally, Darryl sent "Save the Loggers League" pamphlets to all the P.O. Boxes in Scotia. The pamphlets were designed by Gary and Betty Ball, and Oberon, from the Greenfield Ranch. Darryl and others continued, largely unsuccessfully, to try to build an alliance with workers throughout the redwood wars.<sup>119</sup>

The colorful actions of persistent activists continued to establish roots in the community for the direct action movement throughout 1987 and 1988. The actions also provoked strong reactions from Pacific Lumber. In March, Greg King led activists to a Maxxam shareholders meeting in Houston, and North Coast EF! protested at the monthly Board of Forestry meeting in Eureka. Cherney wore a chimpanzee mask and held a sign that said, "Monkeywrench the Monkey Business." Cherney's personal vision for the campaign was to generate high-profile publicity, to demonize Charles Hurwitz, to encourage EPIC and Sierra Club to sue, to develop legislation, and to "kick Hurwitz out of Humboldt." For their part, Greg King, Kurt Newman, and Larry Evans carried out

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<sup>119</sup> Cherney interview; Darryl Cherney, "History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darly Cherney, Redway, CA; "Schedule—Scotia Rally, December 3, 1986," Press Release, Earth First!, EPIC archives, Eureka, CA

plans to trespass, map, and identify the ancient forest reserves on Pacific Lumber land in order to monitor THPs and to understand the ramifications of Pacific Lumber's plan to turn all its land into a young growth forest.

Early in the year, however, the headlines reinforced the anti-middle-class image of the Northcoast activists. George Alexander, a Louisiana Pacific mill worker, was nearly decapitated when the blade of his mill saw hit a tree spike. Alexander survived the accident, and the local and state headlines blamed Earth First!, referring to the group as eco-terrorists. The tree was a small second growth tree, and it would later be determined that the likely culprit was a mentally unstable landowner in the area. But that didn't matter at the time, given that Dave Foreman and other Earth First!ers promoted tree spiking as a tactic. The image of the Northcoast activists was never fully repaired in the wake of that incident.<sup>120</sup>

Despite the Cloverdale tragedy, the direct action campaign continued as planned, and was deemed successful by the activists. In May, Greg and Larry announced that they had discovered a vast ancient forest in the middle of Pacific Lumber's property that they named Headwaters Forest because of the numerous "deer streams" that originated out of old growth groves. They described twelve groves of ancient forests in a sea of second growth groves and clear cuts. They named the largest of the groves Headwaters Grove because several streams and creeks originated in its belly. On May 18, approximately 150 people gathered outside Pacific Lumber's Fisher Road gate to thwart the company's efforts to log in the old growth groves. The Fisher Road gate was part of the Louisiana

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<sup>120</sup> Ibid; Ibid; Larry B. Stammer, "Eco-terrorists Focus of Mill Accident Probe," *Los Angeles Times*, May 15, 1987; Eric Brazil, "Tree Spiking in Mendocino Splinters All Sides," *San Francisco Examiner*, June 21, 1987; *The Press Democrat* headline was, "Tree Spiking Terrorism," and the *Times Standard* headline read, "Earth First! Blamed for Worker's Injuries." Bari, *Timber Wars*, 267- 270.

Pacific land and mill Campbell had purchased, and the road led directly to the edge of Headwaters Forest. Six women were arrested climbing up a logging deck, and Mokai led a relatively unsuccessful three-person tree sit in All Species Grove. In late August, Greg King and Mary Beth Nearing climbed two trees in Elk Head Springs Grove. They perched themselves 150 feet up in two trees on the edge of the ancient grove and an adjacent clear cut, and waited for two days until the loggers noticed their banner, strung between their two trees, that read, "Free The Redwoods." When a company tree climber removed the banner, King unfurled another that read, "2000 Years Old/ Respect Your Elders!" King and Nearer escaped arrest by sneaking down in the middle of the night. Weeks later, King and Nearing again went up into the trees to protest logging activity, this time at All Species Grove. They were dubbed Tarzan and Jane by the local media, and rather than escaping, they climbed down to be publicly arrested and sued by Pacific Lumber for trespassing. The incident drew major press to the Headwaters campaign and firmly established direct action at the point of production as a primary tactic in the redwood wars. *Outside Magazine*, for example, ran a long article about the tree sitters in December 1988.<sup>121</sup>

In 1988, the first major protracted of the Headwaters Forest conflict appeared because Pacific Lumber decided to stand firm on its rights to harvest the trees on its property, and chose to engage the activists with counter-attacks. North Coast Earth First! had ramped up its tree sitting campaign, took its show on the road, and began crafting alternatives to Maxxam/PL ownership of Headwaters Forest. Pacific Lumber also stepped up its defenses against Earth First!. John Campbell told his woodsmen not to

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<sup>121</sup> Ibid; Ibid; *The Last Stand: Ancient Redwoods and the Bottom Line*, dir. Holiday R. Phelan and prod. Todd Wagner, 58 min., Trillium Films, 2000, videocassette; Phil Garlington, "The Predator's Maul," *Outside*, December 1988, pg. 38., EPIC Archives, publication binder; Chase, *In a Dark Wood*, 241-243.

confront the activists, but rather to call the sheriff. However, he added, it was okay to have a little fun with the activists in the meantime. When activists held rallies at Scotia in front of the Pacific Lumber offices, Campbell had the sprinklers turned on. And, in the fall of 1988, PL employees rubbed honey on the trunk of a tree below a sitter to attract bees and bears. The playfulness ran alongside serious hostility, however. The loggers in the woods yelled and cursed at the sitters, and sent climbers up trees to scare them. Additionally, PL spokesman David Gallitz began telling reporters that Earth First! was a terrorist organization.

The activists contributed to the protraction because they – like John Campbell -- declined to engage in substantive negotiations. For Greg King, 1989 began not in the trees, but with the presentation of a Headwaters Forest Wilderness Complex proposal at the Restoring the Earth Conference at the University of California, Berkeley. Afterward, Greg put together a slide show of the pictures he had snapped while hiking PL land, and he traveled the state to increase the visibility of, and public support for, the campaign. Back in Humboldt, the tree sits continued. Banners were hung – in the woods and over the Highway 101 overpass near the Fisher Road exit. It was during this time that Darryl met Judi Bari while working on a poster at the Mendocino Environmental Center, and Bari entered the fray on behalf of Earth First!.

Bari brought organizing experience, a fiery spirit to the campaign, and direct action down to Mendocino County, which further widened the redwood wars. In October, Bari organized a road blockade on federal land near Cahto Peak, south of the South Fork of the Eel River, and staged a protest at the Mendocino offices of the Bureau of Land Management that temporarily shut down the agency's operations. That same

month, a literal tree hugging shut down logging in the Sanctuary Forest of Northern Mendocino. On another occasion, Cecelia Lanman of EPIC and Lynn Ryan of Sierra Club were arrested for trespassing on Pacific Lumber land as they monitored THP activity. While on the hike, the two women witnessed the company illegally logging an area protected by court injunction. Six weeks after Bari's first action, an informant sent a letter to the Ukiah police accusing Bari of inciting violence and offering to provide additional information. The letter was attached to a photograph of Bari holding an Uzi, a photo she and Darryl claimed was a spoof.<sup>122</sup>

In 1989, the activists of North Coast EF! seemed to hit their stride, but were met with growing backlash, which included physical violence -- a combination with near deadly ramifications. In a year that would be defined by instability and escalation, protests and worker organizing efforts fueled hostility from timber companies and many workers, activists dug in their heels in return, and the cycle renewed and grew stronger. In February, Louisiana-Pacific President Harry A. Merlo offered Bari greater incentive to increase EF! activity in Mendocino when he told *Press Democrat* reporter, Mike Geniella, that the company was:

*chewing everything up and putting it back together... we don't need a big tree [because we're making waferboard] ... We need everything that's out there. We don't log to a 10-inch top, or an 8-inch top, or a 6-inch top. We log to infinity. Because we need it all. It's ours. It's out there and we need it all. Now.*<sup>123</sup>

Judi Bari used that quote as fodder to recruit and motivate activists in her region, as well as to make inroads with Mendocino loggers worried about their jobs. Her efforts were aided by L-P's November 10 announcement that it was building a \$100 million mill in El

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<sup>122</sup> Bari, *Timber Wars*, 290-291; Cherney interview; Cherney, "History of Headwaters Campaign;" Wilson, "Judi Bari Dies."

<sup>123</sup> Quoted in Kathy Bailey, "A Timeline History of Logging Reform in Mendocino County: DRAFT," memo for Sierra Club California, unknown date, papers of Kathy Bailey, Philo, CA

Suazal, Mexico, to process redwood logs, a plan protested by EF! and millworkers alike. In April, a *Corporate Finance* article discussed a burgeoning alliance between loggers and environmentalists on the Northcoast, and in the fall, Judi represented Georgia Pacific loggers and millworkers as the International Workers of the World representative in Fort Bragg. Also that fall, Pacific Lumber workers Peter Keyes and John Maurer began publishing *Timberlyin'*, an underground alternative to the company newlester, *Timberline*. Historians including Richard White have argued modern environmentalists had a problem with workers and labor because environmental activists viewed workers as problematic because their work defied the environmentalists' goals. On the Northcoast, the activist leaders empathized with the workers and seemed to truly want to construct a rural society with room for loggers, fisherman, farmers, and homesteaders. As J. Brooks Flippen pointed out, however, economic interests and environmental values were uneasy bedfellows in the postwar era.<sup>124</sup>

That summer, the number of actions increased, and violence first reared its head – a sign of the expansion and protraction of the wars. Violence had never before entered the redwood wars. At the annual Round River Rendezvous, the national movement decided to organize a national tree sit week to highlight logging and forestry issues around the country. Darryle, Judi, and Greg organized their first mass base camp for launching the tree sits and other direct actions. The base camps, typically at public campgrounds in national forests or state parks, acted as home base, where supplies were received, plans hatched, meetings held, and where activists were trained to climb trees,

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<sup>124</sup> untitled L-P factsheet, EPIC archives, Publications Binder, Redway, CA; Bailey, "Timeline History of Logging;" Charles Winkler, "Don't To to Mexico, Signs Urge L-P," *Times Standard*, Thursday, December 28, 1989, page 1, EPIC archives, publication binder, Redway, CA; John Goff, "Angry Harvest," *Corporate Finance*, April 1989, page 53. From epic publication binder; Cherney, "History of Headwaters Campaign."

resist nonviolently, and so on. From that first base camp, the Northcoast activists put on three of seven nationwide tree-sits: an all-women's tree sit, a tree sit in the famous drive-through redwood on Highway 128 in southern Humboldt, and a seventeen-person tree sit in the walnut tree at the Arcata house of Assemblyman Dan Hauser. Those tree sits were designed to draw media attention, not stop production.<sup>125</sup>

In addition to hardening Pacific Lumber's opposition to the activists, the on-the-ground actions that spring and summer also frayed what fragile worker-activist bonds had been cultivated. By April, a reporter already had described Scotia as a town "torn apart by a blaze of protests, lawsuits, and counter-charges." In June, King and Cherney organized a rally at Calpella, a mill town in Mendocino, where Louisiana Pacific was experimenting with chipboard/waferboard production. At the rally, a logger punched King and knocked him to the ground. Afterward, Dave Galitz wrote John Campbell a memo stating: "Enclosed is an article on Cherney and King's latest stunt. As soon as we find the home of the fine fellow who decked Greg King, he has a dinner invitation at the Galitz Residence."<sup>126</sup>

The violence escalated in August. North Coast EF! set up a road blockade at Whitethorn, along the Humboldt-Mendocino border, to stop Lancaster Logging, which neighbors complained was logging outside its THP boundary and logging late at night. That EF! agreed to set up this blockade is evidence of the group's desire to work on behalf of the local community because Lancaster was not an industrial logging company.

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<sup>125</sup> Cherney interview, Cherney, "History of Headwaters Campaign." Regarding worker-environmental tensions See Richard White, "Are You an Environmentalist or Do You Work for a Living?: Work and Nature," in Cronon, ed. *Uncommon Ground*, chapter 6, and *The Organic Machine*. See also J. Brooks Flippen, "Richard Nixon and the Triumph of Environmentalism" in *American Environmental History*, Louis S. Warren, ed., (Malden, MA: Blackwell Publishing, 2003), 271-289.

<sup>126</sup> Bari, *Timber Wars*, 97-98.

The national EF! movement did not share that community vision, and tensions grew between the national leaders and the Northcoast activists. At the Lancaster blockade, Mrs. Lancaster and Judi Bari exchanged blows, and the oldest Lancaster son hit 50-year-old Mem Hill, knocking her down and breaking her nose. As Greg King began to take pictures, Lancaster threw King to the ground. King responded by standing up and punching Lancaster. Dave Lancaster, the eighteen-year old son of the owner, arrived with a shotgun and fired it into the air, scattering the activists. Two days later, on August 18, Cherney and Bari organized a roadblock near Navarro in Mendocino to stop logging trucks. The next day, just east of Navarro in Philo, a logging truck rear-ended the car carrying Bari, Cherney, an activist named Pam, and four children. It was the same driver Bari and friends blocked the prior day, and there were no skid marks. The driver got out of his truck yelling, "I didn't see the children!" Though still in the skirmish phase, the intensity and scope of the redwood wars had jumped up a notch in 1989.<sup>127</sup>

### **Back at the Center of the Redwood Wars: The "New" Pacific Lumber and its Vision Confront the Radicals**

In the late 1980s, Pacific Lumber Company – after having avoided conflict with redwood activists since the 1930s -- found itself beleaguered on many fronts because of a dramatic corporate transformation that placed its forest and corporate vision under local scrutiny. A conflict over Headwaters Forest surely would have arisen without the transformation of Pacific Lumber, but the takeover by Maxxam hastened the arrival of

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<sup>127</sup> Ibid, 10, 60; Cherney interview; Cherney, "History of Headwaters Campaign;" Harris, *The Last Stand*, 275-277.

the conflict and allowed for that conflict to grow hotter and more protracted than it likely would have been. In addition to the direct actions of the redwood wars, Wall Street scandals brought unwanted attention of a different sort. The Maxxam takeover of the company drew the attention of Northcoast activists to its land, especially John Campbell's work to improve the efficiency and profitability of the company. More than that, Michael Milken and Ivan Boesky's involvement with Maxxam, coupled with Charles Hurwitz' past, offered the activists a nearly perfect foil for their campaign against industrial logging. Once Pacific Lumber entered the equation, the wars were fought on two fronts: on L-P and G-P's land in Mendocino and in southern Humboldt, and on Pacific Lumber's land in central Humboldt. Pacific Lumber, unlike L-P, which had worked to remove itself from the Northcoast, dug in and fought the environmental activists with vigor and patience, especially as it developed into the primary target of the activists, legislators and the press.

Early in 1985, John Campbell worked to convince the board of directors to increase the company's use of clear cuts and to increase its harvest levels in general, which eventually contributed to the expansion of the redwood wars and the focus on Headwaters. But by the end of the year, Campbell was preparing even larger increases in production, and for work under new ownership. Prior to that year, Campbell had convinced the board of directors that clear cutting was a more efficient way to harvest its second growth and old growth groves. He also resized lumber packages down to the size one person might use to build a deck; computerized the company's shipping and inventory processes; and began to sell directly to retailers. These and other new measures left the company in sound shape and poised to improve profits during the

economic recovery and timber boom of the mid-1980s. From 1980 to 1985, the company averaged \$179 million per year in net sales and 18 percent net profits, paid a \$1 dividend per share, with a meager \$24 million in long-term debt (a 0.15 debt-to-assets ratio) (Table 1). In 1983, Standard and Poors assigned Pacific Lumber's bonds an A+ rating. To further improve profitability, the company shed divisions its Victor retail operation, its power fluid business, and other underperforming divisions outside its core business. Pacific Lumber posted record highs in 1983 and 1984, and exceeded net returns above 12 percent every year since at least 1970 until 1985 except 1982 (See Chart 1). Along with robust growth came a new thirst for timber. In September 1985, before the Hurwitz tender offer, John Campbell and Bob Stephens (head of the forestry department at the company) proposed to increase the annual harvest forty percent, to 170 million board feet. Pacific Lumber had acquired several thousand acres of new land in the 1980s, while at the same time becoming increasingly convinced that the 1956 timber cruise underestimated the company's previous timber inventory. Campbell could not have known that the annual harvest levels and projected inventory would become central issues in the redwood wars.<sup>128</sup>

The company's strong balance sheet, outdated timber inventory, and undervalued stock caught the eye of Charles Hurwitz, an extraordinarily aggressive if still little-known corporate takeover artist. Hurwitz was born and raised in Kilgore, Texas, and graduated from the University of Oklahoma in 1962. In 1968, at the age of 28, he joined with George Parmalee to create one of the nation's first hedge funds – Hedge Fund of

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<sup>128</sup> Campbell interview; Chris Bowman, "The Redwood Wars," *The Sacramento Bee Magazine*, February 12, 1989, pg. 10; EPIC archives, publications binder, Redway, CA; "Corporate Balance Sheet Scoreboard," *Business Week*, August 1, 1983, pg 64; 1980 Pacific Lumber Annual Report, pages 3,4, 6; 1981 Pacific Lumber Annual Report page 2; 1982 Pacific Lumber Annual Report, page 2; Harris, *The Last Stand*, 45-47.

America – which raised \$54 million with its first offering. George Kozmetsky, co-founder of Teledyne and later head of the University of Texas business school, backed the fledgling fund. As his reputation in finance began to grow, Hurwitz had left the hedge fund in 1971 and purchased his first company, The Summit Group. But already there was trouble. That same year, Hurwitz agreed to an SEC consent decree that enjoined him and Summit Group from further violations of anti-fraud securities laws. The decree stemmed from a complaint by the Hair Extension Center that Hurwitz had disseminated false and misleading information about the company. Before the year was out, Hurwitz sold Summit Group, but retained the insurance unit, which was subsequently liquidated in 1975 after the New York Insurance Superintendent charged him and others with “improperly, illegally, and fraudulently siphon[ing]” funds from Summit Insurance. Undaunted, Hurwitz, backed by \$12 million in loans, acquired Federated Development Company in 1973 to carry out his acquisition plans.<sup>129</sup>

In 1978, the then 38-year-old financier launched what would become a long career of very complex mergers, acquisitions, and reorganizations by purchasing a 13 percent share of McCulloch Oil from Black & Decker Manufacturing Company. It was a cheap way to get into the energy business. McCulloch was founded as the Cuban American Oil Company in 1955, but became McCulloch Oil in 1960. The company

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<sup>129</sup> <http://charleshurwitz.com/leadership.html>, accessed July 21, 2009; S.C. Gwynne, “Tree Ring Circus,” *Texas Monthly*, April 2006). (“MAXXAM Inc.” *International Directory of Company Histories*, Vol. 8. St. James Press, 1994. Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008 <http://galenet.galegroup.com/servlet/BCRC>; Stephen J. Sansweet, “Once Unwelcome as a Holder, Hurwitz Has Become McCulloch Oil Chairman,” *Wall Street Journal*, March 27, 1989, ProQuest Historical Newspapers The Wall Street Journal (1889 – current file) pg. 16; “McCulloch Oil Seen Losing a Board Seat To Hurwitz Interest Over Its Opposition,” *Wall Street Journal*, May 11, 1978, ProQuest Historical Newspapers The Wall Street Journal, pg. 4; S.C. Gwynne, “Tree Ring Circus,” *Texas Monthly*, April 2006; (“MAXXAM Inc.” *International Directory of Company Histories*, Vol. 8. St. James Press, 1994. Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008. <http://galenet.galegroup.com/servlet/BCRC>); Staff Reporter, “Federated Development Says SEC Is Studying SMR’s Take-Over of It,” *Wall Street Journal*, Dec. 18, 1973; ProQuest Historical Newspapers The Wall Street Journal) pg. 4.

produced oil, chainsaws, and housing developments. Most famously, McCulloch built Lake Havasu City, Arizona, and in 1968 the company purchased the London Bridge From England and relocated it to Lake Havasu. McCulloch was besieged by legal problems related to its myriad developments, and was loaded with debt. Hurwitz must have seen a company primed for reorganization because he quickly insinuated himself into the management of the company, though not smoothly. Hurwitz wanted seats for his representatives on the board, but during negotiations, United Realty Trust of Beverly Hills accused Hurwitz of securities law violations. The McCulloch management team argued Hurwitz' past legal problems made him and his representatives inappropriate board candidates. Hurwitz fought back, and by August 1978, he was a Director himself, had two additional representatives placed on the board, and Hurwitz and another Federated representative were appointed to the Executive Committee. In January 1979, the Hurwitz group settled the United Realty suit by selling their combined 8 percent stake and agreeing not to buy any United stock for five years. In 1980 Hurwitz became CEO and Chariman of McCulloch Oil and appointed his associate, William Leone, President. As CEO, Hurwitz changed the company's name to MCO Holdings Inc, shed its energy holdings, passed nearly insurmountable anti-takeover measures, reduced the size of the board from thirteen to seven members, and successfully replaced the entire board with his own representatives. In 1981, Hurwitz further consolidated his control when he swapped 850,000 common shares for preferred shares, giving him control of 45 percent of the voting shares. As John Campbell said, Hurwitz was "Old Testament;" Hurwitz could not be intimidated, and when fired upon, he retaliated with greater force.<sup>130</sup>

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<sup>130</sup> ("MAXXAM Inc." *International Directory of Company Histories*, Vol. 8. St. James Press, 1994.

In 1982, Hurwitz further expanded his burgeoning empire, and repeatedly reorganized his companies to consolidate his control and generate cash. In May, MCO and Federated Development announced they had reached an arrangement to purchase 33 percent of Simplicity Pattern Company, outmaneuvering Cook International Inc. Hurwitz replaced the Simplicity CEO and Chairman with himself, and during the summer, MCO purchased another 13 percent of the company and placed Bill Leone and Barry Munitz, Chancellor of the Business School at the University of Houston and Vice Chair of MCO, on the Simplicity board. When the company eliminated dividends, many shareholders publicly worried about liquidation, and like Pacific Lumber shareholders would several years later, demanded their share of the profits. Hurwitz sold the pattern business of Simplicity, but retained the real estate division and renamed it Maxxam Group. MCO subsequently purchased approximately 37 percent of Maxxam Group as well as 23 percent of United Financial Group, the parent company to the second largest Savings and Loan in Texas, United Savings of Texas.<sup>131</sup>

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Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008. <http://galenet.galegroup.com/servlet/BCRC>; Sansweet, "Once Unwelcome as a Holder;" Staff Reporter, "Black&Decker Sells McCulloch Oil Stake to Option Holder," *Wall Street Journal*, May 9, 1978; Proquest Historical Newspapers The Wall Street Journal, pg. 18; Wall Street Journal Staff Reporter, "McCulloch Oil Corp.'s Management Loses Two Board Seats to Hurwitz's Candidates," *Wall Street Journal*, May 12, 1978; ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990), pg. 12; ("Inside The Times," *Los Angeles Times*, May 17, 1978; ProQuest Historical Newspapers Los Angeles Times (1881 – 1986) pg. SD2; Wall Street Journal Staff Writer, "McCulloch Oil Elects C.E. Hurwitz Director," *Wall Street Journal*, Aug. 9, 1978; ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990) pg. 24; Al Degugach, "Texas Financier Settles Suit With Beverly Hills REIT," *Los Angeles Times*, January 29, 1979, ProQuest Historical Newspapers Los Angeles Times (1881 – 1986) pg. D12; Wall Street Journal Staff Reporter, "McCulloch Oil Names Charles E. Hurwitz Chairman and Chief," *Wall Street Journal*, March 20, 1980, ProQuest Historical Newspapers The Wall Street Journal (1889 – current file) pg. 29; Al Delugach, "Hurwitz Gets Strong vote to Deter Takeover of McCulloch," *Los Angeles Times*, June 19, 1980, ProQuest Historical Newspapers Los Angeles Times (1881 – 1986) pg. F1) ("Company News," *New York Times*, July 10, 1980, ProQuest Historical Newspapers The New York Times, (1851-2004) pg. D4.) (Pamela G. Hollie, "The Man Who Won McCulloch Oil," *New York Times*, July 13, 1980, ProQuest Historical Newspapers The New York Times (1851 – 2004) pg. F11; "Business in Brief," *Los Angeles Times*, ProQuest Historical Newspapers Los Angeles Times (1881 – 1986) pg. E2. Campbell interview.  
<sup>131</sup> Thomas C. Hayes, "Hurwitz Group Buying 33% of Simplicity Stock," *New York Times*, May 11, 1982, ProQuest Historical Newspapers The New York Times (1851 – 2004) pg. D6; Janet Guyon, "Simplicity

For the next year and a half, Hurwitz attempted additional acquisitions, and he again found himself accused of securities fraud, a pattern that would be repeated several more times during the 1980s and 1990s. In 1984, Hurwitz acquired 11 percent of Castle & Cook, a division of Dole Foods. The company sued Hurwitz, alleging that his efforts to acquire stock through MCO, Federated, and United Financial disguised his takeover intentions, and that the use of the S & L violated securities law by using “excessive unsecured loans to bankroll” the takeover effort. A Hawaii court temporarily enjoined Hurwitz and associates from buying more Castle & Cook stock, and in May, the company bought back Hurwitz’ shares for \$71 million -- a \$15 million profit for Hurwitz and his companies. The press accused Hurwitz of greenmail, and in a rare public statement, Hurwitz railed against the charge, and asserted that his acquisition efforts were designed to build solid businesses out of poorly managed ones. By the fall, Hurwitz began accumulating UNC Resources Inc. shares, a defense contractor in suburban Washington, DC, owning 7.45 percent of the company by November. 1985 would also be a busy year for Hurwitz.<sup>132</sup>

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Halts Payout After 37 Years When Stormy Meeting Elects New Board,” *Wall Street Journal*, July 27, 1982, ProQuest Historical Newspapers The Wall Street Journal (1889-1990) pg. 37; (“MAXXAM Inc.” *International Directory of Company Histories*, Vol. 8. St. James Press, 1994. Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008. <http://galenet.galegroup.com/servlet/BCRC>.

<sup>132</sup> “What’s News,” *Wall Street Journal*, March 12, 1984, ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990) pg. 1.; David E. Sanger, “bid fought By Castle & Cooke,” *New York Times*, March 12, 1984, ProQuest Historical Newspapers The New York Times (1851 – 2004) pg. D1); Mike Tharp, “Castle & cooke Is Facing Tough Time; Concern Awaits Decision About Loans,” *Wall Street Journal*, December 26, 1984, ProQuest Historical Newspapers The Wall Street Journal (1889- - 1990) pg. 5; “Investor Buys 6% of UNC,” *Washington Post*, October 30, 1984, ProQuest Historical Newspapers The Washington Post (1877 – 1990) pg. E3; “Investor Buys 6% of UNC,” *The Washington Post*, October 30, 1984, Business; E3(LOC website); “Houston Investor Raises Stake in UNC,” *The Washington Post*, November 12, 1984, Washington Business; Pg. 3 (LOC website); Mark Ivey, “Charles Hurwitz Doesn’t Bark, He Just Bites,” *Business Week*, December 10, 1984, Names & Faces Section; pg. 73. (LOC website); Charles E. Huwitz, “Charles Hurwitz Calls It A ‘Soap Opera’ Potrait,” *Business Week*, December 31, 1984, Readers Report, pg. 8 (LOC website).

Hurwitz, like Campbell planned to expand his operations in 1985, and the collusion of the two plans eventually combusted on the Northcoast and drug Pacific Lumber into the redwood wars. In January, Maxxam was courted as a white knight for AMF Inc, in a failed effort to ward off Irwin Jacob's hostile takeover effort. By the end of April, Maxxam owned 8.7 percent of UNC and filed papers with the Securities Exchange Commission to offer at least \$225 million worth of subordinated notes through Michael Milken's shop at Drexel Burnham and Lambert to fund an acquisition. In May, Amsted Industries sued Hurwitz, and two companies he controlled, claiming that Hurwitz filed false forms with the Securities Exchange Commission because entities under his direct control owned 8.7 percent of Amsted common shares. Hurwitz' takeover strategy led one New York Arbitrageur to assert, "[i]t's like Hurwitz has gone public, with Maxxam as his tool to pursue takeover bets." Indeed, Hurwitz aimed to "expand and redeploy" Maxxam's non-real estate assets and cash by acquiring undervalued businesses. In July, Hurwitz increased his UNC holdings to 12.4 percent, and held steady while directing his gaze toward Pacific Lumber.<sup>133</sup>

Monday, September 30, 1985 changed nearly everything for Pacific Lumber. At six in the morning, Hurwitz called Pacific Lumber President, Gene Elam, and told him that Maxxam Group was making a tender offer at thirty-six dollars per share, a nearly ten

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<sup>133</sup> Elizabeth Ehrlich, "Behind The Amf Takeover: From Highflier To Sitting Duck," *Business Week*, August 12, 1985, The Corporation; Executive Suite Section, pg. 50 (LOC website); Nell Henderson, *The Washington Post*, March 19, 1985, Business; D5, (LOC website); Nell Henderson, "Hurwitz Adds to UNC Stake," *The Washington Post*, April 29, 1985, Washington Business, Pg. 11 (LOC website); "Finance Briefs," *The New York Times*, May 17, 1985, Sec. D, Pg. 11, Col. 5, Financial Desk (LOC website); ("Briefs," *The New York Times*, May 23, 1985, sec. D, pg. 21, col. 2, Financial Desk (LOC website); Bill Richards, "Amsted Adopts 'Poison Pill' Step Against Takeovers," *Wall Street Journal*, May 31, 1985, ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990) pg. 8.; Gene G. Marcial, "A Stock For Armchair Raiders," *Business Week*, June 10, 1985, Inside Wall Street; pg. 110 (LOC website); "Company Briefs," *New York Times*, July 9, 1985, ProQuest Historical Newspapers The New York Times (1851 -2004) pg. D5.;

dollar increase on the current trading value of Pacific Lumber stock. Elam balked at the offer, and the company enacted a provision to place the excess pension fund reserves out of reach of any acquirer. After news of the tender offer broke, Pacific Lumber stock jumped to thirty-nine dollars. Analysts asserted the company was worth closer to fifty dollars per share, especially given the sharp increase in cutting and welding earnings during 1984. A few days later, Hurwitz increased his offer to thirty-eight and a half dollars per share, while the company flew in potential white knights. On October 23, the board unanimously accepted a forty-dollar per share merger deal from Hurwitz for a total of \$864 million.<sup>134</sup>

The board capitulated rather quickly, but the deal was not uncomplicated, which contributed to the firestorm that later swirled around the company and Headwaters Forest. Campbell believed there were two important forces that drove the board to approve the merger: elements of the Murphy family wanted the merger approved, and lingering shareholder disgruntlement after the board cancelled dividends in 1980 and then offered ten million shares to board members -- a bad sign for investors who also recognized the stock was undervalued. Campbell believed many shareholders simply wanted out because the stock remained undervalued, and they were happy to sell their shares above the traded value. As for the Murphys, while they owned less than five percent of the stock, they were held in high esteem by the board. At a meeting at Jack's Restaurant in San Francisco, the southern California-based Moran branch of the

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<sup>134</sup> Special to the *New York Times*, "Hurwitz Planning a Bid for Pacific Lumber Co.," *The New York Times*, October 1, 1985, ssec. D, pg. 19, col. 3; financial desk.)(Hank Gilman and Mike Tharp, "Maxxam Plans bid to Acquire Pacific Lumber," *Wall Street Journal*, October 1, 1985, sec. 1, pg. 2, col. 2 (LOC website); Mark Walters, "California's Chain-Saw Massacre," *Reader's Digest*, November 1989, page 144. EPIC archives, publication binder, Redway, CA; David Anderson, "PL Rearranges, Grows During Maxxam Decade," *Times-Standard*, October 29, 1995, unknown page, EPIC archives, Eureka, CA. See David Harris, Part I, "The Takeover," in *The Last Stand* for a detailed journalistic account of the takeover and the events surrounding it.

Murphy's met with Ed Beck, Pacific Lumber's General Counsel, and told him not to let Hurwitz get away. A separate branch of the Murphy family, the Schmidts, sold all of their stock when it entered arbitrage. Other observers pointed toward a Maxxam counter-suit and threatened severance elimination as another factor in the board's decision. In particular, Campbell was surprised that management and the board never discussed greenmailing Hurwitz. The company could have used the \$60 million surplus in the pension fund because, according to Campbell, the IRS told Pacific Lumber it had to stop depositing funds into the account because regulations didn't allow companies to shelter assets in pension funds. Campbell thought the company could have bought Hurwitz off for \$100 million if they wanted to, and that they had the resources to absorb the payment. The board, however, decided they couldn't beat Hurwitz and wanted the shareholders to get out with a profit, even if the offer was less than the company was worth.<sup>135</sup>

Not all of the shareholders wanted out, however. The company and a group of stockholders filed suits to stop the merger, including members of the Murphy family. Campbell believed that the investment bankers at Salomon Brothers – whom Gene Elam hired earlier in the week to analyze that summer's sudden increase in the company's stock price and trading volume -- did not serve the board well because they didn't understand the company's reputation or the loyalty of the shareholders. The bankers only understood the numbers, and how the shareholders would benefit from the sale. The bankers didn't anticipate shareholder resistance when they recommended the company not employ its 1981 anti-takeover measure that required eighty percent shareholder approval of any merger. When the board rejected Hurwitz' offer on October 9, they also

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<sup>135</sup> Campbell interview; Ellen Schultz, "A Raider's Ruckus in the Redwoods," *Fortune*, April 24, 1989, pg. 172; EPIC Archives, publications binder, Redway, CA;

approved additional poison pill measures requiring eighty percent shareholder approval of the sale of any assets, vesting the \$60 million pension surplus in the employees and retirees, and increasing the board's severance packages. On October 18, Maxxam sued Pacific Lumber over the new measures, threatened the board's severance packages, and the board quickly capitulated. A group of shareholders then convinced a California Superior Court judge to delay finalization of the tender offer until November 25 to give them time to consider their options. Justice William H. Rehnquist of the U.S. Supreme Court denied the plaintiffs a subsequent emergency stay, and the merger went through, but the challenges to the merger did not end. On November 27, Warren, Woody, and Suzanne Murphy, along with other shareholders filed another suit in Portland, Maine, where the company was incorporated. That suit, in a myriad of constructions, continued until 1995. During the first week of December, Maxxam Group accepted 13.1 million shares of Pacific Lumber stock, approximately sixty percent of the shares, and planned to buy the remaining shares in early 1986. One of the earliest, if not the earliest, hostile takeovers backed by junk bonds was thus completed, but the objections to the takeover were not.<sup>136</sup>

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<sup>136</sup> Harris, *The Last Stand*, 31-36; Schultz, "A Raider's Ruckus," Special to the New York Times, "Legal Proceedings on Maxxam Bid," *The New York Times*, November 30, 1985, section 1, page 30, column 5, financial desk (LOC website); Kennet N. Gilpin, "Business People; Pacific-Maxxam Link is Fought by a Family," *The New York Times*, November 11, 1985, Section D, Page 2, Column 5, Financial Desk; *The New York Times*, November 11, 1985, Section D, Page 2, Column 5, Financial Desk; John Goff, "Angry Harvest," *Corporate Finance*, April 1989, page 53, EPIC archives, publication binder, Redway, CA; Mark Walters, "California's Chain-Saw Massacre," *Reader's Digest*, November 1989, page 144, EPIC archives, publication binder, Redway, CA; ("Stock Plans By Maxxam," *The New York Times*, December 2, 1985, section D, page 2, column 5, financial desk. (loc website); ("Maxxam Gains Control of Pacific Lumber," *The Washington Post*, December 6, 1985, Business; Roundup; F1. (LOC website); ("MAXXAM Inc." *International Directory of Company Histories*, Vol. 8. St. James Press, 1994. Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008. <http://galenet.galegroup.com/servlet/BCRC>; Allan Sloan, "Thrift Regulators Slipping and Tripping Over One Another's Feet," *The Washington Post*, April 16, 1991, D3, LOC website. The *Washington Post* alleges the takeover was the first. The International Directory says one of the earliest.

While the fight over the merger played out, Campbell prepared for the coming changes, and hoped to execute his production plans. For Campbell, the merger turned into his best opportunity to implement his industrial vision. In October, before the board approved the merger, Campbell ordered a new shipping building in Scotia to store additional lumber products, and he ordered additional caterpillars to increase the capacity of the lumber mills. Even if unsuccessful, he assumed the acquisition attempt would lead to further increases in harvests to drive up the stock price and make the company less vulnerable. Early in the winter, John and another manager, Tom Mularkey, met in San Francisco to discuss the future, and prepare for a meeting with MCO executives Robert Rosen and William Leone. Campbell requested a new timber inventory and a modern computer inventory system for the timber products division, including a Geographic Information System program. When Leone was put in charge of Pacific Lumber, he granted Campbell his requests, and the new timber cruise estimated that the property could handle an annual cut of 226 million board feet, versus the older model that recommended approximately 130 mmbf.<sup>137</sup>

Discontent and anxiety marred the transition to the new ownership and production plan, however. Hurwitz visited Scotia in December 1985, and drew the ire of employees and the community with his ill-fated attempt at humor – the infamous “he who has the gold rules” comments during an all-employee meeting. Company employees took out a full-page ad in the *Times Standard* objecting to the takeover, which was followed by an unsuccessful union drive. Campbell claimed that the union misinterpreted the meaning of the ad-petition; the employees objected to change, period. The millworkers and loggers weren’t the only employees who objected to the merger.

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<sup>137</sup> Campbell interview.

For three or four months, the office staff did not speak to Campbell, and Warren Murphy, a low-level manager, held press conferences in his office protesting the merger. Though a rough time, Campbell took solace in the fact that the veteran millworkers trusted him, and gave him their vote of confidence, vowing to make the new company work well. That year, Campbell bought a mill from Louisiana Pacific in Carlotta, at the doorstep of what became known as Headwaters Forest. By June, the company hired an additional three hundred employees, and announced it planned to log forty-five percent more old growth acreage than in previous years, and even more young trees. In July 1986, the company refinanced its junk bond debt with below investment grade notes, and sold “substantial numbers of raw logs” in order to meet cash flow needs until the new harvests were ready for lumber production. In 1987, Maxxam sold Palco Industries for \$320 million, escalating fears that Hurwitz was going to dismantle the company.<sup>138</sup>

Federal regulators and legislators, in addition to Greg King, investigated the Pacific Lumber takeover and helped push the company into the middle of the redwood wars. In December, the New York Stock Exchange recommended the SEC investigate the activity of Herbert Gordon, a music producer in Westport, Connecticut who commuted into New York City with Robert Rosen of Maxxam. Gordon purchased 16,900 shares of Pacific Lumber in September 1985, just before the tender offer. In January 1987, the SEC asked for the records of a New York accounting firm to review payments from Ivan Boesky to Drexel Burnham in exchange for insider stock tips. The

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<sup>138</sup> Campbell interview; Schultz, “A Raider’s Ruckus;” The Pacific Lumber Company, Form S-2, Registration No. 33-56332, December 28, 1992, EPIC archives, Eureka, CA; “FINANCE: \$680.5 Million Sale at Pacific Lumber,” *The New York Times*, July 2, 1986, sec. D, page 16, column 4; Financial Desk (LOC website); Leonard M. Apar, “Maxxam to Sell Most of Palco for \$320 Million,” *Wall Street Journal*, August 18, 1987, Section 1, Page 15, Column 5; Peter H. Frank, “Palco’s Acquirer Plans to Linger After the Deal,” *New York Times*, August 21, 1987, ProQuest Historical Newspapers The New York Times (1851 – 2004) pg. D2.

SEC then subpoenaed Maxxam Group, Diamond Shamrock Corporation, Lorimar-Telepictures Corporation, and Turner Broadcasting System regarding their merger and acquisition activities because Boesky owned shares in Pacific Lumber and MGM/UA Entertainment, and Drexel Burnham financed the TBS and Maxxam takeover efforts. In May, Congressman John Dingell, prompted into action by Bay Area investigative journalist Brian McTigue who was hired by Dingell's committee to investigate the takeover, held the first congressional hearings regarding Milken and Boesky. The subject of the hearings was the Pacific Lumber takeover. In October, the committee concluded that Boyd Jeffries parked Pacific Lumber stock for Boesky to help Hurwitz in his takeover quest. Hurwitz denied that his September 27 purchase of 539,600 shares of Pacific Lumber stock from Jeffries for below market price was set up in advance. Milken, Boesky, and Jeffries were subsequently convicted of insider trading violations and sentenced to prison terms, and the Public Broadcasting System aired a thirty-minute documentary about the Pacific Lumber takeover. As in the past, Hurwitz escaped prosecution, but his reputation made him the perfect foil for environmental activists working to turn the public and workers against Pacific Lumber's harvest plans. The "junk" bond scandal propelled the redwood wars to notoriety, and powerfully contributed to the intractability of the conflict because the activists used the media to paint the company as the evil villain, and the company lashed back accordingly.<sup>139</sup>

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<sup>139</sup> Thomas E. Ricks, "Big Board Urged SEC in '86 to Examine Trading in Pacific Lumber, Panel Says," *Wall Street Journal*, October 6, 1987, ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990) pg. 12; David A. Vise and Peter Behr, "SEC Subpoena Probes Boesky's Fees to Drexel," *The Washington Post*, January 15, 1987, First Section, Page A1. (LOC Website); Bailey Morris, "SEC Focus on Boesky Payments," *The Times* (London), January 16, 1987, issue 62667 (LOC website); personal correspondence between Brian McTigue and the Author, May 9, 2009. "Denial Made on 'Parking'," *The New York Times*, October 6, 1987, Sec. D, Page 2, Column 4, Financial Desk (LOC website). (Thomas E. Ricks and Daniel Hertzberg, "Ex-Jeffies Aide May have Parked Stock for Hurwitz, Congressional Report

During 1988 and 1989, Pacific Lumber implemented its production increases, but bad press, direct actions in the woods, worker unrest, and litigation hindered its efforts. As Campbell knew in October 1985, the Maxxam takeover would bring change, and indeed it did. In 1984, the company harvested 3701 acres of land, and in 1985 they harvested 5188, evidence of Campbell's assertion that he planned to increase production well before the merger. But, the merger led to even greater increases: 9447 acres in 1986, only 4961 in 1987 due to litigation, but up to 10436 in 1988 and 8206 in 1989. Previously, Pacific Lumber harvested about 1000 acres of old growth annually. In 1988, 7811 acres of the 10,436 total were old growth harvest plans, and in 1989, 5487 acres of the 8206 total were old growth. Campbell claimed the company never doubled the rate of logging, but the evidence is clear. During the early 1980s, Campbell acquired additional land for sure, but he did not double the size of the property and added zero old growth or ancient forest. Regardless of the actual rate increase, the increased acreage of old growth harvests was enough to fuel environmental opposition.<sup>140</sup>

The press coverage and the on-the-ground regime fueled concerns about the intentions of Hurwitz and the future of the company. In February 1988 MCO Resources defaulted on \$46.6 million of bank debt. In March, Maxxam announced it had purchased \$190 million of KaiserTech Ltd. stock, and that it wanted to buy more shares. The combination fueled fears on the Northcoast that Maxxam was solely interested in mergers and asset sales, not in running companies. In March, the *New York Times* ran an article about the takeover and the subsequent doubling of logging activity. The article described

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Says," *Wall Street Journal*, October 5, 1987, ProQuest Historical Newspapers The Wall Street Journal (1889 – 1990) pg. 3

<sup>140</sup> EPIC Summery Sheets for Pacific Lumber Timber Harvest Plans 1980 – July 1990, papers of Kathy Bailey, Philo, CA; Kathy Bailey to Ed, "Re: Prop 130 Effects on Pacific Lumber," September 8, 1990, papers of Kathy Bailey, Philo, CA; Campbell interview.

how John Maurer quit the company to protest the new logging regime, and how employee George Garibay thought the company was “destroying the future...” The same article described the new pick-up trucks and large paychecks of company employees due to sixty-hour work-weeks, but also noted how many employees simultaneously worried about Humboldt County becoming “another Appalachia.” Finally, local attorney for the Murphy family, Bill Bertain, was quoted saying, “They (some PL workers) feel Maxxam is raping the land and dismembering the company.” In October, Bertain filed a \$2.25 billion lawsuit in federal and state courts on behalf of former shareholders to invalidate the Maxxam – Pacific Lumber merger due to the fraudulent activities of Milken, Boesky, and Jeffries. Earlier that year, Congressman Dingell presented evidence to the Federal Trade Commission that showed that Maxxam and Hurwitz may have violated antitrust law in the Pacific Lumber takeover, and in March, *Business Week* ran an article that generally praised the effectiveness of 1980s takeovers that resuscitated laggard companies, but described the Maxxam takeover of Pacific Lumber as a “horror story about the consequences of excess leverage” because Maxxam was cutting down old growth to repay its junk bond debt. By the end of March, Maxxam and Kaiser met to discuss the reorganization of Kaiser’s board, and by June Maxxam Group acquired Kaiser. Throughout the swirl of press in 1988, the name and paternal image of Pacific Lumber was effectively subsumed by the callous, Wall Street image of Maxxam.<sup>141</sup>

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<sup>141</sup> Caleb Solomon, “Small Energy Firm Could Spoil Record Of Tough Financier,” *Wall Street Journal*, February 4, 1988, ProQuest Historical Newspapers The Wall Street Journal. Pg. 19; (“COMPANY NEWS; Maxxam Will Buy Kaisertech Stake,” *The New York Times*, March 1, 1988, sec. D, page 5, Column 2, financial desk. (LOC website); Robert Lindsey, “Ancient Redwoods Fall to a Wall Street Takeover,” *The New York Times*, March 2, 1988, Section A, Page 16, Column 1, National Desk; “Don’t Clamp Down on the Dealmakers,” *Business Week*, March 21, 1988, EDITORIALS, pg. 170. (LOC Website); “COMPANY BRIEFS,” *The New York Times*, March 25, 1988, section D, Page 5, column 3, financial desk. (LOC website); Danial Akst and Brenton R. Schlender, “MCO Holdings Agrees to Buy KaiserTech Ltd.,” *Wall Street Journal*, May 24, 1988, ProQuest Historical Newspapers The Wall Street Journal, pg 2; Staff

All of the bad press regarding the takeover and other Maxxam activity, combined with two EPIC lawsuits, and another harvest plan rejected by the Department of Forestry, led the company to voluntarily reverse its accelerated harvest of ancient forests. David Galitz told the press the company would cease clear cutting inside ancient forests, a decision prompted by public concerns and the intervention of State Senator Byron Sher and Assemblyman Dan Hauser. Joe Wild of EF! dismissed the change as a public relations stunt, as did Bradlee Welton of the Save the Redwoods League.<sup>142</sup>

The reputation of Pacific Lumber plummeted even further in 1989, often led by the business press, encouraged by the actions of the Northcoast activists. In February, Maxxam sold three Kaiser facilities that continued to fuel cut-and-run fears in Humboldt County. *Corporate Finance* subsequently described a tenuous worker-environmentalist alliance in an article with the title, "Angry Harvest." *Fortune* ran an article entitled, "A Raider's Ruckus in the Redwoods," that described the new logging regime as "felling trees so fast that barren clear-cut patches covered only with sluglike tracks of huge log haulers, blot the landscape for miles." The article also claimed "environmental extremists have declared holy war," while mainstream groups filed lawsuits. The article also asserted security analysts feared the company's regime would flood the redwood market and lead to increased logging restrictions. The article finally trumpeted the fragile

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Reporter, "Drexel, Milken, Boesky Sued by Ex-Holders of Pacific Lumber Co.," *Wall Street Journal*, September 8, 1989, ProQuest Historical Newspapers The Wall Street Journal, pg. C8.) (David J. Jefferson, "Suit on Takeover of Pacific Lumber tied to Drexel Case," *Wall Street Journal*, October 24, 1988, Sec. 1, Page 5, Column 1 (LOC website

<sup>142</sup> The first case was EPIC v. Maxxam (Petition for Writ of Mandate granted June 4, 1987, HUM 79879). The second case was EPIC v. Maxxam (Petition for Writ of Mandate, Preliminary Injunction granted May 17, 1988, HUM 81790). Dept. of Forestry denied THPs 1-88-65 and 1-88-74 on April 19, 1988 because the company did not include wildlife surveys (Sierra Club and EPIC v. California Board of Forestry, 4 cal.app.4th 982, March 18, 1992). Lawrence M. Fisher, "Company Eases Its Policy on Logging of Redwoods," *The New York Times*, May 27, 1988, Section A, Page 13, Column 1, National Desk (LOC website.

worker-environmentalist alliance, but the article was prophetic only with respect to the “holy war” and regulatory claims.<sup>143</sup>

The popular press also undermined Pacific Lumber’s carefully crafted, century long paternal image. The *Sacramento Bee Magazine* coined the phrase “Redwood Wars” in an article about the Northcoast back-to-the land migrants working in forest restoration and activism, and about John Campbell and other Pacific Lumber employees working to improve the company’s profitability. *Rolling Stone* ran “Milken, Junk Bonds, and Raping the Redwoods,” by environmentalist author Bill McKibben. *Reader’s Digest* published, “California’s Chainsaw Massacre” in November. The basic narrative of all the articles during the late 1980s was that Pacific Lumber was a good employer and good steward of the land until a greedy Texan, backed by dubious junk bonds bought the company and forced it to clear cut its ancient forests to pay off his debt to Michael Milken. In all of the articles, Campbell defended his logging regime and asserted that he had decided to clear cut and expand production well before Maxxam entered the picture, and that the company’s old growth would last about two more decades, corroborated by Pacific Lumber’s annual reports. He and Hurwitz also explained that they believed clear cutting was good for the forest because it removed old trees that didn’t grow fast with young trees that did. Hurwitz’ and Campbell’s arguments largely fell on deaf ears, however, as the actions of the press, the activists, and the state proved over the next several years. The workers would support Campbell as one of their own, but Hurwitz was another story.<sup>144</sup>

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<sup>143</sup> Goff, “Angry Harvest;” Schultz, “A Raider’s Ruckus.”

<sup>144</sup> Chris Bowman, “The Redwood Wars,” *The Sacramento Bee Magazine*, February 12, 1989, pg. 10; from EPIC publications binder, Redway, CA; Bill McKibben, “Milken, Junk Bonds, and Raping Redwoods,” *Rolling Stone*, August 10, 1989, pg. 19; EPIC Archives, publications binder, Redway, CA; Mark Walters,

## **The Battle against de facto Corporatism Heads Back to Court... Again and Again.**

Pacific Lumber's plans to increase timber harvests prompted local environmental activists to direct their resources to Humboldt County in an unprecedented campaign against a single lumber company in order to challenge its management prerogatives and forest valuations. In 1986, when Greg King read the Pacific Lumber prospectus detailing the company's plans, he and Darryl Cherney sounded the clarion call and jumped into (direct) action. In 1987, King and Cherney convinced Woods and EPIC to sue Maxxam after they discovered two harvest plans within the newly identified Headwaters Forest Complex. As the litigation coordinator and co-founder, Woods did not want EPIC to work on issues outside of southern Humboldt, but he went along with King and Cherney's proposal anyway. Woods had prepared a brief for the then moot second Sally Bell case, other EPIC activists had begun monitoring Pacific Lumber harvest plans, and he had been working to expand the use of the *EPIC v. Johnson* model, so while a Maxxam suit was not inline with his vision for EPIC, the suit did fit into his broader plan to reform timber practices. From 1987 through 1989, EPIC filed seven suits – six challenged Pacific Lumber harvest plans and one challenged the Department of Forestry's pattern of practices on the Northcoast.<sup>145</sup>

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"California's Chain-Saw Massacre," *Reader's Digest*, November 1989, page 144, EPIC archives, publications binder, Redway, CA.

<sup>145</sup> Cherney interview; Sutherland interview.

From 1985 to 1989, Woods' actively crusaded on behalf of regulatory reform, though his influence within EPIC waned due to inter-organizational and interpersonal tensions between him and activists such as Cecelia Lanman. Woods' influence on the campaign, and his appeal to journalists, were very important none-the-less. In addition to drafting the brief for the first Maxxam THP challenge, Woods loudly beat the drum for forestry reform, ancient forests, and endangered species. In 1986, Woods published, "The California Practices Act: Is it Tough Enough?" in *Forest Watch Report*, an activist newsletter run out of southern Oregon. In late 1987, Woods drafted, "How to Sue CDF," which was made available to citizens challenging THPs. In March 1988, Woods spoke at the annual convention of the California Licensed Foresters Association where he excoriated the Department of Forestry, accused the legislature of corruption, cited a state Water Quality Board report that found widespread enforcement problems within Forestry, and called for the professional foresters to work with environmentalists to solve forestry problems related to ancient forests, watersheds, and endangered species like the Northern Spotted Owl and the Marbled Murrelet. He then spoke at the National Convention of the National Association of State Foresters in September 1988 where he expanded his allegations to include Forestry intimidation of other agencies. During the same speech, Woods challenged the concept of private property rights as the "merest legal fiction," and he called the redwood wars a "crisis of character." Woods was quoted in nearly all of the 1989 press coverage of the redwood wars, but after 1990, he largely pursued other activist interests.<sup>146</sup>

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<sup>146</sup> Sutherland interview; The Man Who Walks in the Woods, "The California Forest Practices Act: Is It Tough Enough?" *Forest Watch Report*, December 1986 (published by CHEC, PO BOX 3479, Eugene, OR 97403) pg. 1, EPIC archives, publication binder, Redway, CA; The Man Who Walks in the Woods, "How To Sue CDF," December 1987, EPIC archives, EPIC publications binder, Redway, CA; Robert Sutherland,

While Woods was engaged, EPIC and Sierra Club filed four major precedent-setting EPIC cases — *EPIC v. Maxxam I*, *EPIC v. Maxxam II*, *Californians for Native Salmon and Steelhead Association and EPIC v. California Department of Forestry (Native Salmon)*, and *Sierra Club and EPIC v. California Board of Forestry*, all of which forcefully chipped away at that corporatist tradition and strengthened the role of citizens as private attorneys general.<sup>147</sup>

*EPIC v. Maxxam I and II: Pacific Lumber Joins Forestry in the Donkey Pen*

In 1987, EPIC requested writs of mandate against three Pacific Lumber harvest plans (two within Headwaters Forest). A writ of mandate compels a public agency to correct prior actions not consistent with the law; similar to the way an appellate court overturns a lower court’s ruling and sends the case back to trial for review. The two Headwaters Forest plans prescribed clear cutting ancient forest along Salmon Creek and the South Fork of the Eel River, and the third plan prescribed clear cutting old growth Douglas fir in the Mattole watershed. EPIC petitioned for the writs because the plans lacked the CEQA-required cumulative impact analysis and wildlife mitigation alternatives, and because the Salmon Creek plan would have, as Greg King wrote,

“ripped the (Headwaters Grove) stand in half,” diminishing its value to Marbled

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“Environmental Position on Sustained Yield and Old Growth,” presentation to the annual convention of the California Licensed Foresters Association, 4 March 1988, Redding, CA; EPIC Archives, publications binder, Redway, CA; The man who walks in the woods, “Vision of Future Forestry in Mendocino County,” presentation to the Forestry Forum, 23 April 1988 Willits, CA in EPIC archives, publications binder, Redway, CA; Robert Sutherland, “Environmental Agenda for the Future of California Forestry,” presentation to the National Convention of the National Association of State Foresters,” 12 September 1988, Eureka, CA, copy in EPIC archives, publications binder, Redway, CA; The Man Who Walks in the Woods to Ruthanne Cecil, EPIC Board of Directors, October 4, 1985, EPIC archives, Eureka, CA; Bailey interview; Cherney interview.

<sup>147</sup> The private attorney general doctrine was first used by Judge Jerome Frank in *Associated Indus. v. Ickes*, 134 F.2d 694, 704 (2d Cir. 1943) award attorney fees to a person “vindicating the public interest.” Many environmental laws passed as a part of the New Social Regulations include citizen suit provisions.

Murrelets and other species. The location of the plan – right through the middle of Headwaters Grove along Salmon Creek – gave the appearance that the company was trying to make the ecologic arguments moot regarding the grove. The activists, probably correctly, viewed the proposed harvests as a grand version of the “shoot, shovel, and shut up” defense against the Endangered Species Act. Rather than arguing directly that the Forest Practice Act exempted THPs from CEQA, Forestry tried a new argument; it argued that its hands were tied because, even though the harvests would cause significant environmental harm, the Timber Production Act, which, according to Forestry, superseded the court’s Johnson ruling, had zoned the land for timber production. In November, Humboldt Superior Judge Peterson ruled for EPIC. Peterson agreed that *Johnson* required Forestry to fulfill CEQA requirements, regardless of timber production zoning, and he additionally ruled that Forestry had abused its administrative discretion because it “rubber-stamped” harvest plans and intimidated other agencies. Peterson ruled so because Forestry approved the plans before they were completed and had intimidated Fish and Game biologists to prevent them from filing non-concurrence opinions that objected to the plans. Fish and Game opposed the plans because they did not contain any scientific information about the presence of species of concern, like the Marbled Murrelet. The ruling in *Maxxam I* bolstered the court’s *Johnson* decision that CEQA rigorously applied to harvest plans, and the decision further discredited Forestry and its practices. It did not by itself, however, halt Pacific Lumber’s logging plans; the ruling simply returned the plans to Forestry for further review.<sup>148</sup>

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<sup>148</sup> Greg King, “Headwaters Forest Alert,” *Country Activist*, Vol. 6, No. 10, November 1989, pg. 8, EPIC archives, publications binder, Redway, CA; *EPIC v. Maxxam*, Humboldt Superior Court #79879, 13 August 1987, Judge Peterson, pages 2-4.

By the end of 1987, a pattern was developing: EPIC (with Sierra Club after 1988) would challenge old-growth harvest plans based on the *Johnson* model, local Earth First! activists would stage direct actions to delay logging activity, and Pacific Lumber and Forestry would experiment with defense arguments. For example, EPIC challenged two more 1987 Pacific Lumber harvest plans within Headwaters Forest along Lawrence Creek, and one Simpson Timber plan. Simpson Timber withdrew its plan rather than fight in court, but Pacific Lumber fought the writs of mandate. On April 1, a Humboldt judge denied EPIC a Temporary Restraining Order for the harvest plan, but on April 25, a new petition for a TRO was accepted to prevent logging until a hearing was scheduled. However Pacific Lumber was able to log most of one harvest area during the delay. In a letter to Forestry, Campbell abandoned the unsuccessful arguments regarding the irrelevance of CEQA to harvest plans and the superseding authority of the Timber Production Act. Instead, he challenged the scientific analysis that the company's land was important to species of concern. Pacific Lumber argued that Fish and Game should not have concerned itself with the species on its land because the species were not dependent upon old-growth redwood groves. The company also claimed that the state already owned enough redwood land to maintain viable populations of species that were dependant on old-growth redwoods. The second argument, in various permutations, remained a mainstay for Pacific Lumber in court and in the media, for a decade. In May, Judge Buffington placed a Preliminary Injunction on the harvest plan, and the logging ended. On July 13, Forestry and Pacific Lumber reached a settlement: Pacific Lumber could remove the trees it harvested in April, but the company would not continue logging

the harvest area. EPIC continued to pursue the case in order to keep the pressure on Forestry to reform.

In addition to introducing a new industry argument, *EPIC v. Maxxam II* marked the initial, if seemingly reluctant, split between the timber industry and the Board of Forestry. The trial judge ruled against Maxxam and again accused Forestry of “rubber-stamping” and intimidation. The appellate court also disagreed with the company’s argument, but the case was dismissed in 1992, for three reasons, two of which were victories of sort for EPIC, and one a symbol of the determination of Pacific Lumber to carry out its new timber regime: 1) Pacific Lumber felled the trees in one of the harvest areas between March 1988 and May 1988—the date EPIC obtained a preliminary injunction; 2) Forestry adopted emergency regulations covering old growth timber plans, Marbled Murrelet and Northern Spotted Owl habitat, and cumulative impact analysis; and 3) EPIC and Sierra Club obtained an injunction on the harvest plan for Lawrence Creek (the second contested plan) in 1989 via *Sierra v. Board* (discussed in the next section). The appellate court, while dismissing the case, recognized the influence of citizen groups on the Board’s behavior, writing:

The record ... leaves no doubt that environmental litigation, such as EPIC's Preliminary Injunction in this case, played an important role in bringing about changes in departmental policies. To this extent, the issue of mootness is a product of EPIC's own success.

The judge then strengthened EPIC’s position as a private attorney general by forcing Pacific Lumber to pay EPIC’s attorney fees. The company was able to log in the disputed area, but the pressure brought on the Board by the litigation caused the agency to stray from the hard-line position that CEQA did not apply to Timber Harvest Plans as evidenced by the agency’s creation of the new regulations without a direct court order.

The new regulations played a key role in breaking down development-focused corporatism because the Board responded to citizens and courts, not to the wishes of the timber industry, and the rules recognized the Board's responsibility to non-economic forestland resources.<sup>149</sup>

*Sierra v. Board of Forestry: The California Supreme Court Sides with the Locals' Valuations and Takes a Shot at the Donkeys*

In 1994, The California Supreme Court sided once and for all with citizen groups with respect to the relevance of CEQA and wildlife considerations to timber operations on private land, but before then, the Board and Pacific Lumber continued to challenge the lower courts' rulings, and EPIC continued to fight back. In 1988 Pacific Lumber remained confident in the corporatist tradition of the Board, but *Sierra v. Board* seriously damaged the allegiance between the Board and industry. With *Sierra v. Board*, EPIC and Sierra Club teamed up for the first in what would become a long-standing litigation alliance whereby EPIC litigated, and the two groups split the costs. *Sierra v. Board* challenged two more Pacific Lumber plans in the Lawrence Creek area of Headwaters forest, and became EPIC's second major precedent-setting case and the fourth major blow to California's corporatist timber regime. On April 18, 1988, Forestry rejected the two Pacific Lumber harvest plans because they did not include Marbled Murrelet surveys, and the agency told the press the decision amounted to a three-month moratorium on the approval of any harvest plan proposed in old growth groves. Pacific

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<sup>149</sup> *EPIC v. Maxxam*, 4 Cal.App.4<sup>th</sup> 1373 (27 March 1992). The Marbled Murrelet regulations are found in CA. Code Regs., title 14, sec. 895.1, 912, 919.13, and 919.14. The Spotted Owl regs are CCR, title 14, sec. 919.6(d)(1), 919.9, and 919.10. The cumulative impact regulations are in the FPR sec. 985.1, 898, and 912.9.

Lumber, like Chenoweth Lumber in 1976, appealed to the Board, claiming it did not have to provide any survey information because the rules did not specifically require the surveys.<sup>150</sup>

Forestry may have begun moving away from its production-oriented tradition, but the Board was not. Following their corporatist tradition of showing deference to the industry, the Board overruled Forestry and approved the plans. EPIC and Sierra Club filed for a writ of mandate to rescind the Board's approval of the plans because the Murrelet surveys were necessary to determine the appropriateness of the plan's wildlife mitigation measures. Humboldt Judge Buffington denied the writ because he believed that he ought to base his ruling only on the evidence in the administrative record the Board reviewed, not what Forestry wished to be able to review. On July 1, 1988, an appellate court overruled Buffington, and on remand in February 1989, Buffington returned the THPs to the Board and asked them to assess their impact on wildlife, to consider additional mitigation options, and to produce a cost-benefit analysis. On March 20, 1989, the Board convinced Buffington that the harvest plans would not result in any significant impact on wildlife, and Buffington denied EPIC's writ of mandate again. EPIC and Sierra Club appealed the decision, and after the appellate court again overturned Buffington, and when the company appealed to the California Supreme Court, the Board withdrew its support of Pacific Lumber. The Board further distanced itself from corporatist tradition when it issued the new regulations that caused the dismissal of

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<sup>150</sup> Bailey interview. The other three major blows to corporatism were the *Bayside*, *Gallegos*, and *Johnson* cases. *Sierra Club v. California State Board of Forestry* (7 Cal.4<sup>th</sup> 1215), 18 ; Robert Lyndsey, "California Officials Limit the Harvesting Of Older Redwoods," *The New York Times*, April 22, 1988, Section A, Page 13, Column 1, National Desk (LOC website).

*Maxxam II*. The two Board actions demonstrate the success of citizen litigation at destabilizing the traditional relationship between the Board and industry.<sup>151</sup>

*And the Shots Kept Coming at Corporatism and Development-only Management: EPIC v. CDF, EPIC v. Imboden, EPIC v. Theiss, and Californians for Native Salmon and Steelhead Association and EPIC v. California Department of Forestry*

EPIC and Sierra Club filed two additional cases during the late 1980s that also eventually chipped away at the corporatist traditions of the Board and the defense arguments of Pacific Lumber regarding its forest valuations and property rights. While *Maxxam II* and *Sierra v. Board* made their way through the courts, EPIC continued to monitor old growth harvest plans submitted by Pacific Lumber to Forestry. During the fall of 1988, Sierra and EPIC challenged new Pacific Lumber harvest plans within the Salmon Creek watershed, this time near Owl Creek Grove (*Sierra and EPIC v. CDF [Salmon Creek]* and *Sierra and EPIC v. Imboden*), arguing that Forestry still did not adequately consider the cumulative impacts on the Marbled Murrelet population of California or implement all “feasible” alternatives and mitigations to protect Murrelet habitat as required by CEQA. Both judges denied the writs of mandate, but appellate judges granted EPIC and Sierra Club trials and emergency stays on logging in the harvest plan areas, an indication the appellate courts believed EPIC would win the cases. Both cases were dismissed on remand in 1989 for procedural issues, and EPIC and Sierra Club appealed the dismissals. In 1990, the appeals courts reinstated the cases, and returned them to the trial courts to present arguments. EPIC and Sierra Club deemed Owl Creek

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<sup>151</sup> *Sierra Club v. California State Board of Forestry* (7 Cal.4<sup>th</sup> 1215), 1,4-7, 12, 18; Duggan, “Citizen Enforcement,” 8; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997.

such an important grove that when *Imboden* was initially dismissed, they challenged the same Owl Creek harvest plan with a new lawsuit, *Sierra and EPIC V. Theiss*. *Theiss* was dismissed after *Imboden* was reinstated because the two cases challenged the same harvest plans. The 1980s ended with yet another set of harvest plans locked up in court.<sup>152</sup>

Protecting Headwaters Forest was not EPIC's sole project. In fact, one of the non-Headwaters cases filed by EPIC, *Native Salmon*, led to one of the strongest precedents of the cases begun during the late 1980s. In November 1988, EPIC, Sierra and friends challenged a 1988 Eel River Sawmills harvest plan because Forestry failed to analyze cumulative impact, and failed to respond to public comments. Eel River Sawmills withdrew its plans, and the case was dismissed at the end of January 1989. However, EPIC and Sierra were determined to demonstrate that Forestry willfully ignored CEQA requirements as a matter of policy. They filed an amended petition that included sixty-five Timber Harvest Plans from across the Northcoast and argued that because Forestry repeatedly failed to assess the cumulative impacts of logging on watersheds and wildlife, and repeatedly waited until after they approved harvest plans to issue legally-required responses to public comments, that the agency had a de facto policy to ignore CEQA. On February 17, 1989, Forestry demurred and was granted a dismissal by Humboldt Judge MacFarland. EPIC appealed the decision, and like all of the other cases except *Maxxam I*, the case drug on into the mid-1990s.<sup>153</sup>

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<sup>152</sup> *Sierra and EPIC v. CDF* was HUM. Case #82893 and the *Imboden* case # was 83428. The appellate opinion was depublished by the CA Supreme Court, but EPIC maintains a copy of the opinion in its files. The *Theiss* case was HUM. # DR84664 6/12/1989.

<sup>153</sup> During my interviews with 1980s and 1990s EPIC staff members Richard Geinger (staff forester), Sharon Duggan (EPIC attorney), and Kevin Bundy (EPIC media spokesman during the mid-1990s) each of them expressed the anxiety EPIC felt about the size, direction, and scope of the Headwaters Conflict, and

## Conclusion

The redwood wars transformed redwood politics for the third time in a hundred years. Because of the Sally Bell case, redwood politics revolved around the conflicts created by the activists' litigation and direct action tactics. Because of the Maxxam takeover of Pacific Lumber, the redwood wars moved north and became an anti-corporate, anti-corporatist campaign focused on the world's last remaining ancient redwood complex in private hands. The redwood wars exploded after 1985 and by the close of the decade, the Northcoast was awash in protests, direct actions, and litigation, with Pacific Lumber once again the center of attention. Throughout the 1980s, the intensity of the redwood wars reached new heights. The small community of Northcoast activists tried to abandon middle-class values and life, drove the process, and they simultaneously, though combatively and ungentlely, took advantage of mainstream avenues of political action. The activists expanded the number of tactics they employed to end industrial logging; lawsuits, press conferences, rallies, and direct actions all developed into standard political devices during the 1980s. The tactics succeeded at halting Timber Harvest Plans and forcing the Department of Forestry to change its practices. But Forestry, the Board, and the big three Northcoast timber operators –

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each of them stated that EPIC wanted to continue its challenges to CDF even while Headwaters work consumed ever-more time and energy. Geinger, 22 March 2007, Redway, CA, Sharon Duggan, 27 April 2007, Oakland, CA, and Kevin Bundy, 26 April 2007, San Francisco, CA (all tape recordings and handwritten notes in possession of author). See "Settlement Agreement, CDF, Californians for Native Salmon and Steelhead Association, EPIC, and Fred "Coyote" Downy," EPIC archives, Eureka, CA; and 1 221 Cal.App. 3d 1419, 6 June 1990, EPIC archives, Eureka, CA.

Pacific Lumber, Louisiana Pacific, and Georgia Pacific – resisted the changes mandated by court rulings and enforced by citizen activists.

The developments of the redwood wars during the 1980s illustrate the bottom – up nature of the redwood wars, how different valuations of forestland and Northcoast society clashed, and how state and private institutions responded. Local residents, many with past organizing experience, disapproved of the land management systems in place, and they took action. Though they had moved north to escape the nation’s predominant cultures, they were very familiar with political action, and used their experiences to defend their own visions of the Northcoast. They attended hearings, wrote to regulators and legislators, filed suits, and put their bodies in harms way to stop timber harvesting where they felt it was immoral and illegal. New waves of migrants moved to the area and infused the movement with heightened intensity and urgency. Newcomers like Cecelia Lanman, Darryl Cherney, and Judi Bari used the tools developed by Woods, Geinger, Duggan and others with greater frequency and with greater public combativeness, pushing the conflict into the broader public’s consciousness via the media attention their court cases and direct actions attracted. And, a public relations windfall landed in their lap when Charles Hurwitz orchestrated the takeover of Pacific Lumber. Hurwitz quickly offered activists the penultimate villain to whom they could juxtapose their vision of sustainable forestry, community control of institutions, a stable working environment, and the protection of biodiversity and ecologic health.

As a result of that political windfall, the redwood wars began to zero in on the battle over Headwaters Forest which initially retained the broad reform goals of the movement, but gradually reverted into a pre-World War II era land acquisition battle,

though the Headwaters acquisition battle was fought out hostilely in public – contrary to the manner in which William Kent, Madison Grant, Newton Drury and Stanwood Murphy had operated. The public nature and hostility of the Headwaters acquisition campaign is yet another example of the militancy and populist nature of postwar environmental politics described by numerous historians of the period, including Schrepfer, Fox, Hays, and Rome. Most of the historiographic analysis addresses the new social regulations of the 1960s and 1970s which created new regulatory systems, including those dealing with forest practices on public land. Because the redwood wars were fought on private land, however, the public acquisition strategy remained as a viable tool to relieve political and social pressure in the region.<sup>154</sup>

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<sup>154</sup> Schrepfer, *Fight to Save Redwoods*; Fox, *American Conservation Movement*; Hays, *Beauty, Health and Permanence*; Adam Rome, “Give Earth a Chance”: The Environmental Movement and the Sixties,” *The Journal of American History*, Vol. 90, No.2 (September 2003) 525-554.

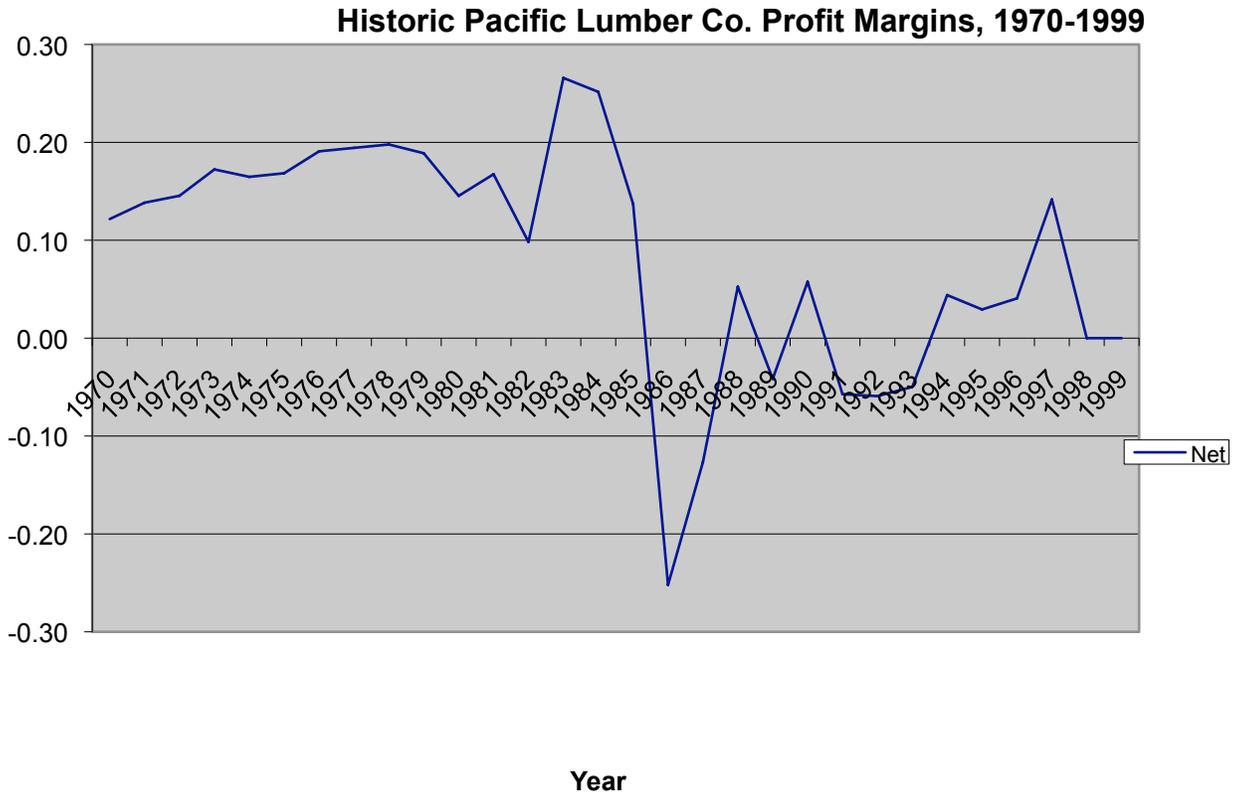


Chart 1: Pacific Lumber Net Percentages, 1970 to 1998.

Chart 2: Summary of Pacific Lumber Timber Harvest Plans, 1980 - 1990

<b>YEAR</b>	<b>Total THP acreage</b>	<b>Old growth acreage</b>
1980	1602	na
1981	1624	na
1982	3014	na
1983	2458	na
1984	3701	na
1985	5188	na
1986	8447	na
1987	4961	na
1988	10436	7811
1989	8206	5487
*1990	4455	2429

\*includes on first seven month of 1990

Note: A few trends stand out: John Campbell had begun to steadily increase harvest before the takeover, the harvests increased dramatically after the takeover, the 1986 and 1987 lawsuits halted the increased harvests temporarily, and old growth harvests were a significant portion of the immediate post-takeover strategy.

The data for this chart was taken from EPIC Summary Sheets for Pacific Lumber THP's 1980 – July 1990; Kathy Bailey to Ed “Re: Prop 130 effects on Pacific Lumber,” September 8, 1990; papers of Kathy Bailey, Philo, CA

## **Chapter Five: Busting out of the North Coast and Forcing Property Rights and Forestry onto a Broader Public Agenda, 1990 – 1994**

After two terms of the Reagan Administration's largely unsuccessful but prominent attacks on the modern environmental protection regime, environmental activism regained broad national popularity, and the battle over Headwaters Forest was swept up in the national enthusiasm. One reason for the relative attractiveness of the Headwaters conflict was that nationally and internationally, the protection of rainforests and biodiversity demanded attention and drove public support to environmental groups. The deforestation of the Amazon rainforest was a hot topic, and in 1992 international state and community leaders gathered in Brazil for the United Nations Earth Summit to discuss global deforestation and biodiversity. On the Northcoast, the increased visibility of the redwood wars was largely the result of the success of Darryl Cherney and Judi Bari's action campaigns. But the radical activists were only one, albeit one loud, part of the process. The redwood wars were federalized legally, legislatively, and perceptually, driven out of the Northcoast by the local activists and timber industry leaders. Two campaigns developed: one to convince Congress to acquire Headwaters Forest, and one to continue challenging de facto corporatism and development-focused timber regulations while the industry defended its traditional prerogatives.

As the volume of activity increased and garnered statewide and then national attention, the geographic scope of the redwood protection campaign narrowed, and the parkland acquisition strategy regained prominence because the agencies did not act swift enough or deeply enough to please the Northcoast activists who continued to ratchet up their direct action and litigation efforts. Placing Headwaters Forest into public hands

seemed to the activists, and eventually Pacific Lumber, a necessary step to quell the redwood wars. This time, however, taxpayers, not wealthy donors were the first and only constituency targeted to foot the acquisition bill. Both groups of combatants had an interest in federalizing the Headwaters conflict because of the increasing protraction – due to hardening positions on the Northcoast and the growing inability of the state of California to end the conflict.

The first half of the 1990s powerfully demonstrate the flaws in the top-down narrative of modern environmental politics, the exaggerated dichotomy between pre- and postwar conservation and environmentalism as explicated most prominently by Samuel P. Hays, and the analysis of postwar environmental protection revolving around a wilderness ideal that separates human development and society from definitions of healthy ecosystems and ideal land preservation schemes. The major action of the redwood wars during the period continued to be driven by the local combatants and revolved around conflicts over sustainable forestry, not an absolutist debate over whether logging or parks would dominate the Northcoast landscape. Redwood Summer and the Forests Forever initiative, both in 1990, were designed to pressure the state of California to adopt a more complex, more actively managed program of private landscape regulation, one that promoted the long term health of the timber workers, the ancient forest ecosystem, and the Northcoast's rural society. The federalization of the litigation revolved around questions relating to forestry techniques and standards in threatened species habitat, as was the Congressional campaign to purchase Headwaters Forest.<sup>155</sup>

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<sup>155</sup> Regarding the top-down narrative, see chapter one for the full discussion, including Hays, *Beauty, Health, and Permanence*; Gottlieb, *Forcing the Spring*; Nash, *Wilderness and the American Mind*; and Lazarus, *Making of Environmental Policy*. Hays and Nash, along with Cronon, "The Trouble with Wilderness," are three of the longest-standing depictions of the dichotomy between pre- and postwar

By 1990, the timber wars on the Northcoast had reached a fevered pitch, with no end in sight to the cycle of direct actions, protests, and lawsuits. EPIC and Sierra Club continued to sue Pacific Lumber, the California Department of Forestry, and other lumber companies to protect old growth habitat and to reform forest practices on the Northcoast. Earth First! continued to protest the activities of CDF, Pacific Lumber, and Louisiana-Pacific. And, Pacific Lumber continued to fight the litigation and counter the charges levied by the environmental activists in the press and in the community. Out of that crucible, the Northcoast activists pushed their forestry and old growth protection campaign out of the courtroom and into the legislative arenas. Both major legislative efforts incorporated the Northcoast activists' vision for human integration into the ecosystem via active landscape management, values not normally assigned to postwar environmentalists by historians of wilderness and wildland preservation. Through their direct actions, public rallies, and litigation, the activists attracted the attention of the popular press and elected officials, who focused almost entirely on Headwaters Forest and the issue of old growth preservation at the expense of forestry reform. Despite the failures in the legislative arena, the events of 1990 to 1994 made the 1996 deal between Pacific Lumber and the state possible because they drove the local conflict over forest valuation and property rights into the national consciousness and elevated the conflict beyond the point at which the state of California alone was capable of acting.

To break the logjam in the courts and agencies, Northcoast activists, strengthened by the re-engagement of many of the first wave of migrants, developed a new set of

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environmentalism. Rome, *Bulldozer in the Countryside*, and Sutter, *Driven Wild*, both make compelling arguments about the blurred lines between the two eras. Cronon, Nash and Guha, "Radical Environmental Environmentalism" are three of the most influential texts describing the influence of the wilderness ideal on postwar environmentalism. See footnote 6 of chapter 4 for more further discussion.

protest, direct action, legislative and litigation tactics that engaged a broader spectrum of society and the state even as they escalated their attacks on the private property rights their new middle-class supporters presumably held in high regard. The new tactics forced Pacific Lumber and CDF to alter their practices and policies. Unintentionally, the new tactics also continued to shift the focus of the redwood wars onto Headwaters Forest at the expense of broader forestry reform. Subsequently, the property rights of Pacific Lumber (and all timber companies by proxy) stood center stage because of the action to protect and publicly acquire the forest. Pacific Lumber and the timber industry forcefully reacted to the perceived assaults on private property and contributed to the escalation of the conflict. The crisis appeared to be on the verge of resolution in 1990 and in 1994, but the possible resolutions were literally lost during the final moments of the opportunities.

The 1990 and 1994 opportunities materialized in the legislative arena and were born out of the public notoriety created by the litigation and direct actions of the Northcoast activists. In 1990, Northcoast activists, led by a coalition of the first and second wave migrants, qualified a comprehensive forest practices reform initiative for the November ballot. The timber industry rallied in opposition, and narrowly defeated the initiative. In 1994, Dan Hamburg, then the first term Congressman from the Northcoast, passed a bill out of the House that would have authorized the federal government to acquire Headwaters Forest from Pacific Lumber. Though, the company, local environmental activists, and national environmental groups all eventually supported Hamburg's bill, it was defeated on the last day of the 103<sup>rd</sup> Congress before the Senate adjourned for the November elections.

By the end of 1994, the timber industry had defeated the activists' statewide ballot initiative, but Pacific Lumber lost out on the opportunity to sell Headwaters Forest and end a major conflict within the timber wars. The industry also failed to pass a set of reform bills in the California Assembly that could have quelled much of the uproar outside the Northcoast. Meanwhile, state and federal courts halted Pacific Lumber efforts to log portions of Headwaters Forest, and established major legal precedents that benefitted environmental activists. The activists failed to pass any logging reform or legislation to protect Headwaters Forest, and the local courts began to turn against them. However, prior litigation and direct action success forced CDF and Pacific Lumber to make some rather large concessions with respect to logging rules and with respect to Headwaters Forest, and new mass audience-directed actions gained national notoriety. The changes in the activists' strategy were driven by the failures of 1990 and 1991 that had jeopardized the community support of the activists. The altered strategies, because of their high profile, further protracted the conflict and unintentionally drove the conflict into President Clinton's lap where the activists' anti-corporate, radical reform demands were certain to face defeat. Despite all of the action, the timber wars were still nowhere near conclusion.

### **Actions for the Masses and Massive Actions: Recruiting the Middle-class with Anti-Private Property Actions**

*Redwood Summer 1990: Painting Timber Companies as Immoral Social Actors*

After the success of the national tree-sit day, the Calpella rally, and the other 1989 actions, the activities of Northcoast Earth First! grew more brazen, confrontational,

hostile to middle-class values, and successful at garnering publicity in an effort to shame timber companies as the Civil Rights Movement had discredited southern state governments in 1964. Those efforts resulted in popular support from environmentalists across California and the nation, but did little to engender support from the workers or the timber companies, a flaw in the campaign design if a worker alliance was a top priority for the activists. EF! began to organize more road blockades, they took direct action against political officeholders, they trespassed to monitor logging activity, and they began sustained occupations of a few groves to prevent logging. Equally important, EF! designed their rallies and actions to recruit activists to the movement. Redwood Summer, Ecotopia Summer, and the Albion Uprising increased the number of activists working to reform logging practices, and expanded the movement's demographics to include more middle-class participants, though a sizeable core of the movement largely shunned middle-class society. Combined, the more confrontational actions and mass rallies brought media and state attention to the Northcoast, helped construct a broad county-under-siege mentality, and aided the litigation efforts of EPIC and others.

1990 was a pivotal year for Northcoast EF! because the group simultaneously engaged in middle-class activist recruitment and decidedly non-middle-class direct actions which combined to force the state into action to address the local redwood wars. The year began with an occupation of Mendocino District Attorney Susan Massini's office when she refused to prosecute Dave Lancaster for breaking Mem Hill's nose at Whitehorn in August 1989. Later in January, Cherney and Bari performed at an American Federation of Labor rally protesting Lousiana-Pacific's plans to open a mill in Mexico. Most dramatically, on February ninth and tenth, EF! occupied State

Assemblyman Dan Hauser's Eureka office and "ambushed" a Pacific Lumber logging truck filled with raw ancient redwood logs. The actions protested what EF! referred to as the "Boskeenhauser" deal with Louisiana-Pacific and Pacific Lumber, a deal that imposed voluntary restrictions on the Mexico mill and Headwaters logging plans. EF! removed the hinges from Hauser's door and implemented an "open door" policy for the office. Then, seventy-five activists "stormed" and occupied the Eureka offices of State Senators Barry Keene and Doug Bosco. The next day, approximately fifty activists surrounded Don Nolan's logging truck while five activists chained themselves to logs to protest the deal. Also in February, EF! trespassers discovered what became known in activist circles as "Death Road," a thirty-foot wide access road on Pacific Lumber land that pierced the heart of the Headwaters Grove of Headwaters Forest. The public outrage over logging in the Northcoast had captured the attention of state officials, but it was clear to activists that Headwaters Forest was in serious jeopardy and elected officials could not be counted on to dramatically reform Northcoast logging practices.<sup>156</sup>

It was also during the middle of winter that Cherney, Bari, King, and Northcoast EF! began planning for Redwood Summer, modeled after the 1964 Mississippi Freedom Summer, and designed to draw attention to their campaign, recruit new activists, show the depth and breadth of support the redwoods could garner, and flood the region with direct actions to disrupt logging season. The plan to recruit the masses to the Northcoast catapulted the group of local activists and the redwood issue onto the national stage.

Sometime in January 1990, as told by Cherney, Walking Rainbow, a "white guy who

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<sup>156</sup> Bari, *Timber Wars*, 67 and 69-70; Cherney, "History of Headwaters Campaign;" "PL to Log Headwaters!," *The Mendocino Country Environmentalist*, March 1, 1995, issue 226, EPIC archives, Redway, CA; Greg Lucas, "Logging to Resume in Humboldt," *San Francisco Chronicle*, March 3, 1995, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Plan to Log Headwaters," *The Press Democrat*, March 3, 1995, A12, EPIC archives, Redway, CA.

wore a robe and beard, and was full of himself, and a little psychotic, maybe,” showed up at Gary and Betty Ball’s Mendocino Environmental Center to talk to Bari. Bari was at the hospital visiting her sick daughter, and Betty sent Walking Rainbow to find her. When he found Bari at the hospital, he told her that he thought they should recruit people to the Northcoast for a summer of activism like Freedom Summer. By February twenty-fifth, Bari and Cherney were attending a student conference in Sacramento to recruit students to spend their summer doing actions on the Northcoast. That recruitment effort was a major step by an organization composed primarily of Cherney, Bari, Greg King, Larry Evans, Karen Pickett, and whomever they could locally recruit for specific actions.<sup>157</sup>

In March, Bari attended the Oregon Law Conference in Eugene and made Redwood Summer more palatable to middle class Americans, but divided the national Earth First! movement because her comments betrayed biocentrism by revealing that the Northcoast activists desired to harmoniously integrate the local human and nonhuman communities. Bari spoke on a panel discussing workers and environmentalists, and millworker Gene Lawhorn challenged her on the issue of tree-spiking. Dave Foreman and others in EF! had argued that tree-spiking was legitimate and non-violent because they warned a company or agency when a grove had been spiked, which prevented logging while doing no harm to the trees or workers. The George Alexander case had raised the stakes. How could a nonviolent group endorse a tactic that was potentially violent when that same group was anarchic in nature and refused to police its followers? Bari responded by denouncing tree-spiking at the conference, a decision that angered EF!

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<sup>157</sup> Cherney interview; Cherney, “History of Headwaters Campaign;” Kathy Bailey, “How We (tried to) Save Headwaters Forest,” October 23, 1997, papers of Kathy Bailey, Philo, CA.

activists outside of Northern California but which seemed to alleviate some of the concerns of more mainstream activists like the Sierra Club and California college students. For Bari and many in North Coast EF!, the decision was likely easy, and likely necessary. Endorsing actions the public began to perceive as tantamount to terrorism would have severely weakened the support of the Northcoast community for the activists.<sup>158</sup>

The denouncement of tree-spiking by Bari, and the organizing of Redwood Summer did not dampen the enthusiasm for confrontation within North Coast EF!, however. Later in March, activists hung a banner on an Okestrom feller-buncher at the annual Redwood Region Logging Show in Ukiah that read, “This Thing Kills Jobs & Forests.” The new feller-bunchers were mechanical clippers on cranes that could snip a tree at its base, grab a hold of the trunk, and carry it to a log landing in one series of motions operated by a single logger. They cost \$700,000 at the time, and a few weeks later, one was found burned in the woods. When asked if EF! burned the feller-buncher, Bari replied, “I didn’t do it, I was home in bed with five witnesses.” It appeared Bari was trying to secure the allegiances of radicals and more mainstream activists simultaneously.<sup>159</sup>

Despite the rhetorical bone Bari threw to the more radical elements of EF!, the more organizing-focused Northcoast EF! sharply divided the national Earth First! movement as preparations for Redwood Summer moved forward. On April 11, Northcoast EF! planned several press conferences to denounce tree-spiking, an effort to preserve what worker sympathy remained, as well as an effort to convince potential

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<sup>158</sup> Cherney interview, Bari, *Timber Wars*, 70.

<sup>159</sup> Bari, *Timber Wars*, 70.

activists and the local community that Redwood Summer would be peaceful and safe. Additionally, they hoped the announcement would “take the wind out of the timber industry’s publicity sails.” Later in April, EF! activists, including Bari, International Workers of the World members, and Louisiana-Pacific workers attended a Mendocino Board of Supervisors meeting to protest LP layoffs, and demand that the county seize the company’s property. Actions like that led many in the national EF! movement to regard Northcoast EF! as too-anthropocentric, leftist, and hippie-dippy.<sup>160</sup>

Yet the Northcoast radicals were simply too unwilling to truly embrace middle-class mores, and rather than quelling the anger of the timber industry or the locals who opposed EF!, the tree-spiking announcement, logger outreach, and Okestrom incidents fueled even greater hostility. Cherney, Bari, and King began to receive more death threats. Fliers calling for violence and falsely attributed to EF! were knowingly distributed to millworkers, and Louisiana-Pacific installed barbed wire around its mill. Local officials turned against Bari, Cherney and King, and refused to investigate the death threats, according to Bari’s memoirs. She recounted one Mendocino Board of Supervisors meeting when the Board discussed Redwood Summer, and a gyppo logger called for violence against the activists. When Bari protested and showed Supervisor Marilyn Butcher the death threats she had received, the Supervisor retorted that Bari had brought the violence onto herself. After the meeting, Bari tried to establish meetings with the gypsos to prevent violence during the summer demonstrations.<sup>161</sup>

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<sup>160</sup> Darryl Cherney, Judi Bari, & Northcoast Calif. Earth Firsters!, “Tree-spiking Renunciation & Mississippi Summer in the Calif. Redwoods,” memorandum from the authors to All Earth First! Groups, Chapters, Individuals, etc..., April 1990, <http://www.things.org/~jym/ef/tree-spiking-memo.html> (accessed 2/26/2007); Bari, *Timber Wars*, 71; Cherney interview, Dave Foreman, *Confessions of an Eco-warrior*, (New York: Crown Publishers, Inc., 1991) 117-160

<sup>161</sup> Bari, *Timber Wars*, 71, 98.

It was in that crucible that one of the most violent actions of the redwood wars occurred, and it changed the direction and tenor of the conflict. On May 24, 1990, a bomb exploded under the driver's seat of Bari's car while she and Cherney drove from Oakland to Santa Cruz to recruit students to attend Redwood Summer. Oddly, the FBI accompanied the Oakland Police Department to the bombing location, and the two activists were placed in custody while in the hospital. The Oakland Police and FBI immediately presumed the bomb was Cherney and Bari's. Cherney was treated and released from the hospital, but Bari had fractured her pelvis in several locations, crushed her tailbone, and suffered serious nerve and tissue damage. The police guarded Bari's Intensive Care Unit room. Two months later, the Alameda District Attorney dropped the charges against Bari and Cherney due to a lack of evidence, and a year later, frustrated by the lack of investigation to solve the bombing, coupled with a year's worth of FBI harassment, Bari and Cherney filed suit against the FBI and Oakland Police Department for false arrest at the politically-motivated behest of the FBI. In 2002, a federal jury granted Cherney and the estate of Judi Bari \$4.4 million and ruled the FBI and Oakland police had indeed framed the two activists in an attempt to quiet Earth First! and quell enthusiasm for Redwood Summer. The bombing and the arrests of Cherney and Bari in 1990 brought the national, mainstream environmental groups to Bari and Cherney's defense, attracted the national media to Redwood Summer, created a leadership void in the Redwood Summer preparations, and drove Greg King to quit EF! and move back to Sonoma.<sup>162</sup>

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<sup>162</sup> Kathy Bailey, "A Timeline History of Logging Reform in Mendocino County: DRAFT," memo for Sierra Club California, unknown date, papers of Kathy Bailey, Philo, CA; Mike Geniella, "Bari Trial Pressed over FBI Problems," *The Times Standard*, April 7, 1997, unknown page, EPIC archives, Redway, CA; Cherney, "History of Headwaters Campaign," Katherine Bishop, "2 Won't Be Charged in Bombing

Despite the loss of King, the bombing strengthened the movement over the long term because of the interest of mainstream groups in the Northcoast, and more immediately, because it forced North Coast EF! to develop a broader base of leaders who could improve the work of the organization. With its main three organizers absent during the 1990 summer, others picked up the reigns, including Karen Pickett, Anna Marie Stenberg, Naomi Wagner, Mokai, Zack Stentz, Tracy Kattleman, Betty Ball, and Sequoia, all of whom played major roles in the redwood wars for years to come. Redwood Summer began in June with a smattering of small affinity group actions. One group organized a rally at the export docks in Sacramento to protest the exportation of raw logs, subsequent mill jobs losses, and related increases in harvest levels. Humboldt EF! organized cat-and-mouse actions on Pacific Lumber property to disrupt logging operations by placing “civilians” in harms way. The Squirrel Affinity Group organized a treesit in what they named Murrelet Grove on Pacific Lumber property, and were promptly arrested. Urban Earth Women were arrested for trespassing at the Marin County offices of Maxxam. On July 18, tipped off by a local resident, more than 20 Redwood Summer activists hiked into Osprey Grove on Louisiana-Pacific property in Mendocino to halt the harvest of old growth trees in violation of THP 1-89-468 MEN. Over two days, twenty-two activists were arrested, a vigil was established in front of the jail, and within a week, a judge issued a Temporary Restraining Order halting the harvest operations. Redwood Summer officially began on June 20<sup>th</sup> at a 700-person rally at the Samoa docks of Louisiana-Pacific between Eureka and Arcata. Forty-four activists were

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Case,” *The New York Times*, July 18, 1990, A14; Elliot Diringer, “Earth First Leaders Sue Authorities Over Oakland Blast/Police Accused of Not Looking for Bomber,” *San Francisco Chronicle*, May 22, 1991, A17. The bombing case itself probably deserves an entire chapter in a different book about the backlash to modern environmentalism and/or civil rights violations in modern America. Alicia Littletree maintains copies of all of the court documents, as well as a massive press clip binder.

arrested for blocking trucks at the docks. After the rally, small woods actions persisted, but the majority of participants visited mills to engage workers and then marched in the Mendocino Fourth of July parade with anti-clearcutting banners.<sup>163</sup>

In July, Redwood Summer largely rooted itself in Mendocino and prepared for the main event – a rally in Fort Bragg that culminated in a march through town to the Georgia-Pacific mill. On July 21, an estimated two thousand environmental activists marched through Fort Bragg chanting, “Earth First! Profits Last!” Waiting at the other end of town were approximately fifteen hundred Yellow Ribbon Coalition supporters, an organizing founded by timber interests to rally loggers and supporters against the proposed Northern Spotted Owl protection plan for federal land in Oregon and Washington. When the two crowds met, Cherney invited the hecklers to use the EF! sound truck to air their concerns. No violence occurred, and few took up Cherney on his offer. It was reported that logger Duane Potter took the microphone and complained that there were no logs in the forest and no fish in the streams. After the Fort Bragg rally, 17 activists were arrested in Carlotta, and while in jail, angry officers shaved the heads of the activists, and the American Civil Liberties Union subsequently sued the officers. The “official” Redwood Summer ended at the end of July when approximately 400 activists stopped logging at eight locations in Sequoia National Forest in the Sierra Nevada

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<sup>163</sup> “Redwood Summer Halts Logging at Osprey Grove, Mendocino Counties (sic) last Old-Growth,” Press Release, July 19, 1990, Redwood Summer 1990: Earth First!, Seeds of Peace, Industrial Workers of the World, EPIC archives, Eureka, CA; Bari, *Timber Wars*, 73 -74; “10 Environmentalists Arrested/Redwood Summer Event in Mendocino,” *San Francisco Chronicle*, July 19, 1990, A6; “Old-Growth Logging Halted Near Mendocino,” *San Francisco Chronicle*, July 24, 1990, A2; Jay Matthews, “Environmentalists Attempt to Revive ‘60s Activism in Redwood Summer,” *The Washington Post*, July 8, 1990, A3; Maria Goodavage, “At Loggerheads in California; Timber Interests, Activists, Poised for Redwood, Summer,” *USA Today*, June 20, 1990, 3A; Katherine Bishop, “One Result of Logging Protests: More Antagonism,” *The New York Times*, September 24, 1990, B8; Bill Barol and Lynda Wright, “Eco-Activist Summer,” *Newsweek*, July 2, 1990, pg. 60; Katherine Bishop, “Militant Environmentalists Planning Summer Protests to Save Redwoods,” *The New York Times*, June 19, 1990, A18; Katherine Bishop, “Police Arrest 44 in Redwood Protest,” *The New York Times*, June 21, 1990, A16; Trip Gabriel, “If a Tree Falls in the Forest, They Hear It,” *The New York Times*, November 4, 1990, Section 6, Page 34, Column 1, Magazine Desk.

Mountains -- hours to the east of the redwood belt -- a clear indication that overall logging reform remained at the heart of the conflict. The action in Sequoia also demonstrated how media-focused Cherney and Bari were at the time. They attenuated the Northcoast roots of the redwood wars by traveling far away and addressing non-redwood logging in order to solicit wider public sympathy for their work. It was that kind of flexibility and savvy that enabled the Northcoast movement to federalize the Headwaters conflict when it determined California could not act strongly enough for their tastes.<sup>164</sup>

In August, the actions moved back to Humboldt and Pacific Lumber, and tensions escalated. The largest action was back in Murrelet Grove when fifty to seventy activists snuck into the grove during the middle of the night and awaited sunrise and the arrival of the logging crews. At Murrelet Grove, the activists unveiled a new tool and a new willingness to take chances. They used Kryptonite bike locks to chain themselves to logging equipment, and one man stopped a logger by placing his hand under a chainsaw to prevent the logger from turning on the machine. Other activists surrounded an old growth tree to keep the loggers away. Judi Bari reported that one activist was run over by a truck, and that others were chased by bulldozers. EF! also organized a seventy-person rally outside a meeting in Korbelt between Humboldt State University professors and timber executives. The crowd surrounded John Campbell's car, one activist, Serina, laid on the hood and refused to let go, and Campbell drove down the drive with the activist on the hood until the police arrived to remove her. Serina spent four months in jail, EF!

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<sup>164</sup> Dan Levy, "Redwood Summer Protesters Sue Over Jail Head-Shaving," *San Francisco Chronicle*, September 7, 1990, A2; Jay Matthews, "Environmentalists Attempt to Revive '60s Activism in Redwood Summer," *The Washington Post*, July 8, 1990, A3; Katherine Bishop, "One Result of Logging Protests: More Antagonism," *The New York Times*, September 24, 1990, B8; Bari, *Timber Wars*, 74-75.

established a round-the-clock and noisy three-day vigil at Campbell's home, and Campbell and his wife came and went with a police escort.<sup>165</sup>

The actions of Redwood Summer brought attention to the timber wars, and it briefly halted some logging operations; maybe its most lasting effect was the escalation of the vitriol coming from the industry and its allied workers that contributed to elevating the conflict beyond the purview of the state of California after 1994. In addition to the public opposition and hostility of the Fort Bragg Yellow Ribbon crowd, the loggers at Murrelet Grove, and the police officers, timber executives, county supervisors, and other residents amplified their opposition to Earth First! and its campaign. Some of the public posturing of Earth First!'s opponents was an effort to tie the more radical EF! to the logging reform initiative on the 1990 ballot, but much of the backlash was in response to the success of EF! organizing a broader public network. Shep Tucker of Louisiana-Pacific told a *USA Today* reporter that the Redwood Summer activists were an unreasoning "terrorist group." John Campbell told the Santa Rosa Rotary Club that Pacific Lumber was preparing to mount an "aggressive counterattack." More ominously, police arrested two men carrying rifles at an anti-EF! counter-protest in Fortuna. Loggers and millworkers were not the only opponents of EF!. Candice Boak, whom Cherney and Bari charged with organizing the death threats they received by mail and phone, founded Mother's Watch, a pro-timber women's group. One local paper reported that Mother's Watch organized a "Dirty Tricks Workshop" in July 1990 to teach members how to harass environmentalists and plant false information in the press. Later in the summer, a fake bomb was found in the Arcata EF! office. The Northcoast, and Humboldt County in

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<sup>165</sup> Bari, *Timber Wars*, 75-77, Chase, *In a Dark Wood*, 344- 345. Chase's book is polemic against modern environmentalism, but the chapter, "Redwood Summer" chronicles many of the actions and protests not discussed in the preceding paragraphs.

particular, was increasingly a county under siege, with both sides vilifying the other in the press and working to intimidate the other into submission.<sup>166</sup>

In what appears to be an effort to soften the emotions of the local worker community, EF! backed off of actions that engaged loggers and millworkers. During the fall and winter of 1990 and 1991, EF! held at least monthly actions associated with its “Corporate Fall” campaign that targeted timber company executives. In September, EF! rallied in Ukiah to demand that Louisiana-Pacific leave Mendocino County, and Cherney with one hundred twenty-five others rallied outside of Maxxam’s Houston headquarters. In October, EF! organized a protest at LP chief Harry Merlo’s house near Cloverdale. The activists hung banners, dumped wood chips in the driveway, and played Cherney’s music loudly. At one point, a group of activists stripped naked and jumped into Merlo’s hot tub. In December, the Corporate Fallers descended on Campbell’s house and delivered presents of ash and sawdust to the house while singing “endless” renditions of “Hang Down Your Head, John Campbell” until Candice Boak showed up with a crew of people and chased the activists off the property. Things then appear to have settled down a bit until the summer of 1991.<sup>167</sup>

*Redwood Summer II/ Ecotopia Summer: The Move North to Headwaters Forest and the Broadening of Local Support for the Activist Vision*

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<sup>166</sup> “Humboldt Supervisor Says More Trees Were Spiked,” *San Francisco Chronicle*, August 30, 1990, A2; Maria Goodavage, “At Loggerheads in California; Timber Interests, Activists, Poised for Redwood, Summer,” *USA Today*, June 20, 1990, 3A; Katherine Bishop, “One Result of Logging Protests: More Antagonism,” *The New York Times*, September 24, 1990, B8; ? (“Earth First! Replies to Mothers’ Watch: We ARE Home!,” *Anderson Valley Advertiser*, unknown page, September 1, 1993, papers of Dan Hamburg, Ukiah, CA.

<sup>167</sup> Bari, *Timber Wars*, 77 – 81.

Earth First! lost some of its popular appeal after Redwood Summer and after Dave Foreman left the national Earth First! movement in large part because of the way Cherney, Bari and Northcoast EF! organized rallies for the masses and for workers. However, on the Northcoast, EF! continued to attract activists, they developed new campaigns, and they received broad support from the southern Humboldt community, especially in Garberville. Lieb Austro and Linda Dylan, proprietors of Music for Little People, a recording studio and store in Garberville, founded the TREES Foundation. The foundation was an effort to organize the business community of Garberville to financially support local grassroots environmental activism. The organization developed into a major force in the redwood wars. Judi Bari focused on her and Cherney's civil rights lawsuit, and Cherney organized a tour of the California State University system to put pressure on the Board of Regents to remove Chancellor Barry Munitz, a Maxxam officer. The activists who took the reigns of Redwood Summer, primarily many of the younger males, organized the 1991 direct actions, and they began taking greater risks than ever before. In fact, Redwood Summer II was also known as Ecotopia Summer, a reference to *Ecotopia*, the 1975 novel by Ernest Callenbach that glorified the formation of a new nation when Oregon, Washington, and Northern California seceded from the United States. While the president of Ecotopia was a woman, the culture of the imagined culture was based on many of the masculine motifs of the wilderness movement and the counterculture of the 1960s.<sup>168</sup>

North Coast EF! planned to follow up the success of Redwood Summer with another flurry of actions during the Summer of 1991, but the plans lacked mass appeal,

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<sup>168</sup> Cherney interview; Cherney, "History of Headwaters Campaign;" interview with Alicia Littletree Banes by author, 20 May 2008, Ukiah, CA (all notes and audio files in possession of the author); *Chancellor Watch*, Winter '91 – '92, Sacramento, CA, papers of Kathy Bailey, Philo, CA.

likely the result of the loss of the three mainstay organizing visionaries – Bari, Cherney, and King. They were the ones with the media and public opinion savvy. Without them, the actions developed into more technical, more direct actions designed solely to stop production, without popular appeal. The major action of Ecotopia Summer was in early July, and took place deep inside Pacific Lumber property. Earlier, a group of fourteen EF! activists attempted to stop a clearcut project at the edge of Headwaters Grove. The company was prepared for the activists, and equipped the loggers with diamond saw blades to cut through the Kryptonite locks the activists used to lock themselves to bulldozers. The company additionally deputized the loggers and authorized them to capture trespassers. According to Bari, the loggers caught all of the activists and threatened to cut their hair. Later in July, the “boys playing soldier” who organized the backwoods operations, developed a plan to march forty activists ten miles into Pacific Lumber land – deeper into the woods than they had ever operated. The action was a disaster because the company was again prepared for actions, and because the distance of the actions from the nearest road increased the physical risk to the activists. The forty-odd activists attempted to ambush the logging crew, but they were instead ambushed by a group of deputized loggers who captured twenty-two activists using violence and physical force. The twenty-two activists were arrested, while the nearly twenty activists who escaped found their way, often alone, through the dense, damp, and dark forest without much food or water, until they reached a main road. Cherney, Bari, and King’s absences contributed to the disasters. Consensus organizing broke down at basecamp, and the actions were designed in secrecy by young activists John Williams Garcia, Robert Parker, and a few other males. The lack of information given to the other activists

created a dangerous situation that was more of a military-style set of actions than ones designed to delay logging, shine the publicity spotlight onto the operation, and generate public sympathy for the campaign. After the disasters in the woods, Bari re-engaged, and unsurprisingly, EF! moved the remaining summer actions to safer locations largely out of Humboldt County and out of the woods.<sup>169</sup>

The most enduring event of 1991 was the arrival of Alicia Littletree Banes on the Northcoast, because she helped bring order to EF!'s planning, and she focused on recruiting activists, not daring backwoods adventures. Littletree was a seventeen-year old high school student, and she arrived on the Northcoast in early July with an affinity group from Sacramento, where she lived. Her Ad Hoc Committee for Peace was looking for activist projects after the 1991 Gulf War faded. Littletree went to the basecamp for Redwood Summer II/Ecotopia Summer because a couple of friends had gone up earlier in the summer and participated in the disastrous actions deep in Pacific Lumber land. During her visit to Ecotopia Summer, Littletree stayed at the basecamp, swam, and listened to people play music. She participated in her first action later in July at the state capitol in Sacramento. Littletree and four other women, naked and covered with mud, created a distraction outside the capitol, drawing the attention of all nearby police and security. Simultaneously, activists John Williams Garcia and Zach Stentz locked themselves to the statue of Columbus inside the capitol, while Brian Wyott and an activist named Richie hung a banner over the second floor rotunda calling for the protection of Headwaters Forest. Littletree and one other woman, Fiona, "got bored" and streaked through the capitol. Williams and Stentz escaped capture, but Littletree, Fiona, Richie, and Wyott were not as fortunate. According to Littletree, the police used a

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<sup>169</sup> Cherney Interview; Littletree interview; Bari, *Timber Wars*, 168-170.

cherry-picker to remove Wyatt and Richie from the second floor railing. Littletree was taken to a juvenile detention center, and her mom convinced the police not to press charges, but she also refused to allow Littletree to live at home. She subsequently moved north to Garberville, lived in Tracy Kattleman's trailer, and worked for Kattleman as an administrative assistant at the Institute for Sustainable Forestry. In the fall, Littletree enrolled at Whale Gulch Independent School, tucked back into the community upslope of Shelter Cove near the Sinkyone Wilderness. In addition to working as an administrative assistant, Littletree work-traded for a backwoods cabin without electricity, and charged food on her mom's credit card at the Chevron in Garberville.<sup>170</sup>

Littletree spent much of her time at Earth First! meetings, however, and quickly became a fixture in the Northcoast organization. Bari kept a list of people to whom she mailed meeting and fundraising notices, and most of the meetings were in Willits, in Mendocino County. During the fall of 1991 and winter of 1992, approximately fifteen people regularly attended the meetings, and Littletree remembered that most of the EF! activists were "sixties radicals." The main cohort included Bari, Cherney, Naomi Wagner, Dave Biebe, and Mary Corte, and they talked a lot about Louisiana Pacific and Harry Merlo. The women, in particular, seemed to appreciate Littletree's engagement, and in turn, Littletree found EF! to be a group of funny, strong women. That winter, Littletree also experienced the dysfunctional side of EF! at an activist conference in Portland in 1992. Bari, Littletree, and other Northcoast EF! activists at the conference were disturbed by the inability of the attendees to run a coherent meeting or make decisions due to the number of disruptions. In particular, Judi Bari grew frustrated that the group did not take her concerns about the disruptions seriously. The Northcoast

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<sup>170</sup> Littletree interview.

group left the conference concerned about the state of the national movement, and not knowing whether “agents or assholes” were the source of disruption. Her concerns coming out of those meetings probably contributed to the ever-increasing amount of time and energy Bari put into the bombing lawsuit.<sup>171</sup>

Littletree adopted a more visible role that spring, and Northcoast EF! made a major splash as well, again propelling the redwood wars to prominence in California. In February 1992, Louisiana-Pacific began logging near Albion, on the Mendocino Coast, and planned to log the forest surrounding what was known as Enchanted Meadow, a popular spot for picnics and hikes. Northcoast EF! organized a nine-week set of actions, including daily actions for fifty-four consecutive days. EF! set up roadblocks in the woods that attracted young and daring activists, and they organized sixteen tree-sits with multiple tree-sitters each. One activist, Dark Moon, sat in a tree for thirty consecutive days. The actions became known as the Albion Uprising, and effectively shut down LP’s logging plans in the area. Littletree and Cherney were both tree-sitters during the actions. In fact, Littletree did the first naked EF! treesit, and became the spokesperson for the actions because she was positioned in a very visible location on the river. She sat in the tree for nine days. Anna Marie Stenberg’s presence also aided the actions. Stenberg, a some time EF! activist, was running for County Supervisor and the local sheriff, Tony Craver, shut down logging activity to protect the candidate. After the Uprising, Louisiana-Pacific filed trespassing charges against one hundred John and Jane Does, and fifteen named EF! activists. The suit was settled via an essentially meaningless

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<sup>171</sup> Littletree interview; Personal correspondence with Littletree, 29 September 2009; Bari, *Timber Wars*, XXX; dark wood? Eco-warriors? Town dogs?

injunction agreement between LP and the EF! activists – meaningless because trespassing was illegal anyway and LP didn't need an injunction to make it so.<sup>172</sup>

After the Albion Uprising, Littletree developed into the primary EF! organizer in Humboldt and helped draw attention and resources to the Headwaters conflict as the place where the corporate timber vision and the Northcoast activist vision diverged most dramatically. Littletree graduated from Whale Gulch that summer, and moved down to Albion until she and her affinity group were kicked off of land where they squatted. Littletree moved in with Bari, learned politics and organizing from Bari, and helped prepare the court case against the Oakland Police and the FBI. In June, Pacific Lumber began logging the Owl Creek Grove of Headwaters Forest, and later that summer Littletree moved north to organize actions because of her affinity for Humboldt as the place she moved when she left home. Kurt Newman took her deep into Pacific Lumber land to see the figure eight-shaped road the company had cut into the ancient grove. Littletree recalled that the road was so steep she could hardly walk on it, and that the silt and dust was nearly a foot deep and littered with dead “critters.” On the hike, Littletree and an EPIC activist, Lori Sarazchek, photographed the road, logging, and log decks. The photos were later used by EPIC in pamphlets and in support of their 1992 alternative writs in *Sierra v. BOF*. After her sojourn into Owl Creek, Littletree organized nightly hikes into Owl Creek to publicize the campaign and monitor logging. To recruit people, Littletree, Ecotopia EF! and Arcata EF! tabled at the co-op in Arcata to build a list of potential activists. They called themselves the Owl Creek Protection Association to avoid the EF! stigma while recruiting a broader base of activists. Pacific Lumber entered Owl Creek Grove again over Thanksgiving weekend, and EF! activists rushed into the

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<sup>172</sup> Cherney interview, Littletree interview, Bari, *Timber Wars*, 226-230.

woods to slow down the loggers until the courts could stop the operation, which appeared to be in violation of a court order. Littletree estimated thirty activists hiked into the woods and witnessed ancient trees falling. The police and loggers awaited the activists. John Williams Garcia put his hand on the blade of a chainsaw to prevent the logger from starting it. Some activists stole gas cans, others played cat-and-mouse with the loggers and police. Littletree had been in Sacramento at her mother's house when she received the call about the logging. Despite her mother's anger, Littletree immediately drove north and entered the woods, where she, along with a "truckload" of activists were arrested and taken to Eureka. On Monday, EPIC and Sierra obtained a Temporary Restraining Order against Pacific Lumber, and on December 1, an appeals court granted the environmentalists an emergency stay.<sup>173</sup>

The election of Dan Hamburg to Congress, the logging of Owl Creek, and Littletree's move to Garberbille solidified Headwaters Forest as the primary focus of Earth First! on the Northcoast for nearly the rest of the century. Life for EF! and Littletree in Humboldt were fairly quiet until August 1993, when Littletree organized the Week of Outrage Against Maxxam in response to a bill proposed by Congressman Dan Hamburg and Pacific Lumber's continued logging of the areas Hamburg's bill proposed to protect. The winter of 1992-1993 was not easy for Littletree and Northcoast EF!. Cherney continued his publicity work around Barry Munitz and the "Seven Sins of Maxxam," Bari was focused on her and Cherney's court case, and EPIC, Sierra, and Pacific Lumber were entangled in court actions. The local buzz and enthusiasm for direct action faded. Littletree recalled one March 1993 meeting she organized at the EPIC

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<sup>173</sup> ("Nightly Hiking Tours," flier, Ecotopia Earth First!; papers of Alicia Littletree, Ukiah, Ca; Littletree interview; *Sierra Club and EPIC v. California Board of Forestry*, Emergency Stay A059797, December 1, 1992.

office by sending out dozens of fliers in the mail. Littletree, “the crazy person, the speed freak, and the homeless person” were the only attendees. That year, Littletree built an affinity group of young hikers and climbers, and in August organized a basecamp of approximately thirty people with funding help from Randy Ghent and Karen Pickett’s EF! groups in Arcata and Berkeley respectively.<sup>174</sup>

The Week of Outrage was Littletree and EF!’s response to Dan Hamburg’s proposed bill to protect nearly forty-five thousand acres of the Headwaters Forest Complex. From August 21 through 28, Littletree organized daily actions promoting EF!’s proposal to protect ninety-eight thousand acres of forest and protesting Pacific Lumber’s logging operations in the Headwaters Complex. A few of the major actions included hanging a banner on a cliff above Highway 101 across from the Pacific Lumber mill in Rio Dell that read, “Jail Hurwitz!;” a forty activist rally in front of the Humboldt District Attorney’s office where one landowner from Etnersburg, dressed in a Charles Hurwitz costume, chained himself to a bench; and at least three actions the following day, August 25. “Charles Hurwitz” attended a CDF review meeting for a Pacific Lumber harvest plan and demanded CDF build a drive-up window for same-day approval of harvest plans, and then threatened to chain himself down if they didn’t meet his demands. That morning, Pacific Lumber employees discovered one of their gates entirely entangled in yarn, and fifth generation logger Ernie Pardini began a tree-sit on Pacific Lumber property near Headwaters Grove. At the same time, a group of activists blocked one entrance to the harvest area and hung the banner, “Blame Hurwitz, Not Spotted Owls.” Finally, Littletree organized a road blockade where Highway 36 intersected with

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<sup>174</sup> Littletree interview; Glenn Franco Simmons, “Earth First! Wants 98,000; 4,500 Acres Tops, PL Says,” *Humboldt Beacon & Advance*, August 26, 1993, Papers of Dan Hamburg, Ukiah, CA; “Headwaters Forest Wilderness Complex,” Northcoast California Earth First!, EPIC archives, Eureka, CA.

Highway 101 coming out of Pacific Lumber property. The Week of Outrage, as nearly all of the EF! actions during the redwood wars, was clearly the product of North Coast EF!'s anti-corporation, anti-corporatist, and middle-class materialistic outlook. The actions also clearly demonstrate EF!'s commitment to logging reform, and not solely traditional wilderness protection. As such, the actions help us understand some of the weaknesses in the more traditional narratives about modern environmental protection and wilderness politics.

The Week of Outrage, coupled with Cherney's work on "the Seven Sins of Maxxam," signified a significant shift in EF! strategy that appealed to a broader audience, a shift that benefitted the local movement in the long run. The actions were once again designed to draw attention to themselves and the campaigns as well as impede timber harvests, and information was more broadly shared at the Salmon Creek basecamp so that, as Littletree explained, individuals could "make a good decision about what to do with their bodies." The message changed as well, becoming far more focused on demonizing Hurwitz than it was on sustainable forestry or forest protection. That change was a conscious decision to appeal to the common fears and grievances of environmentalists, Pacific Lumber workers, and other Humboldt residents. After the Week of Outrage, EF! activity declined temporarily; Hamburg's bill moved through Congress, EPIC and Sierra blocked key harvest projects in court, and Littletree traveled to Guatemala by herself until the summer of 1994. Late in 1994, all of the action surrounding the redwood wars and the battle over Headwaters Forest boiled over again when Hamburg's bill failed, Pacific Lumber obtained an exemption permit to log dead

and dying trees on all of its property, and the company began logging in the Yager Creek drainage. Out of legislative options, EF! ramped up its direct defense of the forests.<sup>175</sup>

## **Going above the Heads of Agencies and Timber Corporations:**

### **Legislative Action**

#### *Forests Forever: Giving the Voters a Crack at Forestry Reform*

The Northcoast activists not only stepped up their attacks on private property rights and their appeal to the media, they also forced the redwood wars onto the legislative table beginning in 1990, a set of decisions that significantly added to the influence of the locals on the state. While Cherney, Bari, King and Northcoast Earth First! built their organization and generated press coverage and backlash at the end of the 1980s, some of the activists from the first wave of migration collaborated in an attempt to extract the timber wars from the courtrooms and place the issue of forest management and property rights in front of the state's voters. Their initiative narrowly failed, but like Redwood Summer, it provided the redwood preservation movement with an enormous boost, and helped push the timber wars out of the Northcoast. The manner by which the activists came together, built a statewide organization, and placed private logging reform on the state agenda befitted the 1960s backgrounds of the activists. A bit of fate, a lot of voter outreach, some good theatrics, and a lot of bravado helped them construct a major

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<sup>175</sup> Ibid; "Week of Outrage Against Maxxam," flier, Earth First!, August 1993, papers of Alicia Littletree Bales, Ukiah, CA; Mike Geniella, "Earth First! Protests Headwaters Logging," *The Press Democrat*, August 24, 1993, unknown page, papers of Dan Hamburg, Ukiah, CA; "Outrage Against Maxxam," *The Mendocino Country Environmentalist*, Issue 200, August 26, 1993, pg. 1., Papers of Dan Hamburg, Ukiah, CA; "Earth First! Replies to Mothers' Watch: We ARE Home!," *Anderson Valley Advertiser*, unknown page, September 1, 1993, papers of Dan Hamburg, Ukiah, CA; Cherney, "History of Headwaters Campaign."

campaign for significant reform that captured the attention and imagination of the state for a brief while. More importantly, the campaign drew Kathy Bailey and other older activists back into the redwood wars to work with the subsequent migrants, and that coalition continued to press their social vision that included the reformation of logging practices and the end to logging in ancient redwood groves, especially Headwaters Forest.

The Northcoast activists' legislative campaign was not the first effort to legislatively resolve the redwood wars, but it was the most comprehensive and the most successful. As early as 1987, the California legislature acted to understand and address the redwood wars. A joint assembly of the Senate and Assembly Committees on Forest Resources and Natural Resources, respectively, listened to testimony about the sustainability of logging practices on the Northcoast. In 1988, two unsuccessful bills were introduced in the California legislature to prohibit "large companies" from harvesting more timber than they annually grew, and Senator Byron Sher introduced a bill to prevent the clearcutting of old growth, but the bill was reportedly pulled from consideration after Pacific Lumber agreed to voluntarily end the practice. In early 1989, Sher re-introduced his bill after learning that Pacific Lumber had reneged on their verbal agreement, though Campbell denied the claim. In February, the *Sacramento Bee Magazine* ran an article entitled, "The Redwood Wars," that told the story of back-to-the-landers in Humboldt County doing battle with "titans of consumptive society." The article outlined the political organizing backgrounds of activists such as Woods, Ronald Snodgrass, and Cecelia Lanman (then Cecelia Gregori). The article also described the activists' political, legal, and restoration work. Snodgrass importantly told the reporter

that they were applying their skills to “issues that are in our immediate environment,” a clear example of the locally-minded nature of their activism. In the article, Woods decried more mainstream environmental groups because one lobbyist told Woods he had no right to influence legislation “looking the way he does.”

For its part, Pacific Lumber told the journalist that EPIC was blackmailing them in court, and the Eel River Sawmills claimed protesters were trying to run timber companies in Humboldt County out of business. The article also quoted a rancher from Humboldt who told the reporter that the Earth First! activists “get on welfare and grow pot and make good money at it. I think the buggers ought to go get real jobs.” That article clearly established the redwood wars as a local conflict over local social and economic values, pitting the rural working class and the timber industry against a group of activists who largely rejected traditional middle-class life and values. The conflict retained those local characteristics, but when the activists took the issue into the legislative arena, mainstream and middle-class environmentalists also entered the fray.<sup>176</sup>

More than anything, a sense of frustration seemed to have imparted a strong sense of urgency in Kathy Bailey, The Man Who Walks in the Woods, and the other activists who created Forests Forever. By 1989, EPIC was winning lawsuits against CDF and Pacific Lumber, and was blocking logging with restraining orders; the national press had taken up the cause of vilifying Charles Hurwitz, Maxxam, and their logging practices; there was an active direct action campaign on the Northcoast that delayed logging and publicized the grievances of the activists; and the state legislature grew interested in resolving the conflict. However, the logging rates remained high (in 1988, PL logged

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<sup>176</sup> Chris Bowman, “The Redwood Wars,” *The Sacramento Bee Magazine*, February 12, 1989, pg. 10; from EPIC publications binder; Goff, “Angry Harvest;” Lindsey, “Ancient Redwoods Fall.”

10,436 acres, more than any year since at least 1979), court cases took many years to conclude, and state agencies did not seem enthusiastic about changing their policies or relationships. During the late spring or early summer, Kathy Bailey became aware there were more logging trucks on route 128 in Mendocino, and that the size of the logs had decreased. A logger acquaintance told Bailey she “wouldn’t believe what [they’re] doing in the woods,” which made sense to her because there was a harvest operation upstream from her water well source that left few trees or shrubs on the ground and filled her creek with slues. Bailey called Meca Wawona (an adopted name in the tradition of many Northcoast migrants) whom she knew from the pesticide initiative of the 1970s. Meca told Bailey about a meeting at Grapewine Station north of Laytonville to discuss a possible ballot initiative to reform Northcoast logging practices. Woods, phasing out his EPIC work, came up with the idea for an initiative and had organized the meeting.<sup>177</sup>

The meeting during the early summer of 1989 led directly to the formation of the organization Forests Forever to run the qualifying and electoral campaigns for the 1990 initiative. Woods, Bailey, Cecelia Lanman, Darryl Cherney, Jama Chapin (EPIC volunteer), Gary and Betty Ball, John Llewallen, Bill Mannix, Eric Swanson, and a few others attended the Grapewine Station meeting. Within a few meetings they decided to create an organization, and that Woods, Llewallen, and Mannix would develop the language of the initiative. At Eric Swanson’s home west of Willits in Mendocino, the group held hands and stood in a circle brainstorming potential names for the organization. Someone blurted out “Forests Forever,” and the name stuck. That fall, Woods, Bailey and a few other Forests Forever activists took their draft initiative to the annual Planning

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<sup>177</sup> EPIC Summary Sheets for Pacific Lumber THP’s 1980 – July 1990; Kathy Bailey to Ed “Re: Prop 130 effects on Pacific Lumber,” September 8, 1990; papers of Kathy Bailey, Philo, CA; Bailey interview; Personal correspondence with Bailey, 14 September 2009; Sutherland interview.

and Conservation League conference in Sacramento. PCL was a very influential statewide environmental group, and many current and former Forestry leaders attended the conference. Forests Forever showed the initiative to a group that included former BOF member Phil Berry, former CDF Director Dave Pesonen, and former CA Resources Secretary Huey Johnson, and they each tentatively agreed not to oppose the initiative if it qualified for the 1990 ballot.

Later in the fall, Forests Forever caught a game-changing break – a break created by their decision to take their forestry ideas to the statewide voters. Hal Arbit, an investor from San Mateo, approached the forestry expert at the Natural Resources Defense Council, David Edelston, to discuss his options for contributing to a campaign to protect old growth redwoods. According to Bailey, Edelston pitched Arbit on what was known as the Big Green initiative. The Big Green initiative was put together by organizations including the California Public Interest Research Group and PCL, and was supported by State Senator Tom Hayden and former San Francisco mayor Dianne Feinstein. The initiative addressed greenhouse gas emissions, pesticide use, toxic waste cleanup, and clearcutting. Arbit didn't think Big Green did enough on forestry and ancient forests, and so Edelston told Arbit about the Forests Forever initiative and arranged a meeting with Woods, Bailey, Lanman, Llewallen, and Mannix.<sup>178</sup>

The pairing of the San Mateo investor with the self-described “country-folk” from the North must have been a sight to behold, and the relationship changed the fortunes of the Northcoast activists. Woods' hair was down the middle of his back, but the group was less hippie than it was country bumpkin by Bailey's account. After the meeting,

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<sup>178</sup> Bailey interview; Personal correspondence with Bailey 14 September 2009; Andrew Pollack, “Logging Regulation Bill Vetoed in California,” *The New York Times*, October 13, 1991; personal correspondence with Doug Phelps, Chairman of the Board, CALPIRG, October 1, 2009.

Arbit agreed to finance the campaign, but demanded his contributions remain anonymous, and that attorneys review and approve the draft language of the initiative. The budding partnership almost immediately fell apart. Back north, Richard Johnson, proprietor of a very small paper entitled *Mendocino Environmentalist*, convinced Llewallen that it was elitist not to reveal the name of their funder and that Llewallen ought to give him an interview and talk about Arbit. Despite the small readership, the incident soured the relationship between Arbit and Forests Forever. Lewallen was removed from the steering committee, and Arbit remained committed, but he never truly trusted the country folk again, and he grew less interested in their ideas and input. Tom Lippe, an attorney used by EPIC, was hired to redraft the initiative, and Bailey remembered sitting at his office on Christmas Eve 1989, with Lippe, Carl Pope -- the President of the Sierra Club, and Woods, finalizing the draft so they could meet the Secretary of State's deadline and get Tom to the hospital for the birth of his first child. Once the Secretary of State accepted the language of the ballot question, Forests Forever formed a statewide campaign committee and hired professional signature-gathering and campaign experts to carry out the on-the-ground operations.<sup>179</sup>

The campaign did not get off to an auspicious start, and the poor beginning played a crucial role in the eventual failure of the Forests Forever Initiative. The organization established a statewide steering committee comprised of Dave Edelson, Cecelia Lanman, Woods, Kathy Bailey, Warren Chabot, and Jerry Meral, who had previously managed a successful parks bond initiative for PCL. At Meral's suggestion, the campaign hired Leo McElroy, a Sacramento-based campaign manager who worked with Meral on the park

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<sup>179</sup> Bailey interview; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; personal correspondence with Kathy Bailey, September 14, 2009

bond. Forests Forever hired Ken Masterton to run the signature-gathering operation. From the beginning, the initiative, Proposition 130, garnered the attention of the press. In January, *The Press Democrat* ran an article about the initiative. In the article, Campbell accused the Department of Fish and Game of appeasing “Earth First! and their supporters,” after DFG lobbied against a Pacific Lumber harvest plan because it would have jeopardized wildlife habitat. The article positioned the Forests Forever initiative as the vehicle for putting the long-running conflict on the Northcoast in the hands of statewide voters. Campbell and the timber industry continued to tie the initiative to Earth First! throughout the election season, an especially important tactic because the timber industry submitted its own initiative to compete with Forests Forever and Big Green.<sup>180</sup>

The *San Francisco Examiner* also ran a large piece on the redwood wars in January. The article introduced the arguments from the industry that the economic value of second growth forests was greater in the long run because they grow faster than old growth trees, and that the land was zoned for timber production as a renewable crop, a designation they believed precluded other uses for the land. The coverage also allowed space for environmentalists to point to the old growth forests’ ecological values and their desire to focus on longer-term sustainability issues with respect to timber harvests and ecological health. Unsurprisingly, the press paid gravitated toward the cultural and social conflicts of the war, highlighting for example, the fact that Lanman’s children were teased at school, that some parents had petitioned a local school board in Humboldt to remove *The Lorax* from the book shelves, and that Don Nolan, a logging truck business

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<sup>180</sup> Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Mike Geniella, “timber Tempest,” *Santa Rosa Press Democrat*, January 14, 1990, A1; EPIC Archives, publication binder; Jane Kay, “3 Competing Initiatives to Protect the Forests,” *San Francisco Examiner*, January 21, 1990, unknown page, EPIC Archives, Publications Binder, Redway, CA.

owner, told reporters that the environmental activists were Communists, terrorists, and long-haired intruders who were his “worst enemy.” Some articles also described a fragile alliance between some loggers and the environmental activists. In all, the coverage offered Bay Area residents a glimpse into the personalities and conflicts of the redwood wars, with the environmental activists portrayed as the most sympathetic figures.<sup>181</sup>

Despite the generally sympathetic press coverage, all was not well inside the Forests Forever campaign due to internal and external obstacles. At the end of January, Woods stopped working and threatened to permanently resign unless the campaign paid him more than the seven dollars per hour he earned at the time. Approximately a week later, Congressman Fortney “Pete” Stark drew the ire of the timber industry when he proposed an amendment to the tax code that banned deductions for expenses related to the harvesting of old growth redwoods, a change directed specifically at Pacific Lumber because they owned almost all the remaining old growth in private hands. On February 8, Pacific Lumber and Louisiana-Pacific announced they had reached a voluntary agreement with State Senator Barry Keene, State Assemblyman Dan Hauser, and Congressman Doug Bosco. Pacific Lumber agreed to a two-year moratorium on logging within the 3000 acre Headwaters Grove, and LP agreed to limit the amount of raw logs it exported to its new Mexico mill. Both companies agreed to a moratorium on clearcuts in old growth groves. In exchange, the elected officials agreed not to support the Forests Forever initiative. The deal became known as the “Boskeenauser” napkin deal. In addition to the tensions with Woods, the organization grew weary of Leo McElroy and his inability to coordinate all the moving pieces of the campaign, including his own pre-occupation with convincing the Northcoast activists to denounce Earth First!.

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<sup>181</sup> Kaye, “North Coast Split.”

Meanwhile, the Yellow Ribbon Coalition distributed fliers in Humboldt claiming that all three of the timber initiatives would stop timber harvests in Humboldt and cause thousand of people to lose their jobs. In May, the qualifying signatures were in the Secretary of State's office, Bari and Cherney's car was bombed, and Dave Foreman and other EF! activists were arrested in Arizona after a failed attempt to cut down a power line in the desert. Hal Arbit did not believe Bari and Cherney had not placed the bomb in their car, McElroy continued to obsess about the perceived connection between EF! and the initiative, and Woods left for Siberia because he felt Arbit fenced him in and disapproved of Woods' statements to the media regarding "timber corporadoes" and the fallacy of private property rights. The prospects of the initiative did not seem good as summer began.<sup>182</sup>

During the early summer, the initiative's fortunes were resurrected, but apparent success was unexpectedly snatched away on Election Day, a defeat that contributed to the subsequent escalation of the conflict by the Northcoast activists, eventually forcing federal Executive Branch intervention. The campaign hired Steve Glazer, an experienced initiative manager from Southern California. Glazer agreed the association of the initiative with Earth First! was not helpful, especially because of the arrest of Foreman in Arizona and the tensions swirling around the upcoming Redwood Summer actions.

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<sup>182</sup> Woods to Kathy Bailey, Betty Ball, Steven Day, Gil Gregori, Cecelia Lanman, Pam Limpanson, Eric Swanson, January 26, 1990, papers of Kathy Bailey, Philo, CA; Text of Stark bill with no HR number listed; Mark Rathjen, "Lawmakers Hopeful Agreements Will End Local Timber Wars," *The Times Standard*, February 9, 1990, EPIC archives, Eureka, CA faxed to someone on Feb. 20, 1990 at 15:40 in SF. 101<sup>st</sup> Congress, 2<sup>nd</sup> Session. EPIC archives, Redway, CA, Publications Binder; ("PL to Log Headwaters!," *The Mendocino Country Environmentalist*, March 1, 1995, issue 226. EPIC archives, Redway, CA; Greg Lucas, "Logging to Resume in Humboldt," *San Francisco Chronicle*, March 3, 1995, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Plan to Log Headwaters," *The Press Democrat*, March 3, 1995, A12, EPIC archives, Redway, CA; David Edelson to Leo McElroy, March 14, 1990, papers of Kathy Bailey, Philo, CA; Bailey interview; Sutherland interview.

However, EF! was not involved with Forests Forever, and Glazer was not obsessed with convincing the campaign to denounce EF!. Instead, Glazer focused on courting moderate and conservative endorsements, and refocusing the campaign on the content of the various forestry initiatives. Regardless, Bailey, Glazer, Arbit and others were concerned about how Redwood Summer would play out and what effect it might have on their efforts. They were pleasantly surprised when no violence erupted on the Northcoast, and when none of the media coverage tied EF! to the ballot initiative. For their part, Forests Forever focused on delivering the message that their initiative was better than the timber industry's initiative – for workers and for the forest. They hand-delivered pamphlets across the Northcoast, and with the help of Arbit and Frank Wells of the Disney family, the campaign hired Syd Galanty to produce several television ads. Additionally, Frank Green produced the documentary, “The Forest through the Trees,” which ran on Channel 9 in San Francisco leading up to the election. For the activists, the comparison of the initiatives was straight forward: their initiative provided for the purchase of the 3000 acre Headwaters and Elk Head Springs Groves via a bond, banned clearcutting, required wildlife surveys for all harvest plans in old growth stands, gave DFG authority to require wildlife protections in harvest plans, required every timber company develop a Sustained Yield Plan before it could conduct any new logging, and reduced the number of seats on the BOF dedicated to timber industry representatives, among other reforms.<sup>183</sup>

The campaign needed to win a majority of votes and defeat the timber industry's initiative because the industry initiative contained a provision invalidating the Forests

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<sup>183</sup> Bailey interview; Kathy Bailey to Hal Arbit, July 22, 1990, papers of Kathy Bailey, Philo, CA; Forests Forever, “Forest and Wildlife Protection Initiative Brief Summary,” factsheet, Forests Forever, Ukiah, CA (EPIC archives, publications binder; “Forests Forever Initiative: Summary” factsheet, EPIC archives, publications binder.

Forever Initiative. Part of the campaign effort thus evolved into convincing the public that the industry measure was a wolf in sheep's clothing. Primarily, Forests Forever emphasized the "Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990" provided for the acquisition of only 1600 acres of ancient redwood forest that weren't even within Headwaters Forest, included no funding mechanism, limited clearcutting in old growth stands to ten acres at a time with no restrictions on time or distance between clearcuts, reduced by only fifty percent clearcutting on all other properties, provided for a public bond for the rehabilitation of private and public forests, merely created a task force to *evaluate* forestry and wildlife issues, and replaced individual Timber Harvest Plans with a single Timber Management Plan for a landowner's entire holdings. The TMP was automatically approved unless CDF took action to deny the plan. The clearcutting ban did not apply to TMP holders. The late-summer efforts of Forests Forever paid enormous dividends, and on Election Day Bailey recalled one industry lobbyist congratulated her on her victory. In the end, neither initiative passed. Forests Forever garnered forty-eight percent of the vote (Big Green garnered just thirty-four percent by comparison), probably a last-minute victim of the Republican electoral victories in other statewide elections that day, though Bailey and Woods also argued that McElroy's obsession with EF!, and the diminished influence of the "country folk" with Arbit also played large roles in the defeat because both situations caused management to move more slowly than was required.<sup>184</sup>

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<sup>184</sup> "The Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990 (The Timber Association of California Initiative): A Summary," EPIC archives, Publication Binder, Redway, CA; Vince Bielski and Rick Sine, "Stumping for the Industry," *The San Francisco Bay Guardian*, August 8, 1990, 17; Bailey interview; Sutherland interview, personal correspondence with Doug Phelps, 1 October 2009.

The initiative experience offered the activists valuable lessons in public campaign management and increased their power on the state level, tools they would use effectively during the later national campaigns to protect Headwaters Forest. After the failure of Proposition 130, Hal Arbit, Kathy Bailey, and others continued to pursue comprehensive forestry reform in the state legislative arena, but were only successful at blocking bills they opposed. Kathy Bailey resigned from Forests Forever due to internal tensions and Lanman kept the organization alive, but it eventually transformed into a Bay Area signature-gathering and ballot initiative campaign outfit. However, the Prop 130 campaign forced the timber industry to recognize the widespread unpopularity of their practices, and Arbit used his new influence to help push the legislature to reform timber harvest practices.

Arbit used the threat of a 1992 ballot initiative to spur legislative action. Bailey and another Northcoast activist, Connie Best, drafted the language for a new initiative and gathered the statewide signatures required to qualify the initiative. Simultaneously, Arbit and Meral hired long-time Northcoast Sierra Club volunteer and former Forests Forever spokesperson, Gail Lucas, to recruit legislators and industry representatives to negotiate a package of logging reform bills. Lucas and Eric Swanson signed on legislators Byron Sher, Dan Hauser, Barry Keene, and Don McCorkdale to negotiate with Lucas, Tom Nelson from Sierra Pacific Industries, Mike Anderson with Georgia Pacific, and representatives from Pacific Lumber and other timber companies. Dr. Hans J. Burkhardt and Swanson, veterans of the Northcoast activist movement, developed the technical package of reforms that Lucas presented to the legislators and industry representatives. Dr. Burkhardt was a trained forester, and Swanson worked as an

engineer for Remco in Mendocino. With the package created, Arbit withdrew the initiative from consideration. Because Lucas was identified with the Sierra Club, and because of a history of animosity between Lucas and EPIC (Lucas had, during the Sinkyone battles, told the press she didn't think old growth was as important as sustainable forestry), the package of reforms was derisively referred to as the Sierra Accord. For more than a year, the package worked its way through the Assembly, accreted dozens of amendments that watered down the bill from the environmentalists' perspective, Sierra dropped its endorsement, and Lucas went to work for PCL and continued working on the legislation that developed into the Grand Accord, or Wilson Accord, because the Governor shepherded the bills beginning in January 1992. Bailey and the California Sierra Club convinced Speaker Willie Brown to kill the bills in January 1992, and again in the spring of 1992. Thus, the first serious round of efforts to end the courtroom- and forest-located redwood wars ended in stalemate.<sup>185</sup>

*The Headwaters Forest Protection Act: Pushing the Feds to take a Crack at Resolving the Conflict over Headwaters Forest*

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<sup>185</sup> Bailey interview; Kathy Bailey, "A Timeline History of Logging Reform in Mendocino County: DRAFT," memo for Sierra Club California, unknown date, papers of Kathy Bailey, Philo, CA; Personal correspondence with Bailey, October 15, 2009; The Associated Press, "Blow to 'Sierra Accord,'" *The Times Standard*, September 7, 1991, A1, EPIC archives, Redway, CA; Charles Powell, "To Whom it may concern," January 17, 1998, papers of Kathy Bailey, Philo, CA; Tom Hayden, "Timber Vote Delayed Again," News Release, January 24, 1993, papers of Kathy Bailey, Philo, CA; Princetl, *Transforming California*, 277-279. One of the best examples of the kind of forestry Burkhardt and Swanson advocated is found in Hans J. Burkhardt and Eric Swanson, *Maximizing Forest Productivity: Resource Depletion and a Strategy to Resolve the Crisis* (Mendocino, CA: Burkhardt Books, 1994).

Later in 1992, the election of then-Democrat Dan Hamburg offered Northcoast environmental activists new hope for protecting Headwaters Forest, if not for statewide forestry reform, and they nearly immediately forced the issue onto the national stage. Hamburg was part of the earliest wave of 1960s activists who moved to the Northcoast, and was elected on a broad platform of universal health care, reduction of the Defense budget, and social justice. As Hamburg explained, his campaign was caught up in the enthusiasm for Presidential candidate William Jefferson Clinton. Democrat Doug Bosco was defeated in 1990 by Republican Frank Riggs, and in 1992, Hamburg ran unopposed in the Democratic primary, presumably because the national party forced Bosco to back out due to his involvement in the Congressional check kiting scandal of 1992. Additionally, Riggs held a position in the so-called Gang of Seven demanding an independent investigation of the scandal. Though the redwood wars were not a part of Hamburg's campaign platform, he sensed the Headwaters conflict would be an issue for his office. Democratic Congressman Fortney "Pete" Stark from the Bay Area had introduced bills during at least the previous two Congresses targetting the Pacific Lumber controversies. Stark's bills would have authorized Congress to purchase all 200,000 acres of Pacific Lumber land, and would have altered the federal tax code to penalize old growth redwood logging. Late in the 1992 Congressional session, Riggs also introduced a bill authorizing the acquisition of a few thousand acres of Headwaters Forest, providing that Pacific Lumber was a willing seller. None of Stark's or Riggs' efforts ever received time on the House floor, and Congressional action was not a priority for the Northcoast activists, but that quickly changed in 1993.<sup>186</sup>

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<sup>186</sup> Hamburg interview; William McBurn, "Rubber Congressman," *National Review*, April 13, 1992; HR 3818 by Pete Stark, November 21, 1989, Redway, CA, EPIC archives, publications binder; Text of Stark

It was the Northcoast activists who forced Hamburg to take up the Headwaters issue, not an issue his DC staff pushed toward him. The distinction is crucial because much of the literature describes national environmental politics as driven from inside the Capital Hill beltway. During Hamburg's term in Congress, after their unsuccessful efforts at the state level, the Northcoast activists poured energy and resources into solving the Headwaters conflict federally, frustrated by the power of the timber industry locally. Shortly after his election, Hamburg travelled to Arcata for an interview on Humboldt State University's radio station. A caller asked Hamburg when he was going to introduce a Headwaters Forest protection bill. Hamburg replied that he intended to, but wanted to take the time to develop a bill that could actually pass. In January 1993, Hamburg and his office began meeting with Kathy Bailey, Darryl Cherney, Judi Bari, Woods, Cecelia Lanman, and other Northcoast activists from EPIC, EF!, and the Redwood Chapter of the Sierra Club. The activists took on the task of writing a federal proposal, and Larry Evans worked on computer-generated maps documenting the changes in the Headwaters Forest landscape since the Maxxam takeover. Many of the meetings took place at the EPIC offices. The activists divided up responsibilities of crafting the proposal with Kurt Newman in charge of the acreage committee, Lanman in charge of the land management specifics, Bari focused on a workers package, and Cherney leading the committee to develop a funding mechanism. Hamburg's office would put the proposal into legislative

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bill with no HR number listed, faxed to someone on Feb. 20, 1990 at 15:40 in San Francisco. 101<sup>st</sup> Congress, 2<sup>nd</sup> Session. Redway, CA, EPIC archives, publications binder; "Headwaters Forest Act Introduced in Congress," *Wild California*, Fall 1993, pg. 1, EPIC archives, Eureka, CA; Recorded News Services, "Riggs Slams Timber Land-grab, Offers His Own 'Rational' Headwaters Bill," *The Redwood Record*, September 15, 1992, papers of Dan Hamburg, Ukiah, CA; States News Service, "Congress' Neglect Kills Humboldt Tree Measure," *Contra Costa Times*, October 9, 1992, 15A, EPIC archives, Redway, CA; "A Headwaters Forest Chronology," Factsheet/fundraising appeal/action alert, EPIC archives, Eureka, CA

language. As the Northcoast working group developed its plan, Stark re-introduced his tax code bill in March, placing Headwaters in front of Congress again.<sup>187</sup>

Throughout the spring and summer of 1993, Stark's bill, word of Hamburg's bill, and other Congressional action buzzed through the Northcoast, forcing the timber industry and the activist community to enter the federal fray. John Campbell told the Associated Press that Stark and Hamburg were "captive of the special interests of the radical environmental community," and had no regard for workers on the Northcoast. The company hired Doug Bosco, at the rate of fifteen thousand dollars per month, to lobby against the bills. The *Humboldt Beacon* editorial staff referred to Hamburg as arrogant and callous, and accused him of developing his proposal without the input of Humboldt residents. When Hamburg introduced H.R. 2866 on August fourth, even Earth First!, whose primary organizers participated in crafting the proposal Hamburg worked from, protested the bill. Hamburg's bill proposed to protect approximately sixty thousand acres of Headwaters Forest through acquisition, National Forest designation, and wildlife study areas. Earth First! wanted to create a ninety-eight thousand acre wilderness area, and despite, or maybe because, of Cherney's and Bari's involvement with the Hamburg bill, Alicia Littletree told local reporters that while she appreciated Hamburg's efforts, the bill did not remove enough acreage from "corporate control" to ensure the community could decide how to protect the ancient redwood ecosystem and the local logging industry. The dropping of Hamburg's bill, and the recognition that they needed to target Maxxam as the villain, led to the late August Week of Outrage Against

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<sup>187</sup> Bailey interview; Hamburg interview; Darryl Cherney, "History of Headwaters Campaign," "Re: Headwaters Legislative Team," confidential memorandum, March 9, 1993, papers of Kathy Bailey, Philo, CA; Pete Stark, "Let's Stop the Mining of One of Our National Symbols The Majestic Redwood," Extension of Remarks, March 18, 1993, EPIC archives, Eureka, CA;

Maxxam. Congress indirectly added fuel to the controversy when it eliminated the tax loophole rewarding the timber industry for exporting raw logs, and when H.R. 1664, the Forest Biodiversity and Clearcutting Prohibition Act was introduced, a bill that would have thwarted development on nearly sixty million acres of National Forest land in addition to the prohibition of clearcutting on federal land.<sup>188</sup>

Hurwitz and Pacific Lumber, in addition to Hamburg's election and the actions of local activists, also propelled the conflict into the federal arena. In December 1992, Pacific Lumber filed a new bond offering with the SEC, and the company reorganized its operations so that the mills, the old growth groves, and the town of Scotia were Pacific Lumber property, while a new wholly owned subsidiary, Scotia Pacific Holding Company, owned the young forest. According to activist analysis, the filings included a provision ensuring the proceeds of a Headwaters Forest sale would be used to pay the bond debt, a sure sign, they believed, that Hurwitz intended to sell Headwaters and dismantle the company. The activists' analysis was partly corroborated by the press. In early August 1993, after Hamburg introduced his bill, *Wall Street Journal* writer, Charles McCoy, wrote an article about Hurwitz asserting the Maxxam chief wanted the federal government to purchase 4500 acres of Headwaters Grove for hundreds of millions of

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<sup>188</sup> Associated Press, "Congressmen Seeking Purchase of Forest Land," *Napa Valley Register*, June 18, 1993, unknown page, papers of Dan Hamburg, Ukiah, CA; Michael Spears, "Bosco Defends Lobbying Role for Timber Industry," *Napa Valley Register*, April 6, 1994, unknown page, papers of Dan Hamburg, Ukiah, Ca; Charles Winkley, "Bosco Getting \$180,000 as Headwaters Lobbyist," *The Times Standard*, April 1, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; ("Rep. Hamburg Must Meet With North Coast Constituents," *Humboldt Beacon & Advance*, July 1, 1993, unknown page, papers of Dan Hamburg, Ukiah, CA; ("Headwaters Redwood Forest Complex: A Legislative Proposal," Headwaters Legislative Action Team, Garberville, CA, unknown Date, papers of Dan Hamburg, Ukiah, CA; Honorable Dan Hamburg, "Introduction of the Headwaters Forest Act," *Congressional Record*, Vol. 139, No. 112, August 4, 1993, papers of Dan Hamburg, Ukiah, CA; Glenn Franco Simmons, "Earth First! Wants 98,000; 4,500 Acres Tops, PL Says," *Humboldt Beacon & Advance*, August 26, 1993, Papers of Dan Hamburg, Ukiah, CA; "Headwaters Forest Wilderness Complex," Northcoast California Earth First!, EPIC archives, Eureka, CA; "Headwaters Forest Wilderness Complex," Northcoast California Earth First!, EPIC archives, Eureka, CA; Issue Updates, *The Mendocino Country Environmentalist*, Issue 200, August 26, 1993, pg. 6, Papers of Dan Hamburg, Ukiah, CA

dollars, or the company would move ahead with plans to log the grove. With Hurwitz and the Northcoast activists eyeballing Congress, most of the redwood war action revolved around Washington, DC during 1994.<sup>189</sup>

The place all eyes rested was the office of Dan Hamburg. Hamburg's bill, "The Headwaters Forest Act," as introduced in August 1993, required the federal government to acquire approximately forty-four thousand acres of Pacific Lumber and Elk River Timber lands by donation, donated funds, exchange, and/or public appropriations. The acquired land was to be included in the Six Rivers National Forest, with a portion designated for inclusion in the National Wilderness Preservation System, and the rest governed by a management plan that excluded timber sales of old growth redwood, provided for the restoration of previously harvested areas that impaired marbled murrelet, northern spotted owl, native salmon stocks, and other species. Unemployed timber and commercial fishery workers were to conduct the restoration work. The bill also provided annual payments to Humboldt County and the State of California for lost Timber Yield Tax revenues. Finally, the bill required a federal study of an additional acreage of approximately 14,000 acres to identify any old-growth forests and habitat of endangered or threatened species. Not specifically in the bill, but endorsed by Hamburg and Representative Stark, was a plan to fund the acquisition with a so-called debt-for-nature swap, an idea given prominence by the efforts of Darryl Cherney. In 1992, the Federal Deposit Insurance Company informed United Financial Group, parent company to the

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<sup>189</sup> The Pacific Lumber Company, Form S-2, Registration No. 33-56332, December 28, 1992, EPIC archives, Eureka, CA ; "MAXXAM Inc." *International Directory of Company Histories*, Vol. 8. St. James Press, 1994. Reproduced in Business and Company Resource Center. Farmington Hills, Mich.: Gale Group 2008; Mike Geniella, "Pacific Lumber Cutting a Deal," *The Press Democrat*, December 9, 1992, E1, EPIC archives, Eureka, CA; Judi Bari, "Charles Hurwitz Strikes Again," unkown publication, Jan. 1993, EPIC archives, publications binder; Charles McCoy, "Cutting Costs," *Wall Street Journal*, August 6, 1993, A1; LOC website

failed United Savings Association of Texas (USAT), that the company and its former officers were liable for any breach of fiduciary duty. Hurwitz was the CEO of United Financial, and Maxxam was a major shareholder. USAT regularly purchased “junk” bonds from Michael Milken, including those offered to finance the Pacific Lumber acquisition. The idea, additionally spurred on by the newly founded Rose Foundation in Los Angeles, was to force Hurwitz to give up Headwaters Forest in exchange for some of the more than \$1 billion claims against USAT in the S&L failure. Hamburg, Stark, and the Northcoast activists believed the debt-for-nature swap was the best way to acquire Headwaters because it required no appropriation and exacted justice on Hurwitz for his role in the Texas S&L failure.<sup>190</sup>

The positions of Pacific Lumber and the activists were well known after the October 1993 subcommittee hearings for The Headwaters Act, a hearing that offered the locals a national platform to discuss the local conflict. John Campbell expressed the company’s outrage that the bill required Congress to acquire the land regardless of the company’s willingness to sell. Campbell argued the Redwood National Park purchase decades earlier had already left the county in economic ruins, and that Hamburg’s bill would crush the county’s largest remaining private employer by confiscating nearly thirty percent of its land. The company contended that enough ancient redwoods were already protected in state and national parks, and that Hamburg’s proposal was thus unnecessary and too expensive for taxpayers during a time of enormous budget deficits. Finally,

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<sup>190</sup> Hamburg interview, “Headwaters Forest Act,” Hearing before the Subcommittee on Specialty Crops and Natural Resources of the Committee on Agriculture, House of Representatives, 103<sup>rd</sup> Congress, First Session, on H.R. 2866, October 13, 1993, Serial No. 103-42, (U.S. Government Printing Office: Washington, 1994) 2-12 is the language of the original bill, 168-184 is the testimony of John Campbell, and 14-16 is the statements of Dan Hamburg and Pete Stark. H.R. 2866; Wade Lambert and Milo Geyelin, “United Financial Found Liable by FDIC,” *The Wall Street Journal*, May 22, 1992, EPIC archives, Eureka, CA; 103<sup>rd</sup> Congress, 2d Session, September 21, 1994; Personal correspondence with Bailey, October 15, 2009.

Campbell asserted the company was willing to sell 4500 acres – the Headwaters Grove and a surrounding buffer – at a price equivalent to what the logs on the property were worth. The two-year voluntary moratorium on logging Headwaters Grove had expired, and Campbell told the committee the company would be forced to log the area due to its responsibility to its shareholders unless an agreement could be reached.

Stark, Hamburg, and the activists who testified argued that fair market value was not equivalent to the value of the logs because many of them could not be harvested due to the restrictions of the Endangered Species and Forest Practices Acts. Kathy Bailey and Cecelia Lanman testified about the need to protect the last ancient redwood groves in private hands; the crucial role the Headwaters complex played for marbled murrelet, northern spotted owl, and salmon; and the need to reform timber practices to more sustainably harvest the forests of the Northcoast. The activists and Hamburg leaned heavily on a set of wildlife biologists to make their cases– Peter Moyle and Kim Nelson especially. They additionally relied on the Thanksgiving 1992 Owl Creek timber operation and the press accounts about the doubled rate of logging to vilify Maxxam and Hurwitz. Bailey particularly focused on the company’s logging since 1986, and pointed out that of the 44,000 proposed acres, Pacific Lumber had logged more than 23,000 acres since 1986, with only 900 of those young growth acres, and argued if any ancient and residual old-growth groves were to be saved, immediate action was necessary. Lanman highlighted the inaction of CDF and BOF, the resistance of Pacific Lumber to court and agency orders, and the company’s new harvest pattern as an effort to evade wildlife laws

by surrounding ancient forest with clearcuts and puncturing ancient groves with roads, thus reducing their value to wildlife.<sup>191</sup>

By early 1994, the action surrounding The Headwaters Forest Act quickened, driven by Northcoast residents. Had their influence not been as great, and had Hamburg not embraced their agenda, the issue probably would have died early in 1994. It was, after all, an election year, and political operatives and Northcoast supporters believed the Congressman needed to avoid a campaign referendum on the Headwaters issue; it was too volatile. However, the Northcoast activists formed the Headwaters Forest Coordinating Committee – another reference to the Civil Rights Movement -- to coordinate efforts to pass Hamburg’s bill, and the effort was extraordinarily successful given the locals lack of federal experience. Bailey, Cherney, Lanman, Jill Ratner from Rose Foundation, Tom Lippe, and others orchestrated the advocacy efforts. In February 1994, HFCC produced its own proposal for the Headwaters Forest complex. It was very similar to the Hamburg bill, though HFCC wanted to explicitly use a debt-for-nature swap, and they wanted to acquire additional lands over time using private funds, including the so-called Northern Headwaters Grove from Elk River Timber, owned by Sierra Pacific, the largest private landowner in California. The HFCC went so far as to assign a negotiating team to work with Red Emerson of Elk River Timber on a plan to alter logging plans for the Northern grove, negotiate a purchase price, and avoid an EPIC lawsuit. In April, Doug Bosco started running ads for the District One Democratic primary that attacked Hamuburg on his economic vision for the county. John Campbell

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<sup>191</sup> “Headwaters Forest Act,” Hearing before the Subcommittee on Specialty Crops and Natural Resources of the Committee on Agriculture, House of Representatives, 103<sup>rd</sup> Congress, First Session, on H.R. 2866, October 13, 1993, Serial No. 103-42, (U.S. Government Printing Office: Wasington, 1994) 2-12 is the language of the original bill, 168-184 is the testimony of John Campbell, 137 – 148 are the testimonies of Kathy Bailey and Cecelia Lanman.

and his wife thought the primary important enough to re-register as Democrats and supported Bosco. Later in the spring, the PALCO Family Defense Fund signed a contract with the DC-Based American Land Rights Association to organize national opposition to the Hamburg bill. Meanwhile, HCFF geared up for a round of lobby meetings in DC. Kathy Bailey, Cecelia Lanman, Darryl Cherney, and others from the Northcoast spent considerable time in Washington, trying to convince other groups and members of Congress to support Hamburg's bill.<sup>192</sup>

In that busy environment, The Headwaters Forest Act moved through the House committees and onto the floor. In early April, the Agriculture Committee's subcommittee on Special Crops and Natural Resources, and the Natural Resource's subcommittee on National Parks, forests and public lands each passed the bill. On May 11, the full House Natural Resources Committee marked up the bill and ordered it scheduled for a voice vote. At this point, John Campbell and Red Emerson, along with other timber industry executives and Political Action Committees lobbied against the bill and donated heavily to Bosco's campaign in an effort to derail support for Hamburg and the bill. Doug Thron, a student at Humboldt State University who had begun trespassing on Pacific Lumber land in 1992 to photograph the forest and the timber harvests, embarked on a summer tour of his photographs to drum up public support and Congressional cosponsors for the bill. Thorn used the national infrastructure of the Sierra

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<sup>192</sup>Hamburg interview; Bailey interview; "Summary Outline of The Headwaters Acquisition Proposal," HFCC draft, faxed to EPIC February 21, 1994, EPIC archives, Eureka, CA; James W. Sweeney, "Early Bosco TV Ads Rip Hamburg," *The Press Democrat*, April 1, 1994, B1, papers of Dan Hamburg, Ukiah, CA; Charles Winkler, "PL Chief Joins Democrats," *The Times Standard*, May 3, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; "Organization Hired to Fight Forest Bill," *The Times Standard*, May 5, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; Josh Kaufman to Dan Hamburg and Kate Anderton, "Re: Meeting with Red Emerson's attorney," papers of Kathy Bailey, Philo, CA; ("Headwaters': A Public Scam," PALCO Family Defense Fund, Scotia, CA, unknown date in 1994, papers of Dan Hamburg, Ukiah, CA.

Club to recruit viewers across the country. In mid-July, the Agriculture Committee marked up the bill and reported it to a vote. Pacific Lumber had former Congressman Bosco, DC-Democratic lobbyist Tommy Boggs, and President Clinton's advisor, Vernon Jordan working to defeat the bill, and the bill languished. On August ninth, with no vote scheduled in either the Agriculture or Natural Resources Committee, Hamburg and Hurwitz met in DC. On August fifteenth, Pacific Lumber reversed its position and publicly endorsed a new version of the bill stating it had reached an agreement with Hamburg to insert "willing seller" language, but that they were not going to sell forty-four thousand acres to the public. John Campbell said they just wanted to end the conflict and get paid for giving up company land. On that same day, many of the national environmental groups joined EPIC, California Sierra Club, and Earth First! in their lobbying efforts in DC.<sup>193</sup>

On August sixteenth, both committees reported the bills, and the bill was placed on the House calendar for debate. At 4:40 PM on September 21, 1994, the House approved The Headwaters Forest Act 288 to 133 after the bill was amended to include "willing seller" language, a \$200,000 purchase cap, a "buy union" provision, and a

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<sup>193</sup> Derrick DePledge, "Committees Vote to Protect More Humboldt Forest," *San Francisco Examiner*, April 3, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; Clyde Weiss, "Headwaters Bill Passes Another Hurdle," *Ukiah Daily Journal*, May 14, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; Steve Tetreault, "Different Camps Back Hamburg, Bosco," *Ukiah Daily Journal*, June 2, 1994, unknown page, papers of Dan Hamburg, Ukiah, CA; Kathy Bailey to Ken Miller, "Re: Headwaters Video," July 27, 1994, papers of Kathy Bailey, Philo, CA; Kathy Bailey, "Headwaters Mark-up Scheduled for Wednesday," memo, unknown date, papers of Kathy Bailey, Philo, CA; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Hamburg and Anderton interview; Kathy Bailey to Robert Redford, Re: Headwaters Update, October 17, 1994, Papers of Kathy Bailey, Ukiah, CA; Daily Schedule "Blue Sheet" for Congressman Dan Hamburg, August 9, 1994, papers of Dan Hamburg, Ukiah, CA; press release, The Pacific Lumber Company, August 15, 1994, papers of Kathy Bailey, Philo, CA; Campbell interview; Jim Maddy, President LCV, "Support H.R. 2866, the Headwaters Forest Act (Hamburg, D-CA)," letter to all members of the House of Representatives, August 15, 1994, papers of Kathy Bailey, Philo, CA; ("For Fish, Forests and a Future: Support the Headwaters Forest Act," letter from Ancient Forest Alliance to all members of House of Rep., Aug. 15, 1994, papers of Kathy Bailey, Philo, CA;

provision allowing the Forest Service to acquire land as it became available for sale instead of requiring them to purchase all of the land at once. The Senate received the bill on September 23<sup>rd</sup>, and it was reported to the Energy and Natural Resources Committee where Senator Barbara Boxer (D-CA) had introduced her nearly identical version on July 14. On the last day of the Senate session, Senator Malcolm Wallop of Wyoming filibustered California Senator Dianne Feinstein's California Desert Lands Act, with Majority Leader George Mitchell (ME) calling Senators back to town to vote before they went home to finish their re-election campaigns. At 5:11 pm the filibuster broke, the bill passed, and the Senate adjourned. The Desert Lands Act, covering various degrees of protection for six million acres, was a major priority for national environmental groups and the California delegation, especially Feinstein who faced re-election that fall, and the Headwaters bill was subsumed by the efforts to pass Feinstein's bill. On that final day of the Senate, the Headwaters bill was placed on the unanimous consent calendar where at least one anonymous Senator blocked its passage as time ran out on the second session of the 103<sup>rd</sup> Congress. Kathy Bailey, and Darryl Cherney sat in the galley of the Senate and watched impotently, and any hopes of reintroducing the bill in 1995 died when Hamburg lost his re-election bid to Frank Riggs. His presence, and his subsequent focus on Senator Boxer as the one who killed the bill, often distracted the Northcoast activists from positive campaign work. It is telling that two activists who largely rejected middle-class life sat in the galley of the most powerful legislative body in the nation that day. The efforts of the locals – company leaders and activists – had pushed the Headwaters conflict out of the Northcoast forests and courtrooms and into the national arena. For their part, the countercultural activists achieved that feat with a combination of radical-

and traditional- ideas and tactics. The defeat of the Hamburg bill highlighted the local parochial nature of the conflict, but the bill's existence highlighted the power of the locals to influence national debates, a power underappreciated by scholars who generally have emphasized the top-down nature of the construction of the modern environmental protection regime.<sup>194</sup>

## **Going above the Head of the State: Litigating Actions Spiraling Toward the Federal Courts**

*EPIC Victories Begun During the 1980s: Native Salmon, Maxxam II, Sierra v. BOF*

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<sup>194</sup> Bailey interview; Cherney interview; THOMAS database of Bills and Resolutions at the Library of Congress (<http://www.thomas.gov/cgi-bin/bdquery/z?d103:HR02866:@@S>); (<http://thomas.loc.gov/cgi-bin/bdquery/D?d103:4:./temp/~bdtuEM:@@@L&summ2=m&/bss/103search.html>). Regarding top-down versus bottom-up environmental politics, see in particular the historiographic discussion in chapter one. Some of the recent treatments of local forestry activism as it related to federal laws such as the Wilderness Act of 1964, the Endangered Species Act, and the National Forest Management Act include: William Dietrich, *The Final Forest: The Battle for the Last Great Trees of the Pacific Northwest* (New York: Penguin Books, 1993); Kathie Durbin, *Tree Huggers: Victory, Defeat & Renewal in the Northwest Ancient Forest Campaign* (Seattle, WA: The Mountaineers, 1996); Kevin R. Marsh, *Drawing Lines in the Forest: Creating Wilderness Areas in the Pacific Northwest* (Seattle, WA: University of Washington Press, 2007); and Samuel P. Hays, *Wars in the Woods: The Rise of Ecological Forestry in America* (Pittsburgh, PA: University of Pittsburgh Press, 2007). Henry F. Bedford produced a wonderful study of the local activism in New Hampshire regarding the NEPA impacts on the nuclear industry (*Seabrook Station: Citizen Politics and Nuclear Power* (Amherst: University of Massachusetts Press, 1990). The classic texts covering the rise of modern environmentalism and the Great New Wilderness Debate are: J. Baird Callicott and Michael P. Nelson eds., *The Great New Wilderness Debate: An Expansive Collection of Writings Defining Wilderness from John Muir to Gary Snyder*, (Athens: University of Georgia Press, 1998), Gary C. Bryner, *Blue Skies, Green Politics: The Clean Air Act of 1990 and Its Implementation* (Washington, D.C.: Congressional Quarterly Press, 1995), Cronon, *Uncommon Ground*, Dunlop, *Faith in Nature*, J. Brooks Flippin, *Nixon and the Environment* (Albuquerque: University of New Mexico Press, 2000), Robert Gottlieb, *Forcing the Spring: The Transformation of the American Environmental Movement* (Washington, DC: Island Press, 1993), Hays, *Beauty, Health, and Permanence*, and -- *A History of Environmental Politics since 1945*, Nash, *Wilderness and the American Mind*, Nancy Langston, *Forest Dreams, Forest Nightmares: The Paradox of Old Growth in the Inland West* (Seattle: University of Washington Press, 1995), Richard J. Lazarus, *The Making of Environmental Policy* (Chicago: University of Chicago Press, 2004), Rome, *The Bulldozer in the Countryside*, James Salzman and Barton H. Thompson, *Environmental Law and Policy* (New York: Foundation Press, 2003), and Sax, *Mountains Without Handrails*.

The locals' direct action and legislative strategies pushed the redwood wars out of the Northcoast, and so too did the litigation action from 1990 to 1994. The Sacramento-based Board of Forestry intervened as a result of timber harvest litigations; the California Supreme Court intervened in the conflict between the Northcoast environmentalists and the timber industry and its agency ally, CDF and the Board; and finally, frustrated by the persistent efforts of Pacific Lumber to log the old growth within Headwaters Forest, EPIC filed suit in federal court. By the end of 1994, after four years of public relations, legislative, and legal attacks on its policies and practices, the Board of Forestry and the Department of Forestry had taken several steps to cut its corporatist ties, yet remained under attack from the Northcoast activists who wanted the agency to take even greater action, especially after the state Supreme Court validated their legal arguments once and for all. By the end of 1994, all interested parties on the Northcoast awaited a federal ruling that would determine the fate of Owl Creek Grove and Pacific Lumber's rights in that grove.

In addition to introducing new industry arguments that questioned the validity of classifying murrelets as old-growth dependent species and the need to expand redwood park land, *Maxxam II – begun in 1988* -- marked the initial, if seemingly reluctant, split between the timber industry and the Board. The trial judge ruled against Maxxam and again accused Forestry of "rubber-stamping" and intimidation. The appellate court also disagreed with the company's argument, but the case was dismissed in 1992, for three reasons, two of which were victories of sort for EPIC, and one a symbol of the determination of Pacific Lumber to carry out its new timber regime. The case was dismissed because: 1) Pacific Lumber felled the trees in one of the challenged harvest

areas between March 1988 and May 1988—the date EPIC obtained a preliminary injunction; 2) Forestry adopted emergency regulations covering old growth timber plans, marbled murrelet and northern spotted owl habitat, and cumulative impact analysis; and 3) EPIC and Sierra Club obtained an injunction on the harvest plan for Lawrence Creek (the second contested plan) in 1989 via *Sierra v. BOF*. The appellate court, while dismissing the case, recognized the influence of citizen groups on the Board’s behavior, writing:

The record ... leaves no doubt that environmental litigation, such as EPIC's Preliminary Injunction in this case, played an important role in bringing about changes in departmental policies. To this extent, the issue of mootness is a product of EPIC's own success.

The judge then strengthened EPIC’s position as a private attorney general by forcing Pacific Lumber to pay EPIC’s attorney fees. The company was able to log in the disputed area, but the pressure brought on the Board by the litigation caused the agency to stray from the hard-line position that CEQA did not apply to Timber Harvest Plans as evidenced by the agency’s creation of the new regulations without a direct court order. The new regulations played a key role in breaking down development-focused corporatism because the Board responded to citizens and courts, not to the wishes of the timber industry, and the rules recognized the Board’s responsibility to non-economic forestland resources.<sup>195</sup>

The *Native Salmon* case also concluded during the early 1990s, and again, the conclusion bolstered EPIC and Sierra’s legal arguments and drove a wedge between the

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<sup>195</sup> *EPIC v. Maxxam*, 4 Cal.App.4<sup>th</sup> 1373 (27 March 1992). The Marbled Murrelet regulations are found in CA. Code Regs., title 14, sec. 895.1, 912, 919.13, and 919.14. The Spotted Owl regs are CCR, title 14, sec. 919.6(d)(1), 919.9, and 919.10. The cumulative impact regulations are in the FPR sec. 985.1, 898, and 912.9; Dean Cromwell, Executive Officer of BOF, “15 Day Notice Requirement of Government Code Section 11346.8©, For Marbled Murrelet Regulations,” Memo to Members of the Public, August 13, 1991, personal papers of Kathy Bailey, Philo, CA;

timber industry and the forestry agency, undermining de facto corporatism. The parties signed an out-of-court agreement on 23 September 1993. Forestry agreed to further rule changes that put the agency in compliance with CEQA regarding cumulative impact analysis, mitigation, and public comments. Additionally, The appellate decision that legitimized the case opened the door for environmental groups to challenge policies wholesale, not simply individual harvest plans. The settlement forced written changes in Forestry practices that EPIC had been fighting for over a decade to achieve.<sup>196</sup>

*Sierra v. Board of Forestry*: The Donkey in the California Supreme Court, continued

In 1994, The California Supreme Court sided once and for all with the citizen groups with respect to the relevance of CEQA to timber operations on private land, and the Board of Forestry, long the stronghold of industry influence, backed away from Pacific Lumber. EPIC and Sierra Club appealed Judge Buffington's 1989 denial of their writ of mandate, and after the appellate court overturned Buffington's ruling, the Board withdrew its support of Pacific Lumber in the case. The Board further distanced itself from corporatist tradition when it issued the new regulations that caused the dismissal of

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<sup>196</sup> See "Settlement Agreement, CDF, Californians for Native Salmon and Steelhead Association, EPIC, and Fred "Coyote" Downy," unprocessed EPIC archives, Eureka, CA. *Native Salmon* was HUM Case # 83329, dismissed as moot when Eel River withdrew its harvest plans. EPIC appealed the dismissal (1221 Cal.App. 3d 1419, 6 June 1990) and the case was reinstated, prompting Forestry to negotiate with EPIC. The other two cases settled were: EPIC v. CDF (HUM 92DR0005, 6 January 1992 which resulted in an agreement with Eel River Sawmills protecting Tom Long Creek, and Coastal Headwaters Ass. And EPIC v. CDF (Men 68285, 8 May 1995) where the trial court ruled in favor of CDF, but Save the Redwoods stepped in and bought Goshawk Grove from Eel River Sawmills. See "Sanctuary Forest Moving Forward," *Branching Out*, affiliate newsletter published by the Trees Foundation, Winter 1998-99, 3. The article about the land purchase and addition to the Sinkyone Wilderness State Park can be viewed at <http://www.treesfoundation.org/affiliates/30/pdfs/BrOut.Wint.98-99.pdf>.

*Maxxam II*. The two Board actions demonstrate the success of citizen litigation at destabilizing the traditional relationship between the Board and industry.<sup>197</sup>

When the state Supreme Court ruled against Pacific Lumber, it delivered industry independence and property prerogatives a staggering blow. As it ended one conflict, the court escalated another when it increased the legal demands on the industry and the Board to protect non-timber forest resources. Like previous lower courts, the court ruled the Board had to comply with CEQA and the Forest Practice Act alike and that the Board had the authority to require new information from timber companies (such as wildlife surveys) that the Forest Practice Rules did not explicitly require but that Forestry deemed necessary to comply with CEQA guidelines. In fact, the court further underscored the Board's non-timber responsibilities when it argued that *not* requiring timber companies to submit enough information to assess and *prevent* environmental damage violated CEQA. The victory for EPIC and Sierra Club forced the Board to further reform its practices regarding ancient forests, and it forced the agency to recognize its responsibilities for old-growth-dependent species. During the ten years after *Johnson*, citizen litigation exposed and discredited the de facto corporatist regime, destroyed the autonomy the Board and the industry once enjoyed, and drove a wedge between the industry and the agency. However, legal battles over non-timber resources escalated because the agency, and especially the timber industry yet again failed to embrace the ruling.<sup>198</sup>

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<sup>197</sup> *Sierra Club v. California State Board of Forestry* (7 Cal.4th 1215), 4.

<sup>198</sup> 7 Cal.4th 1215, 1, 12.

*Owl Creek: Endangered Species and the Nationalization of the Conflict over Private Forest Management*

The fight over corporatism was played all over the Northcoast, but the fight over non-timber responsibilities on private timber land was mainly fought in the Headwaters Forest arena, and it was a fight citizen groups largely won when they moved the legal venue to federal court. In particular, Owl Creek Grove continued to play a crucial role in the litigation campaign of Northcoast activists. While *Sierra V. BOF* worked its way through the courts, EPIC and Sierra filed a challenge to a new harvest plan in Owl Creek, THP 90-237 HUM. When the case stalled in state court, EPIC filed suit in federal court to use the Endangered Species Act to stop the logging plan. The federal court case reinforced the Board's obligation to citizens and non-timber forest values, revised endangered species case precedent, and unintentionally drove President Clinton, Governor Wilson, and Charles Hurwitz to the negotiating table in an attempt to end the conflict over Headwaters Forest. EPIC filed suit in federal court because three things changed in northern California. First, the murrelet was protected under both the California and federal Endangered Species Acts. Second, Pacific Lumber seems to have decided that it could no longer count on the Board to protect its interests so it became more aggressive and independent with its court actions. And third, state judges began to rule against EPIC.

The listing of the marbled murrelet as a "threatened" species on 1 October 1992 proved to be vital to EPIC's challenge of Pacific Lumber's old growth harvesting plan. The state case challenging an old growth harvest plan in the Owl Creek Grove of Headwaters floundered in a sea of competing motions and conflicting rulings, especially

after the murrelet's federal status changed and Pacific Lumber worked feverishly to log the area. For example, on 2 November, Superior Judge Morton Colvin rejected Pacific Lumber's motion to dismiss the state case due to what the company perceived as Judge Ferroggiaro's anti-company bias. However, Pacific Lumber simultaneously persuaded a court clerk to schedule a hearing with a visiting judge on a motion to dismiss the case, and on 22 November, despite Judge Colvin's prior rejection of Pacific Lumber's dismissal motion, visiting Judge Hatch dismissed the case.<sup>199</sup>

Then the conflict turned even uglier. On 24 November 1992 California Fish and Game spoke to Pacific Lumber and told them not to resume logging in Owl Creek without complying with federal Endangered Species law, and the company agreed to consult with U.S. Fish and Wildlife before logging. With Earth First! activists conducting nightly hikes to Owl Creek, Pacific Lumber resumed logging on 28 November, Thanksgiving weekend, without consulting Fish and Game or Fish and Wildlife. It was the first time in the sixteen-year career of Pacific Lumber's chief timber operations manager, Dan McLaughlin, that the company logged over Thanksgiving, and he asserted that Owl Creek was the only area harvested. The next day, Fish and Wildlife sent EPIC a letter informing it that the harvest constituted a "taking" in violation of the Endangered Species Act. The agency had told Pacific Lumber before the 28<sup>th</sup> that the company's partial surveys indicated Murrelet occupation of Owl Creek. On 1 December

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<sup>199</sup> Marbled Murrelet listing is 50 CFR Part 17. *Federal Register*, volume 57, Number 191, Thursday, 1 October 1993, Rules and Regulations section RIN 1018-AB56. See EPIC brief before CA appellate court, A059797) requesting a stay 1 December 1992, pages 4-8, unprocessed EPIC archives, Eureka, CA.

1992 the California appeals court issued an emergency stay of logging operations in Owl Creek.<sup>200</sup>

On 16 April 1993, EPIC filed suit against Pacific Lumber, Forestry, the Board, Fish and Game, Fish and Wildlife, and Secretary of the Interior Bruce Babbitt in federal court, arguing that all the parties were responsible for allowing “harm” to a listed species in violation of section 9 of the Endangered Species Act. EPIC filed suit in federal court because they were frustrated about the state court proceedings and Pacific Lumber logging activities. Additionally, Macon Cowles – an environmental attorney in the Exxon Valdez oil spill litigation – suggested that EPIC sue in federal court after he read Charles McCoy’s 1993 *Wall Street Journal* article about the conflict over Headwaters Forest. EPIC attorney Sharon Duggan agreed the claimants had a better shot in federal court because the Humboldt County judges were growing weary of EPIC and Pacific Lumber in their courtrooms, and that the Superior Courts did not have the resources or time to thoroughly review the massive administrative records compiled in the cases. The cases against the agencies were dismissed later in 1993, and the federal case against Pacific Lumber was tried in August and September 1994, but a ruling would not come down until early 1995.<sup>201</sup>

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<sup>200</sup> *Marbled Murrelet v. Pacific Lumber*, C-93-1400, 25 February 1997 36, unprocessed EPIC archives, Eureka, CA. See Department of Interior memo 1-1-92-TA-81, Nov. 29, 1992 from Wayne White, Field Supervisor, FWS to EPIC attorney Mark Harris, unprocessed EPIC archives, Eureka, CA; CA *EPIC v. Board of Forestry*, Emergency Stay Order A059797, 1 December 1992, Supreme Court deny of writ of cert S031969, 20 May 1993 Chief Justice Lucas and Justices Panellie and Baxter, unprocessed EPIC archives, Eureka, CA. Alicia Littletree interview and map of Owl Creek hikes from Littletree’s personal papers, Ukiah, CA (Author has a copy of the map).

<sup>201</sup> Sharon Duggan, interview with author, 27 April 2007, Oakland, CA (tape recording and handwritten notes in possession of author). *Marbled Murrelet v. Pacific Lumber*, C-93-1400-FMS slip op. at 12 (N.D. Cal., 2 February 1994), unprocessed EPIC archives, Eureka, CA.

## Conclusion

The legislative opportunities to end the timber wars, or one front of the wars, during the early 1990s developed because the local Northcoast activists pursued new strategies and developed new tactics in their dogged pursuit of logging reform and ancient redwood protection in their Northcoast community. Their efforts highlighted their commitment to active land use management and human integration into their biocentrist vision. The campaigns also illustrate their nonmiddle-class values as well as their flexibility – their willingness to swallow their pride and work the traditional avenues and halls of power in order to protect their rural community and their vision of Northcoast sustainability. The opportunities were not constructed by the agenda-setting and organizational development priorities of the national environmental groups or their allied Congressional staffers. The success of the direct actions and litigation forced the state and the industry to attend to the issue, undermining de facto corporatism. The failure of the efforts is testimony to the resources and political effectiveness of Pacific Lumber and the timber industry. In 1995, the *Marbled Murrelet* case concluded and the aftershocks pulled President Clinton into the orbit of the redwood wars. The intervention of the Executive Branch transformed the way the environmental protection regime acted upon private landowners. All the while, the Northcoast activists pursued their two primary local goals: protecting old growth groves of redwoods, and reforming timber practices on the Northcoast.

## **Chapter 6: The Transformation: Engaging the Federal Executive Branch, 1995 – 1999**

In 1994, Republicans led by Newt Gingrich took control of Congress and launched an assault on the modern environmental protection regime that powerfully influenced the Headwaters Forest conflict. The attacks galvanized public support for mainstream environmental organizations and contributed to the success of the movement's defensive campaigns. Still, Congress slashed agency budgets and loudly threatened federal forestry policy and the Endangered Species Act. Combined with the spotted owl conflict, the attacks led the new Clinton Administration to fear it might preside over the dismantling of the environmental protection regime. The president evaded Congress by negotiating an administrative resolution to the spotted owl conflict. In doing so, the Clinton Administration hoped it could undercut Republican popularity and also avoid risky Endangered Species Act litigation.

While federal agencies worked on the Northwest Forest Plan, the federal courts ruled Pacific Lumber could not harvest the old-growth within Owl Creek, and the stage was set for a face-off between the company and the Executive Branch. As a result of presidential intervention, redwood politics were again transformed. The citizen-driven regulatory reform and park acquisition pattern became a private negotiation between the Executive Branch and private landowners over the implementation of the Endangered Species Act. The resulting "Headwaters Deal" subsequently helped transform environmental politics by thrusting the Executive Branch into the center of private timberland management. The increasing power of the Executive Branch is one of the

dominant themes in postwar environmental history, and the Deal helped propel that process during the 1990s. Contrary to the dominant interpretation of modern environmental politics, it was the local actors who drove the Capitol Beltway into action, not vice versa. Additionally, the activists who dominated the conflict were not middle-class professionals. The Northcoast activists largely rejected middle-class work and values as demonstrated by their actions during the mid- to late 1990s. Despite their ideals, the activists operated inside and outside the professional political world.<sup>202</sup>

The intervention of the Executive Branch benefitted Pacific Lumber more than it did the Northcoast activists. Since 1986, each set of local combatants had refused to surrender their steadfast visions for the Northcoast and had successfully adapted to the other's tactical innovations, leaving little to no opportunity for direct mediation between the activists and the company. Because Pacific Lumber held the trump card – a takings suit -- they were able to extract a steep price from the government. Because of their stubborn commitment to their vision for the Northcoast, the activists wound up shutting themselves out of the administrative negotiations over the fate of Headwaters Forest. To be fair, a major reason for their stymie was the success of their litigation and direct action innovations. John Campbell and Charles Hurwitz were at their wits end and refused to engage the activists any longer, and the federal government could not risk the negotiations by inviting the radical Northcoasters to the table. Ironically, the Deal universally disappointed the activists, but their success leading up to 1995 made the Deal possible

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<sup>202</sup> Here again, I refer to the nationalization and professionalization narrative of modern environmental politics developed by Gottlieb, Hays, Nash, and others. Durbin, Marsh and Bedford offer interpretations that, like the Headwaters conflict, undermine the dominant analysis. See chapter 1, footnote 11 for further discussion.

As the midpoint of the decade approached, tensions simmered and the Northcoast combatants in the redwood wars searched for new ways to break the logjam. The activists had largely driven the activity to that point and had forced the company and state to adjust accordingly. By the end of 1995, Pacific Lumber and the government reclaimed the reins and forced the activists to adapt, just as the activists previously won control when they moved the conflict from state to federal court. In 1995, Pacific Lumber decided it could no longer wait for the courts to determine the fates of their timber harvests and initiated plans to log the residual old-growth groves of Yager Creek within the Headwaters Forest complex. The company also applied for a salvage logging exemption for its entire holdings and steeled themselves for prolonged litigation in the federal Owl Creek case. The activists responded by exponentially scaling up their protests and direct actions. Equally important, they developed new legal angles to pursue. Responding to a threatened Pacific Lumber lawsuit against the United States of America, President William Clinton directed the Department of the Interior and other agencies to intervene and resolve the conflict by negotiating directly with the firm. What became known as the “Headwaters Deal” transformed the operation of the Endangered Species Act from a system largely directed by the legislature and courts into one directed by the Executive Branch largely outside the court and legislative arenas.

## **Evading the Federal Edict: Pacific Lumber initiates its own “train wreck” strategy**

During the partially contemporaneous spotted owl conflict in the Pacific Northwest, many environmentalists and government officials accused the G.W. Bush Administration and the timber industry of avoiding resolution in order to cause Endangered Species law and timber economics to destructively collide, creating a crisis over timber profits and jobs as a result of logging restrictions imposed by the ESA. The theory posited that the industry and conservative lawmakers hoped the “train wreck” would spark a powerful movement to gut the Endangered Species Act. In 1994, Clinton officials developed the Northwest Forest Plan to administratively resolve the spotted owl conflict. By late 1994, Pacific Lumber seems to have initiated its own version of the train wreck strategy with the hope of evading judges and activists by catapulting its conflict into the Executive Branch as well.<sup>203</sup>

While the Northcoast awaited U.S. District Judge Bechtle’s ruling in *Marbled Murrelt v. Pacific Lumber*, the firm and Northcoast activists worked as if the ruling would favor their opponent. The trial ended September 7, 1994, and Pacific Lumber wasted no time harvesting what they could under a salvage logging exemption to remove dead, diseased, or dying trees across most their property, excluding Headwaters Grove. Much of the company’s activity was inside the Headwaters Forest complex however, and on November 29, CDF informed the company it was violating the exemption by removing healthy trees. Environmentalists seized the CDF letter to argue Pacific Lumber

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<sup>203</sup> See Yaffee, *Wisdom of the Spotted Owl*, 137 for a brief introduction to the “train wreck theory.”

was not fit to manage the forest and that public acquisition of the land was thus necessary. Undeterred, the company obtained a new salvage exemption for their entire holdings in December. By executing the salvage exemptions, Pacific Lumber forced activists to change tack and develop a legal strategy against salvage exemptions while also increasing resources toward a renewed acquisition campaign. As a result, Pacific Lumber regained much of the leverage in the conflict because they had legal and regulatory authority to log inside Headwaters.<sup>204</sup>

Northcoast activists quickly responded with their own train wreck strategy. The plan was to expand litigation and direct action, forcing CDF to unilaterally ban all logging in ancient and residual old-growth groves. In January, EPIC asked Kathy Bailey, then the volunteer State Chair of Forestry for California Sierra Club, to convince her organization to once again join EPIC's litigation against Forestry's de facto corporatism. The litigation strategy developed by Brian Gaffney for EPIC attacked the continued failure of CDF to address the cumulative effects provisions of CEQA. The plan had three important components: 1) EPIC and Sierra would file a new breed of suits preventing harvests within the residual old-growth groves of Headwaters Forests; 2) if successful, the cumulative judgments would leave CDF no alternative but to prohibit all ancient or residual old-growth harvest plans due to their serious negative cumulative impacts; and 3) the suits would seek to enforce the Endangered Species Act, including designation of critical habitats and recovery plans for the threatened and endangered species on the

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<sup>204</sup> Brian Gaffney, "Litigation Synopsis – August 1994 for EPIC Board and Litigation Committee," memo, August 30, 1994, EPIC archives, Eureka, CA; Lloyd Keefer, Region Chief, CDF to Ray Miller, The Pacific Lumber Company, November 29, 1994, papers of Kathy Bailey, Philo, CA; "A Headwaters Forest Chronology," Factsheet/fundraising appeal/action alert, EPIC archives, Eureka, CA; ("Notice of Timber Operations That Are Exempt From Timber Harvesting Plan Requirements," 1-94EX-1357 HUM, from Pacific Lumber to CA Dept. of Forestry, December 9, 1994; Lloyd Kiefer, CDF Region Chief, to The Pacific Lumber Company, December 21, 1994 re: 1-94EX-1357 HUM, EPIC archives, Eureka, CA

Northcoast. True to their reformist ideals, the ultimate goal of the plan was to reignite the great debate over the economic and social implications of Northcoast logging practices. Gaffney's plan was evidence that EPIC was gearing up for a major round of fights over salvage exemptions, logging residual old-growth, and a rumored Pacific Lumber application for an Incidental Take Permit from the U.S. Department of the Interior that would allow the company to log endangered species habitat.<sup>205</sup>

The strategy for 1995 was an incredibly ambitious escalation of the donkey-hitting strategy explicated by Woods a decade earlier. The number of donkeys increased dramatically, as did the number of vehicles incorporated into the legal plan. The strategy recognized that ancient groves were virtually off limits for Pacific Lumber due to the series of preceding and current lawsuits, which made residual old-growth groves the company's priority logging target. The plan also applied the *Marbled Murrelet* case the rest of Headwaters complex in order to increase habitat protections across the landscape. Alongside the litigation plan, EPIC and Bailey courted national and western organizations to pressure the Clinton administration into acquiring the forest. All the major national groups urged Clinton's Chief of Staff, Leon Panetta, to pursue a debt-for-nature and/or land swap to remove the forest from the management of Pacific Lumber.

Their efforts may have paid some quick dividends. When Congress reduced the Endangered Species enforcement budget by \$2 million, Interior Secretary George Frampton, former President of The Wilderness Society, announced he planned to pursue more public-private land partnerships. Frampton's announced strategy was presumably a means of avoiding the Gingrich Congress when dealing with conflicts such as the one

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<sup>205</sup> Letter from Brian Gaffney to Kathy Bailey, January 19, 1995, Bailey Papers, Philo, CA; "EPIC litigation strategy memo re: systematic failures of CDF," 1995, EPIC archives, Eureka, CA.

over Headwaters. In California, the activists used growing concern over the plight of salmon runs to put pressure on timber regulators to change forestry practices near Northcoast salmon streams, many of them originating inside Pacific Lumber property. By the end of 1995, EPIC challenged state and federal policies, twelve harvest plans, and two salvage logging exemptions during the course of eight lawsuits. The new strategy recognized the predicament the Gingrich Congress put Clinton officials in, and it sought to expand their legal entry points to choke off Pacific Lumber's ability to continue its old-growth logging strategy.<sup>206</sup>

On February 27, Judge Bechtle handed out his verdict in *Marbled Murrelet v. Pacific Lumber*, and the ruling for EPIC prompted Pacific Lumber to escalate their train wreck strategy, resulting in six of the 1995 EPIC lawsuits as well as a new round of major direct actions on the Northcoast. His ruling was devastating for the company and de facto corporatism. Bechtle's decision reinforced the responsibilities of CDF and the Board to nonmarket timber values – issues the anti-corporatist campaign pressed for more than two decades. Judge Bechtle placed a permanent injunction on the Owl Creek harvest area; found that “EPIC (had proved) by a preponderance of evidence” that murrelet occupied the area. He also ruled Pacific Lumber had tried to minimize its

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<sup>206</sup> Brock Evans, National Audubon Society, Douglass Inkley, National Wildlife Federation, Judy Norisake, Pacific Rivers Council, Marty Hayden, Sierra Club, John Fitzgerald, Western Ancient Forests Campaign, Paul Pritchard, National Parks and Conservation Association, Julia Levin, Natural Heritage Institute, Kevin Kirchner, Sierra Club Legal Defense Fund, Frances Hunt, Wilderness Society to Leon Panetta, White House Chief of Staff, “Re: Headwaters Forest, FDIC and OTS,” February 14, 1995, papers of Kathy Bailey, Philo, CA; Paul McHugh, “Warden Says State Hinders Protection,” San Francisco Chronicle, February 16, 1995, unknown page, EPIC archives, Redway, CA; Rob Taylor, “Alarming: Salmon Getting Smaller,” San Francisco Examiner, February 12, 1995, unknown page, EPIC archives, Redway, CA; Steve Hart, “Russian River's Steelhead at Risk,” The Press Democrat, March 7, 1995, unknown page, EPIC archives, Redway, CA; Manny Frishberg, “Coho's Federal Listing Still Undecided,” Redwood Record, April 6, 1995, unknown page, EPIC archives, Redway, CA; Steve Hart, “Wilson Accused of Trying to Downgrade Coho's Status,” The Press Democrat, June 29, 1995, unknown page, EPIC archives, Redway, CA; Scott Sonner, The Associated Press, “Species Act Gets Review,” The Times Standard, February 24, 1995, A1, EPIC archives, Redway, CA.

detections of the birds by neglecting Pacific Seabird Group protocol, intimidating surveyors, sending fraudulent data sheets to state and federal agencies, and intimidating government witnesses. The permanent injunction was the first time the Endangered Species Act was used to stop logging on private land. The opinion also broadened the *Palila* standard for “harm” and “harass” by ruling that “reasonable certainty” of “imminent” injury or death, not the discovery of actual injury or death -- the standard the *Palila* cases established -- was enough to warrant an injunction. The Endangered Species Act gave EPIC grounds to argue substantively and obtain permanent protection (rather than only forcing Forestry to review its decisions). By doing so, EPIC and the federal courts sent a strong message to the Board and the timber industry that they could not take their responsibilities for non-timber forest values lightly.<sup>207</sup>

On March 2, Pacific Lumber launched its counter offensive with a surprise announcement that the company intended to begin logging Headwaters Grove via a new salvage exemption. John Campbell told the press, “...after nearly eight years of [voluntary] delay, it’s time for us to move forward...” Specifically, the company announced it intended to harvest eight acres of Headwaters Grove and extend an existing logging road into the ancient grove. Within hours, Earth First! sent out a call to arms over the internet calling for a “full-fledged occupation” of Headwaters Forest. That same day, Kathy Bailey sent a letter to Lloyd Keefer, the CDF Region Chief, requesting an immediate stop work order. Bailey also asked Darryl Cherney to call State Senator Tom

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<sup>207</sup> See Salzman, *Environmental Law and Policy*, 267 for brief discussion of the precedent-setting nature of *Marbled Murrelet v. Pacific Lumber*. *Marbled Murrelet v. Pacific Lumber*, C-93-1400-LSB (N.D. Cal February 27, 1995, 83 f.3d 1060 (9<sup>th</sup> Circuit), and 519 U.S. 1108 (Supreme Court rejection of PL writ of cert); (“PL to Log Headwaters!,” *The Mendocino Country Environmentalist*, March 1, 1995, issue 226. EPIC archives, Redway, CA;

Hayden to request the senator call CDF Director Richard Wilson. Bechtle's decision thus set off a five-bell alarm to Northcoast activists and Pacific Lumber, and the tensions that had simmered for so long finally began to boil. The actions of the company and the activists testify to just how protracted the conflict had begun. There was no time allotted for deliberation after the Bechtle decision, no time for mediation. The two sides acted decisively in the same manner they had for a decade. For Pacific Lumber, the decision was to log in ways that defended their traditional prerogatives and escalated conflict to the point of emergency. For the activists, the decision was to choke off the company's activities in court and in the woods, driving Campbell and Hurwitz to negotiate out of sheer frustration. In doing so, the activists fell into a trap John Campbell had set because he needed logging activities restricted in order to use his nuclear option.<sup>208</sup>

For the next five days, a flurry of activity devoured the Northcoast. On March, EPIC sent out a press release regarding the THPs, stressing that only one needed approval (the road), and that both harvest plans would violate the Endangered Species Act based on Bechtle's ruling because the new THP was based on the same "incredulous" murrelet surveys rejected by the federal court. Cecelia Lanman told the press, "this is a bid to cut every bit of murrelet habitat before they are stopped." On the same day, Senator Hayden sent a letter to Director Wilson, the Director of California Fish and Game, and Bruce Babbitt, demanding a stop work order. California Sierra Club also issued a press release arguing there was nothing dead or dying about the Headwaters Grove. Essentially, the

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<sup>208</sup> Todd Woody, "Pacific Lumber Throws Down Gauntlet After Murrelet Defeat," *The Recorder*, March 7, 1995, 119<sup>th</sup> year, No. 44, page 1, EPIC archives, Redway, CA; Greg Lucas, "Logging to Resume in Humboldt," *San Francisco Chronicle*, March 3, 1995, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Plan to Log Headwaters," *The Press Democrat*, March 3, 1995, A12, EPIC archives, Redway, CA; Kathy Bailey to Lloyd Keefer, Region Chief, California Department of Forestry, "Re: Headwaters Forest Main Grove Exemption," March 2, 1995, papers of Kathy Bailey, Philo CA; post-it note to Darryl from KB, "Tom need to immediately ask Richard Wilson to do this," attached to Bailey's letter to Keefer, papers of Kathy Bailey, Philo, CA

Northcoast activists argued the salvage plans were a backdoor effort to enter the ancient groves of Headwaters Forest and remove old-growth trees because many old-growth trees no longer grew upward, or were dead “snags” that stand for centuries. Even the snags, they argued were important for old-growth animal species and the ancient forest habitat. For its part, Pacific Lumber published an opinion-editorial in the *San Francisco Chronicle* that determinedly proclaimed its right to manage company land as they had for one hundred years. Finally, Earth First! organized rallies at the Santa Rosa and Fortuna offices of the CDF, and announced their intentions to “indefinitely” occupy Headwaters Grove beginning March 13.<sup>209</sup>

As the controversy grew more feverish and chaotic the activists and the company increasingly appealed directly to the chief executive offices of the state and federal governments. On Monday, March 6, CDF returned Pacific Lumber’s exemption filing, requesting additional information about the company’s plans to avoid taking murrelets and spotted owls. The following day, Campbell told the press he’d be willing to swap Headwaters Grove for federal and/or state land so the company could move on with its work. On March 15, CDF issued a salvage exemption to Pacific Lumber for 5994 acres inside of Headwaters. An important piece of the exemption was a moratorium on logging inside murrelet habitat during the breeding season – April 1 to September 15. That same

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<sup>209</sup> “Press Release,” EPIC, March 3, 1995, EPIC archives, Eureka, CA; (“PL to Log Headwaters!” The Mendocino Country Environmentalist, March 1, 1995, issue 226. EPIC archives, Redway, CA; “Illegal Logging Planned or Headwaters Forest (sic),” press release, Kathy Bailey, Sierra Club California, March 3, 1995, papers of Kathy Bailey, Philo, CA; The Pacific Lumber Company, “This Is Our Stand,” San Francisco Chronicle, March 3, 1995, unknown page, papers of Kathy Bailey, Philo, CA; Tom Hayden, Chairman, California Senate Committee on Natural Resources and Wildlife, to Mr. Bruce Babbitt, Secretary, U.S. Department of the Interior, Mr. Richard Wilson, Director, California Department of Forestry and Fire Protection, and Mr. Boyd Gibbons, Director, California Department of Fish and Game, March 3, 1995, papers of Kathy Bailey, Philo, CA; CA Department of Forestry and Fire Protection to Mr. Thomas Herman, The Pacific Lumber Company, March 6, 1995, papers of Kathy Bailey, Philo, CA; Mike Geniella, The Press Democrat, March 8, 1995, B1, EPIC archives, Redway, CA; K.C. Meadows, “PALCO Looks at Jackson Forest,” Ukiah Daily Journal, March 8, 1995, page 1, EPIC archives, Redway, CA

day, State Senators Byron Sher and Tom Hayden requested President Clinton exhaust all administrative options to acquire Headwaters, especially debt-for-nature options. The following day, Kathy Bailey, on behalf of California Sierra Club, wrote to Governor Wilson to inform him Northcoast activists felt backed into a corner with no option but to sue CDF. She pointed out that current California law did not allow for “known sites of... threatened or endangered species [to] be disturbed, threatened or damaged.” Governor Wilson refused to intervene in the salvage controversy because salvage exemptions specifically prohibit damage to endangered species habitat and green trees, leaving the court as the only option to stop salvage logging in protected habitats. Wilson, however, had earlier announced his desire to settle the conflict out of court. More and more, the activists and Pacific Lumber appealed to the governor and the president, gradually shifting the foci of the conflict into the core of the Executive Branches. It was the locals who pushed the conflict up the power ladders.<sup>210</sup>

Pacific Lumber had previously violated its salvage exemption, the company had ignored court and agency orders regarding murrelet habitat, and the activists were not about to leave the fate of Headwaters in the hands of a company and agency they did not trust. Littletree, Bari, and Cherney organized a mass protest at the Carlotta logging decks

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<sup>210</sup> CA Department of Forestry and Fire Protection to Mr. Thomas Herman, The Pacific Lumber Company, March 6, 1995, papers of Kathy Bailey, Philo, CA; Mike Geniella, The Press Democrat, March 8, 1995, B1, EPIC archives, Redway, CA; K.C. Meadows, “PALCO Looks at Jackson Forest,” Ukiah Daily Journal, March 8, 1995, page 1, EPIC archives, Redway, CA; CA Department of Forestry and Fire Protection to Thomas M. Herman, The Pacific Lumber Company, March 15, 1995, 1-95EX-086 HUM), papers of Kathy Bailey, Philo, CA; David Anderson, “PL Seeks State OK to Harvest Headwaters Sections,” The Times Standard, March 26, 1995, unknown page, EPIC archives, Redway, CA; Jentri Anders, “Action on Headwaters Weighed,” Redwood Record, March 16, 1995, page 1, EPIC archives, Redway, CA; Christine Sackey, “Headwaters Forest to be Logged; PALCO Announced Last Week,” Redwood Record, March 9, 1995, page 1, EPIC archives, Redway, CA; CA State Senators Byron Sher and Tom Hayden to President William J. Clinton, March 15, 1995, papers of Kathy Bailey, Philo, CA; Kathy Bailey to Governor Wilson, “Re: Headwaters Forest,” March 16, 1995, papers of Kathy Bailey, Philo, CA; “Statement of Terry Gorton, Assistant Secretary for Resources, State of California, press release, March 16, 1995, papers of Kathy Bailey, Philo, CA.

on Pacific Lumber land. On March 28, one day before a scheduled visit by the U.S. Fish and Wildlife Service, the CA Department of Fish and Game, and CDF, approximately five hundred activists gathered at the company gates. Adding fuel to the mistrust and tension, Governor Wilson created a special task force to make “one last run” at preserving Headwaters Grove, and simultaneously proposed legislation to reform the California Endangered Species Act to would make it easier to log Headwaters. Wilson proposed to shift oversight of the law to county officials, prohibit fines for the inadvertent killing of endangered species, exclude habitat modification and destruction from the definition of a “take” (prohibiting the Bechtel ruling from affecting species listed only as threatened under California law), make the burden of proof for listing species greater, and exempt projects from ESA review that had cleared through CEQA. The governor effectively told the legislature and activists they needed to figure out how to quickly buy the land because the state was going to ensure Pacific Lumber could log as quickly and easily as possible.

True to historic pattern, EPIC and Sierra added to the pressure, and helped delay logging plans in the main Headwaters Grove. The organizations filed a suit challenging both the 1994 and the Headwaters salvage exemptions. EPIC and Sierra argued that salvage exemptions violated CEQA because they can have significant negative impacts on the environment, yet are exempt from public review or Environmental Impact Reports. Simultaneously, EPIC filed a federal suit against the exemptions under the federal Endangered Species Act. The federal suit alleged that when FWS approved the restrictions on the Pacific Lumber exemption during murrelet breeding season, it constituted an official agency action, triggering the need for a biological assessment

under section 7 of the ESA. Ratcheting up the pressure on Pacific Lumber, EPIC amended the federal complaint on March 20 to include eight harvest plans approved by FWS under the company's Northern Spotted Owl Management Plan. The amended complaint alleged the THPs constituted a take of the spotted owl and violated section 9 of the ESA. All together, the suit challenged the legitimacy of salvage logging exemptions and Habitat Conservation Plans. On March 27, Pacific Lumber agreed not to log the ancient groves until a judge could review the cases. Unknowingly, the activists had just set up Pacific Lumber to file a takings suit against the federal and state governments by filing additional litigation, which along with the Bechtel ruling, prevented the company from logging a large portion of their acreage.<sup>211</sup>

The Carlotta rally proceeded as planned the following day, sparking an April dominated by escalated brinkmanship and hostility. CDF approved five Pacific Lumber harvest plans in the residual old-growth groves of the Yager Creek drainage of Headwaters Forest. The watershed was important to activists because it supported one of the last coho salmon and steelhead trout runs on the Northcoast. EPIC, local photographer-activist Doug Thron, and the Bald Eagle Restoration Project filed suit alleging the plans violated murrelet, spotted owl, and bald eagle regulations. On April 12, Humboldt Judge Buffington issued a temporary restraining order on the five THPs, and the company responded by closing their old-growth mill and laying off 105 mill

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<sup>211</sup> Littletree interview; Manny Frishberg, "Wilson's Species Act Reform Plan Unveiled," Redwood Record, April 6, 1995, unknown page, EPIC archives, Redway, CA; ("Headwaters Forest Red Alert," flier, Earth First!, March 22, 1995, papers of Alicia Littletree Bales, Ukiah, CA; "Summary of EPIC Forestry Lawsuits, 1982 to 1996," EPIC archives, Eureka, CA; the state exemption suit was Sierra Club & EPIC v. Keefer & California Department of Forestry; the federal suit was Marbled Murrelet, Northern Spotted Owl, and EPIC v. Burce Babbitt, Secretary, Department of the Interior; Mollie Beattie, Director, USFWS; Michael Spear, Region 1 Director, USFWS; the U.S. Fish and Wildlife Service; Pacific Lumber Company; Scotia Pacific Holding Company; and the Salmon Creek Corporation; David Anderson, "Judge Delays PL Salvage Bid," The Times Standard, May 2, 1995, A1, EPIC archives, Redway, CA.

workers. Buffington and environmentalists became public enemy number one on the Northcoast and Pacific Lumber recruited the laid off workers to attend an April 28 hearing for the Yager Creek case. Meanwhile, U.S. District Judge Bechtle awarded EPIC \$1.1 million in attorney fees from the *Marbled Murrelet* case. On April 21, Buffington recused himself from the Yager Creek case and cited the company's "crude application of political power" when it closed the mill and organized locals to intimidate him despite having logged part of the harvest area for two days before he halted operations.<sup>212</sup>

The Headwaters Forest conflict became a metaphorical hot potato because of the actions of the activists and the company. The recusal left no judge in the county able to hear the case because the company routinely disqualified Judge Ferrogiaro, and the third Humboldt judge, J. Michael Brown, disqualified himself from Pacific Lumber cases because the company used to be a client of his. April ended, and the situation was a

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<sup>212</sup> <sup>212</sup>“Demonstration Against Headwaters Logging Tuesday March 28<sup>th</sup>,” public service announcement text for KMUD and CSAR, March 27, 1995; “Headwaters Demo Set for Sept. 15: Logging Deadline Looms,” flier, Coalition to Defend Headwaters, unknown date, but before about a week before August 27, 1995. The flier reference 500 people attending the March rally; “Headwaters Forest Threatened: URGENT ACTION ALERT,” flier, unknown date in March 1995, EPIC archives, Eureka, CA; Michael Corbett, “Protest over Logging in Headwaters,” *Redwood Record*, March 30, 1995, page 1, EPIC archives, Redway, CA; “Pacific Lumber Target of Demonstrations,” *The Press Democrat*, March 29, 1995, unknown page, EPIC archives, Redway, CA; David Anderson, “Earth First, Others Decry Log Plans for Headwaters,” *The Times Standard*, March 29, 1995, A1, EPIC archives, Redway, CA; Littletree interview; Darryl Cherney, “History of Headwaters Campaign-An Outline”, 1998, 2007, papers of Darryl Cherney, Redway, CA; Barney Frank, Lucille Roybad-Allard, Henry Waxman, Esteban Edward Torres, Pete Stark, Sam Farr, Maurice Hinchey, Patsy Mink, John Bryant, Elizabeth Furse to the Honorable William J. Clinton, March 31, 1995, papers of Kathy Bailey, Philo, CA Doug Thron, EPIC, & Bald Eagle Restoration Project v. Pacific Lumber, Scotia Pacific Holding Company, CDF, Tom Osipowich as Deputy Chief of CDF Region 1, Lloyd Keefer as Chief of Region of CDF, and Richard Wilson as Director of CDF (Humboldt Ct. #95DRO100), “Summary of EPIC Lawsuits 1982 to 1996,” EPIC archives, Eureka, CA; David Anderson, “PL Layoffs Indefinite, Firm Says,” *Times-Standard*, April 18, 1995, A1; EPIC archives, Redway, CA; David Pfaff, “Top Firm’s Hit, Bird Advocates Win Fees,” *The Daily Journal*, June 20, 1995, page 1, EPIC archives, Redway, CA; Richard Carelli, “Species Act on Hot Seat,” *The Times Standard*, April 17, 1995, unknown page, EPIC archives, Redway, CA; Dennis Pfaff, “Jurist Takes Himself Out of Humboldt Logging Case,” *San Francisco Daily Journal*, April 21, 1995, A1, EPIC archives, Redway, CA; David Anderson, “Judge Buffington Removes Himself from Logging Case,” *The Times Standard*, April 20, 1995, A1, EPIC archives, Redway, CA; Todd Woody, “Judge Recuses Himself from Timber Dispute,” *The Recorder*, April 21, 1995, unknown page, EPIC archives, Redway, CA; Glen Martin, “New Battle over Old Redwoods,” *San Francisco Chronicle*, April 20, 1995, unknown page, EPIC archives, Redway, CA; Christopher Rosche, “Riggs Bill Proposes Log Swap,” *The Times Standard*, April 30, 1995, unknown page, EPIC archives, Redway, CA

mess. Pacific Lumber played hardball with the state, activists invaded the forest, EPIC had five active suits on the Northcoast, and the appearance was that of a lawless county – without judges, without legislative intervention, and without administrative intervention. But the Yager Creek harvest plans were under a restraining order until June, and the Headwaters Grove was off limits temporarily as well, offering some potential breathing room during the late spring. Instead, the activists continued their assaults on the company’s property rights, further hardening the company and its sympathizers against the activists. That spring was a major step forward in the local combatant’s progressive march into the Executive Branch. The activists wanted to choke off Pacific Lumber in court and force CDF and the Board of Forestry to address industrial logging once and for all. The company challenged the state’s loyalty by logging aggressively. In doing so, Pacific Lumber almost begged EPIC to tie it up in court so it could file a takings suit and force the chief executives of California and the United States into action. The actions of the activists and the company speak to the bottom-up nature of the federalization process of the Headwaters conflict.<sup>213</sup>

## **Competing Train-wreck Strategies: Driving the Conflict out of the Northcoast Again**

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<sup>213</sup> Dennis Pfaff, “Jurist Takes Himself Out of Humboldt Logging Case,” San Francisco Daily Journal, April 21, 1995, A1, EPIC archives, Redway, CA; David Anderson, “Judge Buffington Removes Himself from Logging Case,” The Times Standard, April 20, 1995, A1, EPIC archives, Redway, CA; Todd Woody, “Judge Recuses Himself from Timber Dispute,” The Recorder, April 21, 1995, unknown page, EPIC archives, Redway, CA

In addition to the new litigation strategy, the Northcoast activists more tightly coordinated their overall actions, but they did not always maintain a united front. The myriad anti-corporate and anti-authority sentiments, coupled with a general commitment to consensus decision-making, highlight the activists' lack of adherence to middle-class work and values. Those same characteristics also made it more difficult at times to confront the single voice and strategy coming from Pacific Lumber. Earlier in 1995, the Headwaters Forest Coordinating Committee was revived, and in May the coalition agreed to run a joint fundraising campaign to raise \$1 million, managed by consensus decision-making. The goal of the organization was to acquire 60,000 acres of Headwaters Forest, and it immediately looked to the federal government as the best available purchaser. Kathy Bailey wrote to Washington, DC-based Sierra Club advocate Katie Merrill and suggested the national organization push California Senators to propose swapping federal land and/or federal timber contracts to Pacific Lumber in exchange for the ancient groves owned by the Salmon Creek Corporation. Salmon Creek was created in 1993 as a wholly owned subsidiary of Pacific Lumber and owned approximately ten thousand acres of land, including the main Headwaters Grove and other ancient groves. Bailey agreed with the 60,000-acre goal, but she saw no "clear path to the greater goal," and wanted some group working to at least acquire what Forests Forever had proposed in the 1990 ballot initiative.<sup>214</sup>

HFCC received some unintentional and troubling assistance from their opponents.

After the 1994 Spotted Owl Summit, the early 1995 *Marbled Murrelet* ruling, and the

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<sup>214</sup> Darryl Cherney, "History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Bailey interview; memo from Kathy Bailey to Katie Merrill, "re: Headwaters Forest," May 5, 1995, Bailey Papers, Philo, CA; Annual Report of the Pacific Lumber Company, 1993, SEC Form 10-K, page 3.

U.S. Supreme Court ruling in *Sweet Home* overturning a lower court ruling restricting the power of the Endangered Species Act, California Congressman Richard Pombo organized seven national hearings to discuss the Endangered Species Act. While the hearings were an attack on the main federal law supporting the Northcoast activists' campaign, they also acted as motivation for elected officials to resolve the Headwaters conflict quickly to stave off arguments that the ESA did not work and was unfair to landowners. On the heels of the attacks on the ESA, CDF charged Pacific Lumber with violating a Timber Harvest Plan, a criminal charge that further supported the activists' accusations the company could not be trusted to manage the old-growth groves or to abide by the stipulations of their salvage logging exemptions. Pombo and Pacific Lumber had unintentionally delivered additional sources of urgency to the campaign to protect Headwaters, giving activists a boost in a difficult period of legal and public relations losses.<sup>215</sup>

On the Northcoast, leverage in the conflict ebbed and flowed during the summer. In mid-May, visiting Judge Kleaver ruled against EPIC in its state challenge of the Pacific Lumber salvage exemptions, adding to the anxiety of activists already preparing to challenge as many as twenty-six harvest plans, many in the residual old-growth groves of Headwaters Forest, such as the Yager Creek drainage. Then in mid-June, a California

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<sup>215</sup> There are several great treatments and hundreds of newspaper articles about the conflict over the habitat of the northern spotted owl and timber harvests in national forests. Yaffee's, *The Wisdom of the Spotted Owl*, is perhaps the most comprehensive treatment of the events and politics; David Anderson, "Species Act Overhaul Would Blunt Court Ruling," *The Times Standard*, unknown date, unknown page number, EPIC archives, Redway, CA ; The Sweet Home ruling overturned a circuit court opinion that stated that habitat destruction did not constitute harming or harassing a threatened or endangered species (Bruce Babbitt, Secretary of the Interior, et al. v. Sweet Home Chapter of Communities for a Great Oregon [515 U.S. 687 ] June 29, 1995); Associated Press, "Farmers Ask Relief from Species Act," *San Francisco Chronicle*, May 2, 1995, A11, EPIC archives, Redway, CA; "Headwaters Forest: The Nation's Last Unprotected Ancient Redwood Forest," Briefing Book, March 15, 1995, papers of Kathy Bailey, Philo, CA; "PL Charged with Logging Violation," *The Times Standard*, May 24, 1995, unknown page, EPIC archives, Redway, CA

appellate court lifted the temporary restraining order placed on the Blanton Creek harvest plan inside the Yager Creek drainage. Pacific Lumber spokeswoman Mary Bullwinkle told the press the case proved that “state-approved harvest plans meet all obligations required by law...and that properly regulated timber harvest activities do not have significant adverse impacts on the environment.” The statement must have driven Northcoast activists mad because it ignored the many prior rulings to the contrary, and it also positioned Pacific Lumber on the side of the law the activists once held. Pacific Lumber worked additional routes to generate leverage with the public when it publicized the release of 42,000 king salmon into the Yager and Lawrence Creek watersheds. The company also blamed activists and the weather for the closing of the mill in April, after the Buffington TRO. With a few deft maneuvers, the company tried to eliminate the new salmonid habitat tactics of the activists, as well as any claims the activists made as allies of timber workers and timber society.<sup>216</sup>

Northcoast activists responded with their own legal innovations, aided by the stalling tactics of Earth First! in the woods. As was true in 1983 and throughout the late redwood wars, direct action and litigation formed a powerful toolset for the activists. In the midst of the legal wrangling, North Coast Earth First! occupied the forest, organized

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<sup>216</sup> Sierra Club and EPIC v. Loyd Keefer and the California Department of Forestry, HUM 95DR0072, May 18, 1995, EPIC archives, Eureka, CA; David Anderson, “Headwaters Cut Upheld,” The Times Standard, May 19, 1995, A1, EPIC archives, Redway, CA; David Anderson, “Mixed Reactions to Log Rulings,” The Times Standard, May 21, 1995, A1, EPIC archives, Redway, CA; Associated Press, “Pacific Lumber Gets OK to Log,” San Francisco Chronicle, May 20, 1995, A16, EPIC archives, Redway, CA; Doug Thon and EPIC v. Pacific Lumber, et al., HUM95DR100, June 14, 1995, EPIC archives, Eureka, CA; David Anderson, “Court upholds PL Logging Plan for Blanton Creek,” The Times Standard, June 15, 1995, unknown page, EPIC archives, Redway, CA; “Pacific Lumber/Scotia Pacifici THP Submittals – 1995” Bailey Papers, Philo, CA; Printed as Submitted by Pacific Lumber Company, “Pacific Lumber Company Announces Restarting of Mill A Operation,” Life & Times, May 2, 1995, EPIC archives, Redway, CA; printed as submitted by the Pacific Lumber Company, “Pacific Lumber Company Releases King Salmon,” Life & Times (a Garberville weekly/daily), June 6, 1995, EPIC archives, Redway, CA; David Anderson, “Court upholds PL Logging Plan for Blanton Creek,” The Times Standard, June 15, 1995, unknown page, EPIC archives, Redway, CA

rallies and protests, and directed actions toward CDF and Pacific Lumber alike. At the end of June, ten activists were arrested for blocking a logging road by chaining themselves to a bridge over Blanton Creek. After the incident, Representatives Pete Stark, Nancy Pelosi, and Ron Dellums asked Secretary Bruce Babbitt to stop the logging near Blanton Creek because the USFWS believed Pacific Lumber had filed fraudulent maps, among other ethical breaches. On June 26, the First District Court of Appeal in California placed an emergency stay on Blanton Creek logging when EPIC filed suit against the company for violations of the Unfair Business Practices Act. Early in July, California hosted the national Round River Rendezvous. At the retreat, Littletree and others planned a series of actions to block road gates, lock activists down in the backwoods, occupy CDF offices, and conduct a mass arrest event.<sup>217</sup>

Earth First! tried desperately to regain public support and frustrate Pacific Lumber. However, the organizers misjudged public sentiment. They seem to have believed they could continue to challenge Pacific Lumber property rights and CDF authority through direct actions and appeal more broadly to the public via civil disobedience displays. The result was great national sympathy for their cause, but eroded local support. On July 5, thirty-four protesters were arrested for trespassing and shutting down the CDF office in Fortuna, and nine activists were arrested in the Yager Creek drainage. The police used pepper spray on a group of activists who blocked the road out of the CDF offices. Five activists were treated and released from Redwood Memorial

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<sup>217</sup> Mike Geniella, "Bay Area Politicians Seek to Halt Logging," *The Press Democrat*, June 24, 1995, unknown page, EPIC archives, Redway, CA; Jane Kay, "Logging Protesters Arrested in Humboldt," *San Francisco Examiner*, June 23, 1995, A25, EPIC archives, Redway, CA; ("Logging Ban Stays in Place Against PL," *The Times Standard*, June 29, 1995, unknown page, EPIC archives, Eureka, CA; Chronicle Staff Report, "Judge Halts Logging at Yager Creek," *San Francisco Chronicle*, June 29, 1995, A19, EPIC archives, Eureka, CA; Littletree interview; (Darryl Cherney, "History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA;

Hospital. The *Times-Standard* in Eureka published the names, ages, and hometowns of the arrestees. Activists criticized the published list and use of pepper spray as attempts to intimidate supporters of the redwood movement. Pacific Lumber continued to try to shift public support away from the activists, telling the press Earth First! civil disobedience was a drain on county resources. After the July actions, Earth First! orchestrated several more civil disobedience actions to “highlight the group’s return to mass politics.” In addition to civil disobedience, Earth First! launched a nationwide boycott of all redwood products. In the midst of the actions, visiting judge John Golden denied a temporary restraining order on another of the Yager Creek harvest plans, further enraging local activists.<sup>218</sup>

The actions generated attention and frustrated CDF and Pacific Lumber, but momentum abruptly swung in Pacific Lumber’s favor due to the overwhelmingly negative press coverage of the actions. As their support waned, a group of activists, including Doug Thron and EPIC, entered into mediation with Pacific Lumber and CDF to resolve the growing conflict over the residual old-growth groves in the Yager Creek drainage. The mediation failed, and the company used the opportunity to continue to paint the activists as unreasonable obstructionists. Bullwinkel told the press the activists walked out, but the company believed cooperation would yield better results for the community than continued wrangling in court. Again, she decried the conflict as a waste of resources. The company was clearly working build their case as the aggrieved party –

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<sup>218</sup> Glen Martin, “34 Protesters Arrested,” *San Francisco Chronicle*, July 6, 1995, unknown page, EPIC archives, Redway, CA; Mary Lane, “Earth First Protesters Block Gates to PL Land; 8 arrested, *Times Standard*, July 6, 1995, unknown page, EPIC archives, Redway, CA; Jentri Anders, “Use of Pepper Spray at Protest Questioned,” *Redwood Record*, July 20, 1995, unknown page, EPIC archives, Redway, CA; (Darryl Cherney, “History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA; Manny Frishberg, “Activist Group Calls for Redwood Boycott,” *Redwood Record*, July 27, 1995, unknown page, EPIC archives, Redway, CA; (“Judge Won’t Halt PL Logging Plans,” *The Times Standard*, July 9, 1995, unknown page, EPIC archives, Redway, CA.

a seemingly deliberate plan to gain leverage in the acquisition negotiations Pacific Lumber was encouraging. John Campbell had met with California Senator Dianne Feinstein in March and asked her to be, as he told it, the “ombudsman” for a round of negotiations between Pacific Lumber, and the state and federal agencies. Feinstein had agreed, but the plan had not preceded any further.<sup>219</sup>

By late July, the tide was running hard against the activists, driven by an aggressive Pacific Lumber public relations campaign and EPIC losses in court. A new visiting judge, Charles Henry, rejected a preliminary injunction on a third Yager Creek harvest plan, a week after Judge Kleaver required EPIC to post a ten thousand dollar bond to pay Pacific Lumber’s defense costs in exchange for an emergency stay. Campbell told the press, “It is unfortunate, that EPIC and Doug Thron continue to raise money from the public in order to pursue dilatory and wasteful litigation.” A Pacific Lumber press release went even farther and charged the activists with harassing endangered species when they flew planes at low levels above Pacific Lumber land to assess the company’s logging efforts. Indeed, Mark Harris, an Arcata attorney and member of the legal team in the federal *Marbled Murrelet* case, learned to fly in 1992 so he could monitor the company’s compliance with court injunctions. The strategy Campbell devised appeared to be working, but the strategy of the Northcoast activists to compel the federal government to acquire Headwaters Forest evolved as well, and

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<sup>219</sup> “Agreement to Mediate,” 1995, EPIC archives, Eureka, CA; Mike Geniella, “Timber Mediation Effort Fails,” *The Press Democrat*, July 21, 1995, unknown page, EPIC archives, Redway, CA; Campbell interview.

combined, Pacific Lumber and the activists forced President Clinton to act during the following year because of the increasingly hostile and protracted conflict.<sup>220</sup>

During the late summer months, background events conspired to elevate the urgency and anxiety levels of Pacific Lumber and Northcoast activists. The HFCC planned a massive rally for September 15, the day the moratorium on salvage logging in Headwaters expired. The various Earth First! splinter groups on the Northcoast prepared backwoods actions following the rally. Littletree and Josh Brown, who had recently left his job as a campus organizer for the California Public Interest Research Group, organized two trial basecamps in July and August to prepare for what they hoped would be hundreds of participants in the September actions. During the trials, internal tensions bubbled to the surface. It appears many of the newer activists – those who joined the movement while Littletree traveled Central America – resented her no-nonsense leadership. They developed a fondness for Brown, whom Littletree viewed as someone the activists trusted, but who did not really work hard or strategically. Littletree ascribed some of the animosity to male chauvinism, similar to the displays of masculinity during the 1991 backwoods actions of Redwood Summer II. The Northcoast Earth First! groups had developed into highly technical cohorts who prided themselves on backwoods innovation and brinksmanship – a characteristic Littletree inadvertently promoted when she recruited hikers and climbers during the winter of 1992 and 1993. In the end, the internal tensions and mixed strategy of technical direct actions with public rallies

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<sup>220</sup> Mike Geniella, “Timber Mediation Effort Fails,” *The Press Democrat*, July 21, 1995, unknown page, EPIC archives, Redway, CA ; Jentri Anders, “Logging to Resume on Yager Creek,” *Redwood Record*, July 27, 1995, unknown page, EPIC archives, Redway, CA; “Court Says PL Can Log Yager Creek,” *Times Standard*, July 22, 1995, unknown page, EPIC archives, REDway, CA

fractured the united direct action front and left the activists vulnerable to Pacific Lumber and law enforcement actions.<sup>221</sup>

While EF! prepared to take to the woods, other activists worked to further the acquisition campaign. In theory, the direct actions and rallies should pressured property owners to negotiate, but because of the eroded public support, negotiators were hesitant. Kathy Bailey and the HFCC set their sites on Elk River Timber, owned by Red Emerson, the largest landowner in California through Sierra Pacific Industries. As noted, Elk River owned the second-growth forest adjacent to the Headwaters Grove. Elk River had submitted harvest plans to log the area, and activists wanted to stop them in order to protect the salmon run on the South Fork of the Elk River and the drainages within Headwaters Grove. In August, Kathy Bailey tried to convince Save-the-Redwoods League to purchase the 1,000 acres immediately adjacent to Headwaters, but SRL rejected the proposal because the protection of the Headwaters Grove itself was uncertain. In September, HFCC authorized Jill Ratner of the Rose Foundation and Cecelia Lanman of EPIC to negotiate with Emerson. Also in early September, a lawsuit against Maxxam by long-time southern Humboldt activist Bob Martel was made public. Martel asked the court to exchange 4,500 acres of Headwaters Grove for the assumed debt Maxxam owed the taxpayers from the Savings & Loan collapse. Debt-for-nature was now in the courts as an option, but 4,500 acres seemed to many activists far too small a price for the absolution of the company's alleged crimes. By mid-September, the activists were pressuring Pacific Lumber and the state agencies via the impending demonstrations, pressing forward with acquisition plans, and were in the courts pressing the debt-for-nature alternative.

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<sup>221</sup> Littletree interview.

Because of the diversity of activist tactics and the success of Pacific Lumber public relations, many in the public began to perceive the activists as impetuous idealists who would not stop the disruptions until Maxxam was out of Humboldt County and all of Headwaters Forest was out of corporate control. The perception was, of course, largely accurate, and it hurt the activists' standing. Their public support may have eroded on the Northcoast, but the train-wreck strategy was working. Pacific Lumber was on the attack, but it was still frustrated by the court wranglings. That the activists were largely undeterred by the growing negative perceptions is testimony to their rejection of professional opinion and their belief that their blend of resource conservation and ecologic health goals were the best prescription for the Northcoast.<sup>222</sup>

Debt for nature, demonstrations, and litigation enraged Pacific Lumber during the final months of 1995 and drove it to pursue its federal nuclear option. Martel's case was made relevant because of the attention given to the upcoming demonstration and because of the actions of at least two federal agencies in August. On August 2<sup>nd</sup>, the Federal Deposit Insurance Corporation filed *FDIC v. Maxxam*, arguing Maxxam and Hurwitz were negligent because they "had been obligated to dump more money into a Maxxam-controlled S&L that collapsed in 1988." Hurwitz had long argued no capitalization was required. The FDIC also alleged Hurwitz and colleagues covered up the condition of USAT via "deceptive" reporting and "balance sheet manipulation." The suit, if successful, would establish that Maxxam indeed owed the FDIC damages from the 1988 S&L bailout, a circumstance necessary for any debt-for-nature scheme. Adding to

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<sup>222</sup> Mary A. Angle-Franzini, Save-the Redwoods League to Kathy Bailey, Sierra Club California, "Re: Emerson Redwoods," August 24, 1995, papers of Kathy Bailey, Philo, CA; Kathy Bailey to Jim Lair and David Dunn, September 25, 1995, Bailey Papers, Philo, CA; Mike Geniella, "Fed Lawsuit Seeks Swap of Headwaters for Financier's S&L debt," The Press Democrat, September 14, 1995, unknown page, EPIC archives, Redway, CA.

Pacific Lumber's frustration, the USFWS published its map of critical habitat for the marbled murrelet, which included all of the ancient redwood groves on the firm's property. The designation, combined with the permanent injunction placed on Owl Creek in the *Marbled Murrelet* case, threatened Pacific Lumber's ability to log any of its ancient groves. Between the court cases and the habitat designation, Pacific Lumber must have felt under fire from all sides, a condition that only intensified on September 15.<sup>223</sup>

Beginning in mid-September, the pressure on Pacific Lumber and the government to resolve the Headwaters conflict reached another boiling point. On September 15, outside the log decks in Carlotta and the Fisher Road gate leading into Headwaters, more than two thousand people rallied to protest the salvage logging exemption. The protestors were flanked by angry loggers, and motivated by Bonnie Raitt, Bob Weir and Mickey Hart from the Grateful Dead, Darryl Cherney, and Ed Bagley, Jr, among other speakers and performers. Two hundred people were arrested during a symbolic trespassing event, and the rally launched an action campaign designed by EF! focused entirely on Headwaters. Adding to the symbolic power of the rally, the California Senate passed a bill the same day as the rally forcing Governor Wilson to negotiate the acquisition of Headwaters Grove. Before the Assembly voted, however, Wilson promised to move ahead without legislation, and the Assembly backed down.<sup>224</sup>

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<sup>223</sup>Executive Summary of Rose Foundation OTS brief sent to Cecelia, Dana, Darryl, et al from [ROSEFDN@aol.com](mailto:ROSEFDN@aol.com), September 25, 1996, hard copy in EPIC archives, Eureka, CA; Review and Outlook, "Maxxamum Justice," The Wall Street Journal Online, September 2, 2005; Federal Register, Vol. 60, No. 154, Thursday, August 10, 1995, page 40496, EPIC archives, Eureka, CA.

<sup>224</sup>The author attended the 1995 demonstration while an undergrad at Humboldt State University. Mary Lane, "2,000 Rally Against PL," The Times Standard, September 16, 1995, A1, EPIC archives, Redway, CA; Glen Martin, "2,000 Rally to Protect Redwood Grove," San Francisco Chronicle, September 16, 1995, A1, EPIC archives, Redway, CA; May Callahan, "Senate Passes Legislation to Force Headwaters Deal," The Press Democrat, September 16, 1995, unknown page, EPIC archives, Redway, CA;

The day after the Carlotta demonstration, Northcoast Earth First! activists launched an unprecedented two-month base camp producing press coverage, an astronomical escalation in arrests, and a resurgence of violence against the activists. As with the earlier Yager Creek actions, the efforts backfired from a public relations perspective. From September 17 to October 9, Humboldt police arrested nearly 400 activists on Pacific Lumber and Elk River Timber property. The police reported that activists drove cars deep into the woods, blocked logging roads with the abandoned cars, and locked themselves to gates and logging equipment. The loggers responded with threats of violence. Sherriff Dennis Lewis recalled one logger telling the police to, “go have some donuts and coffee, and be happy – that he had his rifle and would take care of things himself...And he wasn’t joking.” By October 11, the arrest total reached 550, and the Humboldt County Board of Supervisors requested emergency aid from President Clinton come to because the daily arrests were costing the county \$2,000 a day. On October 14, two EF! treesitters climbed down after a six-day sit, and Elk River Timber reportedly announced they were ready to negotiate. The new strategy of Earth First! appeared to be working with Red Emerson at least.<sup>225</sup>

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<sup>225</sup>“Protests Spread to Area Near Headwaters Tract,” *The Press Democrat*, October 11, 1995, unknown page, EPIC archives, Redway, CA; Manny Frishberg, “Logging Protests Continue at ‘Northern Headwaters,’” *Redwood Record*, October 12, 1995, page 1, EPIC archives, Redway, CA; Michael Corbett, “Timber Demonstrations Spur County Plea for Help,” *Redwood Record*, October 12, 1995, unknown page, EPIC archives, Redway, CA; David Anderson, “Earth Firsters End Tree-sitting,” *The Times Standard*, October 15, 1995, unknown page, EPIC archives, Redway, CA; (Darryl Cherney, “History of Headwaters Campaign-An Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA; Michael Corbett, “Timber Demonstrations Spur County Plea for Help,” *Redwood Record*, October 12, 1995, unknown page, EPIC archives, Redway, CA ; David Anderson, “Earth Firsters End Tree-sitting,” *The Times Standard*, October 15, 1995, unknown page, EPIC archives, Redway, CA; (“Tree-sitters’ Climb Down Monday Ending Six-day Anti-logging Action,” *Redwood Record*, October 19, 1995, unknown page, EPIC archives, Redway, CA; David Anderson, “Earth Firsters End Tree-sitting,” *The Times Standard*, October 15, 1995, unknown page, EPIC archives, Redway, CA; Headwaters Protest,” *The Times Standard*, October 19, 1995, unknown page, EPIC archives, Redway, CA

During November and December, tensions continued to escalate, and the activists suffered, though events again conspired in ways that should have helped their efforts. The severity of the tension was exposed not only by the Supervisor's request for federal law enforcement help, but also when the *Times-Standard* of Eureka, the largest newspaper in the county, defended Pacific Lumber and its development since 1986. The article reminded readers of the company's position as the largest private employer in the county, and that the company made good on its promise to pensioners after Executive Life collapsed. While the local press sided with Pacific Lumber, many of the national environmental groups finally engaged the conflict over Headwaters Forest and worked to convince Vice President Albert Gore to stump for a debt-for-nature swap. For its part, EPIC believed the California Department of Fish and Game, once an ally in court, was working to prevent it from successfully prosecuting its federal Endangered Species suit against the Headwaters salvage exemption. The activists believed there was a backroom deal in place between Pacific Lumber and the agencies to approve a Habitat Conservation Plan and head off the activists in court. While the state agency appeared to turn on the activists, the federal Office of Thrift Supervision weighed in firmly on their side when it notified Maxxam on November 1 that it intended to file suit for the company's role in the 1988 failure of USAT.<sup>226</sup>

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<sup>226</sup> Brock Evans, National Audubon Society, Carl Pope, Sierra Club, Randy Hayes, Rainforest Action Network, Marty Hayden, Sierra Club Legal Defense Fund, David Chatfield, Greenpeace, Esteban Millard, Ancient Forests International, Bill Eichbaum, Work Wildlife Fund, Karent Pickett, The Ecology Center, Tim McKay, Northcoast Environmental Center, Jill Ratner, Rose Foundation for Communities and the Environment, David Brower, Earth Island Action Group, Michael Francis, Wilderness Society, Steve Homner, Western Ancient Forests Campaign, Carl Ross, Save America's Forests, Paul Pritchard, National Parks and Conservation Association, Cecelia Lanman, Environmental Protection Information Center, Julia Levin, Natural Heritage Institute, Betty Ball, Mendocino Environmental Center, Mary Walsh, Mendocino Coast Environmental Center to The Honorable Albert Gore, "Re: Debt-for Nature Negotiations to Protect Headwaters Forest," November 9, 1995 papers of Kathy Bailey, Philo, CA; Brian Gaffney to Steve Adams, Esq., October 24, 1995, Bailey Papers, Philo, CA; David Anderson, "PL Rearranges, Grows During

The problems for Pacific Lumber also mounted and ironically paved the way for a dramatic turn of events in early 1996. After nearly ten years, Maxxam settled the shareholder lawsuit filed by Bill Bertain, agreeing to pay former shareholders \$17 million (\$10 per share). Maxxam, Milken, Boesky, Drexel Burnham, and Salomon Brothers each contributed to the settlement fund, a tacit acknowledgement of the fraudulent handling of the 1985 Maxxam takeover bid. A week later, CDF finally rejected the so-called Death Road plan Pacific Lumber had filed along with the Headwaters salvage exemption nearly a year prior. However, Lloyd Keefer of CDF, in a letter to Pacific Lumber, recommended the company finalize its Incidental Take Permit and Habitat Conservation Plan applications. He informed the company that if the ITP was approved, he could approve the Death Road THP. The letter was clear evidence that Pacific Lumber was indeed working on a deal with the federal wildlife agencies, a fully legal process established by the 1982 amendments to the Endangered Species Act. Still, company plans were stalled by the murrelet rulings, and Maxxam's legitimacy had absorbed yet another blow. Adding to the company's woes, Dianne Feinstein was working to get Vice President Gore to agree to the debt-for-nature scheme as well.<sup>227</sup>

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Maxxam Decade," Times-Standard, October 29, 1995, unknown page, EPIC archives, eureka, CA; Associated Press, "F.D.I.C. Plans Action Against Maxxam," The New York Times, November 23, 1995, D6

<sup>227</sup> Mike Geniella, "Payday in Pacific Lumber Suit," The Press Democrat, December 16, 1995, unknown page, EPIC archives, Redway, CA; letter from Lloyd Keefer, CDF Region Chief, to Thomas Herman, Salmon Creek Corporation/The Pacific Lumber Company, December 20, 1995, Bailey Papers, Philo, CA; Jane Kay, "Ancient Redwood Trees Find Friends," The Globe and Mail (Canada), December 22, 1995, reprinted from the SF Examiner; (LOC website); Nancy Vogel, "Measure Calls for Swap of Forests," The Sacramento Bee, December 2, 1995, unknown page, EPIC archives, Redway, CA; ("Clinton Responds to Headwaters Fray," The Times Standard, December 24, 1995, unknown page, EPIC archives, Redway, CA; Quentin Hardy, "Regulators Charge Maxxam, its Chief in Thrift's Failure," Wall Street Journal, December 27, 1995, A4 (LOC website); OTS Order No. AP 95-40, "Notice of Charges and of Hearing for Cease-and-desist Order, Order of Prohibition, Restitution, Civil Money Penalties, and Other Appropriate Relief," In the Matter of United Savings Association of Texas, United Financial Group, Inc., Maxxam, Inc., Federated Development Co., Charles E. Hurwitz, Barry A. Munitz, Jenard M. Gross, Arthur S. Berner, Ronald Huebsch, and Michael Crow, December 26, 1995, EPIC archives, Eureka, CA

With the activists on the ropes locally, the year ended with a dark cloud over Pacific Lumber as well. In 1996, the company would miraculously gain the upper hand because the success of the activists played right into the company's nuclear option strategy. Collectively, the locals would help transform American environmental politics over the subsequent three years. The transformation is important because it marks a significant shift in Executive Branch activity within the modern environmental protection regime. The process that led to administrative intervention in the Headwaters conflict demonstrates the ways in which local actors helped build the regime.

### **Transforming American Environmental Politics: “The Deal”**

The local combatants in the redwood wars drove the Headwaters Forest conflict into the arms of the Executive Branch of the federal government at just the right time. 1996 was a presidential election year, and President Clinton wanted to solidify the eroding support of environmentalists for his administration. The Headwaters conflict eventually looked like the best opportunity for the president because of the popularity of redwood preservation nationally and because he wanted to avoid a showdown over the Endangered Species Act.

The Northcoast activists and Pacific Lumber had for years groped for a successful strategy to resolve the redwood wars. During the 1990s, the redwood wars increasingly focused on Headwaters Forest because it was the last significant ancient redwood forest complex in private hands and the management of the complex stood proxy for activists' sustainable forestry visions. In 1996, the company's strategy to force the hand of the

federal government paid enormous dividends. For the activists, the return toward federal resolution of the Headwaters conflict was not entirely unappealing either, and they quickly adjusted their game plan to influence the outcome of the negotiations between the company and the state. However, the final agreement did not resolve the Headwaters conflict for Pacific Lumber, the state, or the activists, and the battles raged for the rest of the century.

Early in 1996, the Northcoast activists remained focused on generating pressure on Governor Wilson and on continued state litigation. HFCC closely monitored the progress of THP 1-95-099 – Death Road -- which CDF continued to reject. The activists appeared set to continue doing battle in the familiar grounds of the state branches of government and to negotiate with Red Emerson to purchase North Headwaters Grove. Additionally, the activists expanded their charges against Pacific Lumber to attack the use of pesticides on clearcuts as further evidence of the destructive management of the forest.<sup>228</sup>

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<sup>228</sup> Resolution 1881 Fairfax, Resolution 3101 Tiburon, 4/4/95 Resolution San Francisco Board, undated/non-numbered resolution Oakland, Resolution 95-124 Marin, Resolution 96-394 Alameda, Resolution 96-0031 LA, letter from Micki Schneider, Palo Alto Council Member to President Bill Clinton, September 1, 1995; as well as a strategy memo of unknown date or author in the EPIC archives, Eureka, CA; memo by Kathy Bailey to unknown recipient at Sierra Club, February 5, 1996, Bailey Papers, Philo, CA; letter from Lloyd Keefer, CDF, to Thomas Herman, Salmon Creek Corporation/The Pacific Lumber Company, January 9, 1996, Bailey Papers, Philo, CA; HFCC Meeting Notes, January 9, 1996, papers of Kathy Bailey, Philo, CA; HFCC Task Committees, before May 10, 1996 – but not too much. One task deadline listed as ASAP (5/10), papers of Kathy Bailey, Philo, CA; HFCC Meeting Notes, January 9, 1996, papers of Kathy Bailey, Philo, CA; HFCC Task Committees, before May 10, 1996 – but not too much. One task deadline listed as ASAP (5/10), papers of Kathy Bailey, Philo, CA; Tara Mueller and Brian Gaffney, “Re: Pacific Lumber Company’s Appeal of THP 1-95-099 HUM,” public comments from EPIC and Sierra Club to CA Board of Forestry, March 4, 1996, Bailey Papers, Philo, CA; Kathy Bailey to California Board of Forestry, “Re: Appeal of THP 1-95-099 HUM Headwaters Forest,” March 4, 1996, Bailey Papers, Philo, CA; Carey Goldberg, “Glint of Hope for a Grove of Redwoods,” *The New York Times*, April 21, 1996, section 1, page 16; letter from State Senator Tom Hayden to California Board of Forestry, March 4, 1996, Bailey Papers, Philo, CA; George Snyder, “Lumber Firm Derided for Using Herbicides,” *San Francisco Chronicle*, April 5, 1996, unknown page, EPIC archives, Redway, CA

While EPIC and HFCC plotted against THP 099, Pacific Lumber poised itself for a major power grab using that same harvest plan as the vehicle. The company discussed an ITP with the U.S. Fish and Wildlife Service, and continued to propose THP 099 to CDF. In early January, Jared Carter, a Pacific Lumber attorney and former deputy undersecretary of the Department of the Interior, sent CDF a letter declaring FWS would not approve an ITP in murrelet groves, CDF did not have the authority to ask for mitigations (an argument renounced in 1994 by the California Supreme Court in *Sierra v. BOF*), and the company was prepared to file a regulatory takings lawsuit against the state and federal government if THP 099 was denied. Hurwitz himself contacted Interior that winter and arranged a meeting in Washington, DC that included himself; John Campbell; Red Emerson; Terry Gorton, Deputy Director of the California Resources Agency; Michael Mantel of the California Department of Natural Resources; Phil Dietrich from FWS; and John Garamendi, Deputy Director of the Interior. The participants discussed the public acquisition of Headwaters and Elk Head Springs Groves – the approximately three thousand acres Campbell had repeatedly announced the company was willing to sell.<sup>229</sup>

Rather than a sign of imminent resolution, the elevation of the conflict to higher orders of power belied an escalation of confrontation. In early April, CDF again levied a fine on Pacific Lumber for violations of the Forest Practice Rules inside Headwaters Forest. On April 22, BOF denied the company's appeal of THP 099, and Pacific Lumber then filed its reverse condemnation, or regulatory takings, lawsuit against the state of

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<sup>229</sup> letter from Jared G. Carter, legal representation for PL, to Lloyd Keefer, CDF, January 5, 1996, Bailey Papers, Philo, CA; Paul Rogers, "Forest Feud," San Jose Mercury News, September 11, 1996, 1A, EPIC archives, Redway, CA; Julia Levine to HFCC Members!, February 28, 1996, papers of Kathy Bailey, Philo, CA.

California. The following week, Congressman Riggs delivered a speech on the House floor alleging a connection between the Northcoast activists and the Una-bomber Ted Kacyznski. He was later forced to apologize for knowingly citing fraudulent evidence, but the damage was done. On May 7, the Ninth U.S. Circuit upheld the permanent injunction on Owl Creek and simultaneously ruled against the suit challenging the Pacific Lumber salvage logging exemption. Moments later, Pacific Lumber filed a takings suit against the United States of America, a clear indication the nuclear option was long-planned. Adding fuel to the growing fire, a federal court approved a \$7 million settlement for present and past Pacific Lumber employees for the endangerment of their pensions. The settlement stemmed from the annuities the post-takeover company purchased from the failed Executive Life Company, a company heavily invested in Milken junk bonds, including those issued in the Pacific Lumber takeover. The takings suits, and other events of spring, propelled the activists into more fevered action, while the company seemed to sit back and await the governments' responses, knowing their actions would bring the state to the table.<sup>230</sup>

In one fell swoop, Pacific Lumber had derailed the activists' local campaigns and forced them to accommodate the catapulting of the conflict into the Executive Branch.

The activists pulled together a complex effort to pressure the government to acquire the

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<sup>230</sup> "Logging Violations Result in Fine for PL," The Times Standard, April 30, 1996, unknown page, EPIC archives, Redway, CA ; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Rex Bossert, "Eco-Bar Gets Win, Loss in Logging Ruling," The Daily Journal, May 8, 1996, unknown page, EPIC archives, Redway, CA; Todd Woody, "Pacific Lumber Tries New Tack in Timber Wars," The Daily Recorder, May 10, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Riggs' speech Draft Draws Fire," The Press Democrat, April 26, 1996, unknown page, EPIC archives, Redway, CA; David Anderson, "PL Mulls Salvaging by Copter," The Times Standard, May 9, 1996, unknown page, EPIC archives, Redway, CA; The Associated Press, "State Supreme Court Clears Headwaters Salvage Logging," The Times Standard, June 13, 1996, unknown page, EPIC archives, Redway, CA; Associated Press, "Pacific Lumber Settlement Ok'd," The Press Democrat, May 11, 1996, unknown page, EPIC archives, Redway, CA; Campbell interview.

full 60,000-acre Headwaters complex. Their efforts were aided by FWS who designated 3.9 million acres in Oregon, California, and Washington as critical habitat for the marbled murrelet, noting the Pacific Lumber land was especially important – approximately 44,000 acres of company land. The habitat designation and takings suits offered the activists a way into the negotiations, and HFCC assigned its member groups varying responsibilities to generate public support and governmental pressure. Nearly immediately HFCC activists began to meet with Interior officials and petitioned as interveners in the federal takings suit. Interior balked at the activists’ demands. Over the next several months, the activists embarked on a door-to-door and telephone canvassing outreach operation in the Bay Area; developed full-page ads for the *New York Times* and other papers; distributed Headwaters Forest videos, brochures, and postcards; developed a Northcoast media campaign; and began organizing another massive public rally set for September 15, the day the annual logging ban during murrelet nesting season ended. Meanwhile, Earth First! planned basecamps to disrupt Pacific Lumber’s salvage logging efforts and support the September 15 rally.<sup>231</sup>

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<sup>231</sup> Reynolds Holding, “Nest Areas Protected for Seabird,” *San Francisco Chronicle*, May 17, 1996, unknown page, EPIC archives, Redway, CA; “Feds: Headwaters Critical for Murrelet,” *The Press Democrat*, May 16, 1996; Carolyn Lochhead, “Democrats Block Bid to Log Murrelet Habitat,” *San Francisco Chronicle*, June 20, 1996, unknown page, EPIC archives, Redway, CA; Mario Christaldi, “Riggs Loses House Battle,” *The Times Standard*, June 23, 1996, unknown page, EPIC archives, Redway, CA; Jessie Faulkner, “Emotion Swayed Vote on Lands, Riggs Says,” *The Time Standard*, June 23, 1996, unknown page, EPIC archives, Redway, CA; Charley Custer, “Custom Exemption to Federal Law,” *The Times Standard*, June 29, 1996, Letter to the Editor, EPIC archives, Redway, CA; Tom Lippe to Robert L. Baum, Associate Solicitor for Division of Conservation and Wildlife, Dept. of the Interior, June 4, 1996, EPIC archives, Eureka, CA; letter from Tom Lippe to Honorable John Garamendi, Deputy Secretary of the Department of the Interior, July 3, 1996, EPIC archives, Eureka, CA; “HFCC Overall Budget 1996” personal papers of Kathy Bailey, Philo, CA. HFCC Budget: \$849,686 (paid out to Trees, EPIC, Rose Foundation., Voice of the Environment (run by Dan Hamburg), Sig-Britt Cox, Bay Area Coalition for Headwaters, Sierra Club Bay chapter, Sierra Club Redwood chapter, Ecotopia EF!, EF! Redwood Action Team, Bay Area EF!, Forests Forever, Mendocino Environmental Center, Sierra Club California for outreach, media, rallies, events, grassroots, litigation, monitoring and reporting, acquisition (\$169,232 to Rose Foundation for land acquisition work). Other than acquisition, biggest allotment is campaign development/facilitation (trees, rose, epic) at \$114,524. Overhead = \$63,318, media and outreach =

By July, the company and Northcoast activists each courted the national media, and on the national stage, the activists held the upper hand because far away residents empathized more with the ancient trees than Pacific Lumber. The company created the Headwaters Consensus Council and hired a public relations firm to generate stories about an imminent deal for approximately 8,000 acres of Headwaters Forest. The company apparently wanted to generate an upwelling of widespread public support for such a deal in order to force Interior's hand in the stalled negotiations. One major result was Charles McCoy's article in the *Wall Street Journal* entitled, "Maxxam's Hurwitz Nears Pact to Swap Redwood Grove for Thousands of Acres." The activists launched their own media offensive. David Brower, the nation's most well known postwar environmental activist, wrote an opinion-editorial for the *Los Angeles Times* stating he would not vote for Bill Clinton if he supported land deals that administratively weakened the Endangered Species Act (i.e. Habitat Conservation Plans). Later in the month, HFCC ran a full-page advertisement in the *New York Times*, designed and submitted by Dan Hamburg, urging President Clinton to use a debt-for-nature swap to acquire all 60,000 acres of Headwaters Forest. The ad famously stated, "We need a forest, not a tree museum" (Figure 8).<sup>232</sup>

A three-way version of brinksmanship thus emerged after two July meetings between the company and the administration. Interior, the company, and the activists each tried to generate the leverage needed to close the negotiations in their favor – a game won by Pacific Lumber due to its ability to walk away and log under its salvage

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\$51,785; Darryl Cherney, "History of Headwaters Campaign-And Outline, 1998, 2007, papers of Darryl Cherney, Redway, CA

<sup>232</sup> Kathy Bailey, "Headwaters Update," August 22, 1996, EPIC archives, Eureka, CA; Charles McCoy, "Maxxam's Hurwitz Nears Pact to Swap Redwood Grove for Thousands of Acres," *Wall Street Journal*, July 19, 1996, A4; David Brower, "Why I Won't Vote for Clinton," *Los Angeles Times*, July 22, 1996, unknown page, papers of Kathy Bailey, Philo, CA; letter from Earth Island Institute to Headwaters Supporter, July 1996, Bailey Papers, Philo, CA;

logging exemption. The activists continued to press for the purchase of 60,000 acres despite the advice of their attorney and the Save-the-Redwoods League. As a result, they marginalized themselves from the Administration and gave Garamendi ground cover to walk away entirely. In fact, many Northcoast activists would have preferred to kill the deal rather than accept an 8,000-acre purchase that enriched Hurwitz (See Figure 9). The activists also convinced Ralph Nader, whom pundits trumpeted as a real threat to Clinton's electoral votes, to send Clinton a letter demanding the president orchestrate a debt-for-nature swap for the full 60,000 acres. Nader subsequently placed an advertisement to that effect in the *New York Times* leading up to the Democratic Convention in Chicago.<sup>233</sup>

Deputy Secretary Garamendi also used the press to improve his leverage with Hurwitz. In the *New York Times*, Garamendi pronounced the pressure was on Pacific Lumber to accept a land swap because Hurwitz was the one who would face an angry public if he logged the groves. Garamendi told the reporter, "He [Hurwitz] is the one who is going to incur the wrath of anyone who knows anything about Headwaters if he goes in and logs." The statement appears to be a direct reference to the Northcoast activists' backwoods actions as well as the public relations nightmare Hurwitz experienced since his takeover of Pacific Lumber.<sup>234</sup>

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<sup>233</sup> Mike Geniella, "Lumber Firm: Cut Land Deal or Cut Trees," *The Press Democrat*, August 6, 1996, unknown page, EPIC archives, Redway, CA; memo from Tom Lippe to Dough Thron, Cecelia Lanman, Kathy Bailey, and Jill Ratner, "Discussions with Administrations," July 26, 1996, EPIC archives, Eureka, CA; Mike Geniella, "Redwoods League Won't Back Activists," *The Press Democrat*, July 28, 1996, unknown page, EPIC archives, Redway, CA; Bailey interview; Hamburg interview; Cherney interview; Bundy interview; Full-page *New York Times* advertisement placed by Dan Hamburg. Clinton doling out corporate welfare to Hurwitz. Clinton must do debt-for-nature instead. Clinton protecting less than 20% of the Interior Dept.'s critical habitat area. (*New York Times*, August 22, 1996. Hamburg papers, Ukiah, CA; Tim Golden, "Talks on Saving Redwoods May Be Near Decisive Point," *The New York Times*, August 27, 1996, A9.

<sup>234</sup> Golden, "Talks on Saving Redwoods."

John Campbell and Charles Hurwitz knew they had the upper hand, however, and the company's August and September strategy was born out of that confidence. On August 5, the firm announced it would begin salvage logging on the first lawful day – September 16 – unless the government picked up the pace of negotiations and sealed a deal before then. Two Pacific Lumber officials were quoted in the *New York Times* article where Garamendi challenged Hurwitz, stating there was no debt-for-nature deal because there was no debt, the company had legal permission to enter all of Headwaters outside Owl Creek, and they planned to carry out their harvests. The government was simply moving too slowly for Hurwitz' taste. When the August Congressional recess began, Campbell met with Senator Feinstein in San Francisco and again asked her to help in the negotiations. She agreed, and convened weekly meetings with the company, the Clinton Administration, and California officials. Pacific Lumber was in control of the negotiations, and never really relinquished that position.<sup>235</sup>

The leverage of the company frustrated the activists, and they scrambled – in some constructive and other not so constructive ways – to gain traction in negotiations conducted without them. The activists had created the conflict and had largely driven the action to that point, and to be shut out was especially hard to swallow. HFCC hired a campaign consultant to ramp up their public outreach efforts, and Kathy Bailey wrote to Garamendi bemoaning HFCC's lack of input and restating the organization's position.

The activists demanded a ban on logging and road-building in three areas: the virgin

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<sup>235</sup> Campbell interview; Geniella, "Cut Land Deal or Cut Trees;" Golden, "Talks on Saving Redwoods;" Mike Geniella, "Feinstein Credited as Headwaters Catalyst," *The Press Democrat*, October 2, 1996, unknown page, EPIC archives, Redway, CA; *The Times-Standard*, "D.C. Talks Intensify over Headwaters Land Swap," *The Times Standard*, August 15, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Showdown Over Headwaters," *The Press Democrat*, September 8, 1996, A1, EPIC archives, Redway, CA; Jane Kay, "Headwaters Fight Comes to a Head," *San Francisco Examiner*, September 8, 1996, unknown page, EPIC archives, Redway, CA

groves inside the Marbled Murrelet Conservation Area (the formal name of the critical habitat designated by the FWS), North Headwaters Grove, and 300-foot buffers around every murrelet-occupied grove on Pacific Lumber property. Additionally, Bailey informed Garamendi that every watercourse within the 60,000-acre Headwaters Complex and North Headwaters Grove had to be protected from logging due to the listing of the Coho salmon and Steelhead trout. The activists would not support any deal limiting the authority of the Endangered Species Act. The frustration of a few anonymous Northcoast residents boiled over Labor Day weekend. Campbell's house was vandalized with "Save Headwaters" graffiti, and his pool was covered with gasoline and set ablaze. The press speculated that either environmentalists did it, or individuals inside the timber industry who wanted to sully the reputation of the activists had. Either way, frustration then led activists down a perilous path.<sup>236</sup>

Shut out of the official negotiations, the activists enlisted new tactics to undercut Pacific Lumber's leverage. The Northcoasters recruited mainstream, DC-based groups to pressure Clinton not to concede the authority of the Owl Creek injunction or the Endangered Species Act. To aid that effort, the activists stopped targeting Clinton directly in the press and refocused on vilifying Hurwitz. Finally, the activists appealed to the California Board of Forestry to suspend salvage logging across the state. The Board rejected the petition because they deemed the Headwaters conflict did not constitute a statewide emergency. Despite the loss at the hand of the Board, the activists' strategy

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<sup>236</sup> Tracy Katelman to EPIC, Kathy Bailey, Ken Miller, Karen Pickett, Karin Rosman, Jill Ratner, "HFCC 8/29," EPIC archives, Eureka, CA; Doug Linney to HFCC, "Consulting for the Headwaters Forest Campaign," August 6, 1996, EPIC archives, Eureka, CA; letter from Kathy Bailey, Sierra Club California to Assistant Secretary John Garamendi, "Headwaters Forest," August 21, 1996, EPIC archives, Eureka, CA; Bailey also wrote to the U.S Department of Agriculture about the Elk River Timber property, Kathy Bailey to Allen McReynolds, Special Assistant to the Secretary, USDA, "Re: Elk River Timber," August 10, 1996, papers of Kathy Bailey, Philo, CA; Campbell interview.

seemed to pay dividends because the government negotiators repeatedly balked at Hurwitz' demands.<sup>237</sup>

Though government officials balked, Pacific Lumber held firm because it held nearly all the leverage. The company had legal permission to salvage log Headwaters – which by company definition could include old-growth trees because they defined those trees as dying. Additionally, the company had the Clinton Administration in a catch-22. If negotiations failed, many Americans would be outraged that ancient redwoods fell. Additionally, the government would be forced to fight a takings suit in a Supreme Court increasingly siding with property owners. Finally, the Gingrich Congress was clamoring to dramatically reform the Endangered Species Act, so a federal victory in court or a deal offensive to landowners might provide Republicans with the capital to push a bill through Congress. As negotiations stalled, Congressman Riggs introduced legislation to require the government to pay property owners for land designated critical habitat under the Endangered Species Act – a not so subtle bill to benefit Pacific Lumber. On Friday, September 13, the company again announced it planned to log Monday, and Governor

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<sup>237</sup> Full page advertisement in New York Times, September 3, 1996, “An ancient redwood can withstand centuries of drought, wind, fire, and flood. It’s Charles Hurwitz it can’t handle.” EPIC archives, Redway, CA; Carl Pope to “Environmental Leaders,” circa September 5, 1996, Bailey Papers, Philo, CA; letter from Carl Pope to President Bill Clinton, circa September 5, 1996, Bailey Papers, Philo, CA; Carl Pope, Sierra Club, David Brower, Earth Island Institute, John Buettler, CA Sportfishing Protection Alliance, Deb Clallahan, League of Conservation Voters, Randy Hayes, Rainforest Action Network, Jay Watson, The Wilderness Society, John McCaul, National Audubon Society, Jim Jontz, Western Ancient Forests Campaign, Jim Eaton, California Ancient Forest Alliance, Jim Crenshaws, United Anglers of CA, Victor M. Sher, Sierra Club Legal Defense Fund, Rodger Schlickheisen, Defenders of Wildlife, Dominick Dellasala, World Wildlife Fund, David Edelson, Natural Resources Defense Council, Schaust, CA League of Conservation Voters, Julia Levin, Natural Heritage Institute, Steve Evans, Friends of the River to President Clinton, September 11, 1996, papers of Kathy Bailey, Philo, CA; David Brower, “Forest on the Verge,” The New York Times, September 15, 1996, E15; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Kathy Bailey, copy of testimony to Chairman Kersteins and Members of the Board, September 9, 1996, papers of Kathy Bailey, Philo, CA; Felicia Marcus, Regional Administrator, Environmental Protection Agency to Robert Kersteins, Chairman, CA Board of Forestry, October 1, 1996, papers of Kathy Bailey, Philo, CA; Elliot Diring, “Headwaters Deal Was a Close Call,” San Francisco Chronicle, September 30, 1996, A1, EPIC archives, Redway, CA

Wilson pleaded with Pacific Lumber to delay cutting until a deal was done. The Wilson and Clinton Administrations, along with Cambell and Dianne Feinstein, huddled in DC over the weekend. The company agreed to postpone logging for two weeks.<sup>238</sup>

The Northcoast activists used the September 15 rally to repeat their demand for public acquisition of 60,000 acres. An estimated 5,000 people attended the rally in Carlotta, with 300 to 400, including the singer Bonnie Raitt, arrested in a symbolic crossing of the Pacific Lumber property line. The sheer size of the rally -- the largest forestry-related protest in United States history -- must have attracted the attention of the negotiators. The massive protest was just the beginning of the next round of the redwood wars. Earth First!, as planned, launched a set of multi-week actions to disrupt logging and publicize their 60,000-acre demands. The actions, organized to a large degree by Alicia Littletree, included activists locked down to every logging gate leading to Headwaters. They used handcuffs inside of metal pipes set into cement-filled oil drums to secure themselves to, and around, logging gates. They placed an old Toyota in front of one logging gate, complete with activists handcuffed to the car. And they orchestrated a "wailing wall" of women in downtown Scotia. Forty people were arrested during the first four days of post-rally actions, costing the county an apparent \$10,000 a day.<sup>239</sup>

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<sup>238</sup> Paul Rogers, "Forest Feud," San Jose Mercury News, September 11, 1996, 1A, EPIC archives, Redway, CA); Mike Geniella, "Hurwitz, Feds Try to Cut Deal on Headwaters," The Press Democrat, September 12, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Critical Talks on Headwaters Open Today," The Press Democrat, September 11, 1996, unknown page, EPIC archives, Redway, CA; "Talking Points and summary for the Riggs headwaters Bill (H.R. 4032), EPIC, September 11, 1996; Marla Cone, "Wilson Asks Firm To Delay Cutting Redwoods," Los Angeles Times, September 12, 1996, A3, EPIC archives, Redway, CA; Christopher Rosche, "No Headwaters Deal Soon, Official Says," The Times Standard, September 13, 1996, unknown page, EPIC archives, Redway, CA; Alex Barnum and Carolyn Lochhead, "Headwaters Logging Delayed," San Francisco Chronicle, September 14, 1996, unknown page, EPIC archives, Redway, CA

<sup>239</sup> Stephen Levine, "Rally for Redwoods Attracts 5,000; Environmentalists Push to Save Old-Growth Forest in California," The Washington Post, September 16, 1996, A11; Mike Geniella, "Forest Talks at 'Critical Stage'," The Press Democrat, September 20, 1996, unknown page, EPIC archives, Redway, CA; Eric Brazil, "New Fight for Redwoods Radical," San Francisco Examiner, December 15, 1996, unknown

The situation turned increasingly tense during the subsequent week. Negotiations among Garamendi, Hurwitz, and Director Wheeler of the California Department of Natural Resources resumed in DC Friday, September 20. The Northcoast activists and Congressman Riggs each submitted unsuccessful requests to participate in the negotiations. The Congressman's and the activists' failures only added to the frustration, because county officials and residents were locked out of the process. Contributing to the rising tensions, the Rose Foundation held a press conference requesting that OTS freeze Maxxam's assets to ensure the company had the money to pay any fines associated with the S&L proceedings. Meanwhile, Senator Boxer continued to plead with Governor Wilson to stop salvage logging in Headwaters, and Earth First! was in the midst of a ten-day tree sit of Owl Creek that included ten sitters and five tree platforms. On September 18, local police hired a tree climber to remove half the tree sitters and much of their supplies. The police were accused of injuring activists during various backwoods actions, as they had been throughout the 1990s era. In Sacramento, state officials met with Red Emerson to include North Headwaters Grove in the deal. Emerson agreed to temporarily halt operations in the grove – a nod to the imminent end of negotiations. By the September 26, the negotiations were at fish or cut bait status. Campbell, Garamendi, Feinstein, and Wheeler met for eighteen hours Thursday and Friday. The government negotiators threatened to walk out because Hurwitz refused to reduce his asking price,

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page, EPIC archives, Redway, CA; Barbara Henry, "Logging Protesters Persevere," The Times Standard, September 17, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Forest Talks at 'Critical Stage'," The Press Democrat, September 20, 1996, unknown page, EPIC archives, Redway, CA

and Pacific Lumber came out of the negotiations announcing it would begin logging Monday if no deal was reached.<sup>240</sup>

On Saturday, September 28, 1996, what became known as “the Deal” was announced, and it outlined the price and process for completing an unprecedented land acquisition and endangered species habitat management agreement. The federal and California governments agreed to purchase 7470 acres of Pacific Lumber land, including the ancient Headwaters and Elk Head Springs Groves, for \$380 million. Part of the cash would be used to purchase 9600 acres from Elk River Timber, of which Pacific Lumber would receive 7755 acres. As part of the acquisition, the company agreed to file a Habitat Conservation Plan and Sustained Yield Plan for the rest of its property. Pacific Lumber also agreed to suspend its taking suits against the United States and California. Finally, the company agreed not to log the 7470 acres for ten months while the financing was negotiated.<sup>241</sup>

Northcoast activists immediately criticized the deal as insufficient for the ancient redwoods and its inhabitants. The HCP would be the first multi-species HCP approved

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<sup>240</sup> Mike Geniella, “Forest Talks at ‘Critical Stage’,” The Press Democrat, September 20, 1996, unknown page, EPIC archives, Redway, CA; David Anderson, “Riggs Bids to Localize Forest Talks,” The Times Standard, September 17, 1996, unknown page, EPIC archives, Redway, CA; Letter from Tom Lippe to Honorable John Garamendi, September 24, 1996, EPIC archives, Eureka, CA; copy of Executive Summary of Rose Foundation OTS brief sent to Cecelia, Dana, Darryl, et al from [ROSEFDN@aol.com](mailto:ROSEFDN@aol.com), September 25, 1996, hard copy in EPIC archives, Eureka, CA; Senator Barbara Boxer to The Honorable Pete Wilson, September 23, 1996, papers of Kathy Bailey, Philo, CA; The Times-Standard, “Tree-sitters in 10<sup>th</sup> Day of Vigil Near Headwaters,” The Times Standard, September 24, 1996, unknown page, EPIC archives, Redway, CA; Mark Heimann, “Woo-Woo & the Fight to Save Headwaters,” The Anderson Valley Advertiser, September 25, 1996, page 7, EPIC archives, Redway, CA; Mike Geniella, “Today’s Talks Key to Saving Redwoods,” The Press Democrat, September 24, 1996, B1, EPIC archives, Redway, CA; Mike Geneilla, “Headwaters Negotiations Continue Today,” The Press Democrat, September 27, 1996, unknown page, EPIC archives, Redway, CA; Elliot Diringer, “Headwaters Deal Was a Close Call,” San Francisco Chronicle, September 30, 1996, A1, EPIC archives, Redway, CA; Mike Geniella, “Marathon Talks Lead to Headwaters Agreement,” The Press Democrat, September 28, 1996, unknown page, EPIC archives, Redway, CA; Elliot Diringer, “Headwaters Deal Was a Close Call,” San Francisco Chronicle, September 30, 1996, A1, EPIC archives, Redway, CA

<sup>241</sup> The 1996 agreement can be found at <http://resources.ca.gov/headwaters/agreement.html>

under the 1982 amendments to the Endangered Species Act, and it opened the doors for a new Clinton Administration strategy to resolve private land conflicts outside of the courts and Congress. National commentators and local activists argued that Clinton approved the agreement, and the strategy of negotiating with landowners over the enforcement and implementation of the Endangered Species Act, because he feared the Gingrich Congress, its Wise Use allies, and the increasingly conservative Supreme Court. The Clinton process had begun with the Northwest Forest Plan to resolve the Spotted Owl conflict on federal lands in Oregon and Washington. The Headwaters Deal implemented the administrative strategy on private land, and activists believed it was simply a backdoor way to gut the Endangered Species Act. The activists' strategy to force the acquisition issue had succeeded, but they had failed to secure their goals for the forest complex and the reformation of industrial logging. The Deal demonstrated the power of local actors – company and activist – as well as the lack of leverage the activists had with the federal Executive Branch. Protecting the president and the Endangered Species Act from Republican attacks was the top priority, and the activists' goals were anathema to those motives.<sup>242</sup>

True to the pattern of the redwood wars, the announcement of a proposed resolution to part of the conflict only re-escalated the wars. Although the press – and undoubtedly the negotiating parties – viewed the preliminary agreement as an end to the redwood wars, nearly all the local and national environmental groups objected to the Deal. HFCC struggled to develop a campaign to amend the agreement and influence the financing. Earth First! launched a barrage of actions – the backwoods actions lasting for

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<sup>242</sup> John H. Cushman Jr., "U.S. Using Swaps to Protect Land," *The New York Times*, September 30, 1996, A1. (LOC website) ("Wheeling, Dealing Surround Possible Land Swaps, Litigation," *Mine Regulation Reporter*, November 17, 1997, vol. 10, no. 23.

the better part of two and a half years – to protest the Deal and protect the forest not included in the Deal. Pacific Lumber began its salvage operations in Headwaters Forest, hastening backlash from federal and state agencies, as well as the public. Cumulatively, the direct actions, mass rallies, and litigation had driven the conflict into federal hands, and had also shut the activists out of the negotiations. Because they adjusted their tactics after 1996, the activists greatly influenced the final form of the Deal by 1999 when it was consummated.<sup>243</sup>

Earth First!, historically an asset to EPIC, Sierra Club and HFCC, reacted so strongly to the Deal that it almost derailed the revised campaign before it got off the ground. On September 29 and 30, Cherney, against the advice of Kathy Bailey and other HFCC leaders, organized rallies in San Francisco, Arcata, and Scotia to protest the deal and demonize Feinstein. 1,500 protestors attended the San Francisco rally and marched to Feinstein's office. Locally, approximately three dozen EF! activists invaded the Eureka headquarters of the Democratic Party and spread cow manure and feathers about the office. In Scotia, Bari and Cherney circled Pacific Lumber headquarters after Campbell and Riggs held a press conference touting the virtues of the Deal. The California press referred to the Earth First! activists as arrogant, Cherney as whiney, and their actions as detrimental to their allies. Despite the criticism, EF! continued to organize daily actions in the backwoods – tree sits, road blockades, rallies, and reconnaissance efforts to identify and stop old-growth logging on Pacific Lumber land.

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<sup>243</sup> Michael Satchell, "To Save the Sequoias," U.S. News & World Report, October 7, 1996, 42, EPIC archives, Redway, CA; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Paul Rogers, "Headwaters Pact Criticism is Widespread," San Jose Mercury News, October 1, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Environmentalists Call Pact a 'Slap in the Face,'" The Press Democrat, September 29, 1996, unknown page, EPIC archives, Redway, CA.

More than 1,200 activists were arrested between September 15 and the end of November, including actor Woody Harrelson who climbed the Golden Gate Bridge and hung a banner.<sup>244</sup>

Meanwhile the Headwaters Forest Coordinating Committee developed a new strategy to ensure the final deal would protect endangered species and ancient redwoods. Stubbornly, they remained committed to protecting the full 60,000-acre complex from unsustainable forestry – for humans and wildlife alike. True to form, the activists would not separate their social and ecologic vision for the Northcoast. The activists wanted the final deal to bolster the Endangered Species Act and provide for the restoration of the entire forest complex, and they wanted to remove the corporate owners from the county. To achieve their goals, they revised their strategy from one addressing state agency action

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<sup>244</sup> Kathy Bailey to Darryl Cherney, October 4, 1996, papers of Kathy Bailey, Philo, CA; Darryl Cherney, “History of Headwaters Campaign-An Outline,” 1998/2007, papers of Darryl Cherney, Redway, CA; (“California Protest Targets Redwoods Pact,” USA Today, September 30, 1996, 3A, EPIC archives, Redway, CA; Paul, CA; “Clear-Cutting Credibility,” San Francisco Chronicle, October 2, 1996, Editorial, EPIC archives, Redway, CA; New Protests; Workers Wary of Losing Jobs,” The Press Democrat, October 1, 1996, unknown page, EPIC archives, Redway, CA; Mikal Jakubal, “Preface to the proposed Campaign Organization System: On the Importance of Solidarity and Morale,” unknown date, but some time in 1997 (page 1 refers to “Last Fall’s (1996) nonviolent action campaign,” EPIC archives, Eureka, CA; Mike Geniella, “Feinstein Credited as Headwaters Catalyst,” The Press Democrat, October 2, 1996, unknown page, EPIC archives, Redway, CA; Jane Kay, “Treetop protesters Won’t Go Away,” San Francisco Examiner, October 6, 1996, unknown page, EPIC archives, Redway, CA; “Confrontation Over Redwoods,” The New York Times, October 2, 1996, unknown page, EPIC archives, Redway, CA; Glen Martin and Alex Barnum, “Earth First Ready to Defy Loggers,” San Francisco Chronicle, October 9, 1996, unknown page, EPIC archives, Redway, CA; Jessie Faulkner, “Headwaters Rally Brings New Arrests,” The Times Standard, October 13, 1996, unknown page, EPIC archives, Redway, CA; Associated Press, “Seven More Arrested at Headwaters Rally,” The Press Democrat, October 13, 1996, unknown page, EPIC archives, Redway, CA; Associated Press, “Arrests Continue in Redwoods Protest,” San Francisco Examiner, October 13, 1996, unknown page, EPIC archives, Redway, CA; Jessie Faulkner, “Headwaters Rally Brings New Arrests,” The Times Standard, October 13, 1996, unknown page, EPIC archives, Redway, CA; (“Protesters Rally at State Forestry Office,” San Jose Mercury, October 22, 1996, 3B, EPIC archives, Redway, CA; Associate Press, “Noisy Protest at State Forestry Office,” San Francisco Chronicle, October 22, 1996, unknown page, EPIC archives, Redway, CA; (“Fighting for the Trees,” San Francisco Examiner, November 1, 1996, unknown page, EPIC archives, Redway, CA; (“Grandmas Join up in Headwaters Rally,” The Times Standard, November 13, 1996, unknown page, EPIC archives, Redway, CA; The Times-Standard, “60 Arrested at Timber Protest,” The Times Standard, November 16, 1996, unknown page, EPIC archives, Redway, CA; “25 Arrested in Headwaters Protest,” The Press Democrat, November 16, 1996, unknown page, EPIC archives, Redway, CA; (“Headwaters Stunt,” The Press Democrat, November 26, 1996, Editorials, EPIC archives, Redway, CA; “Throw the Book at Them,” San Francisco Chronicle, November 26, 1996, editorial page, EPIC archives, Redway, CA;

to stop THPs to one focused on public support; coalition-building to the broadest possible swath of environmental, conservation, sporting, political, and religious groups; and pressuring Hurwitz to sell via a Maxxam boycott, promotion of the OTS asset freeze action, and divestment actions. The HFCC consultant, Michael Shellenberger believed the groups needed to stop attacking the Deal and encourage all efforts to protect Headwaters Forest, even if they thought the efforts didn't provide adequate protections. To some degree, Kathy Bailey agreed with Shellenberger, but thought it was HFCC's job to work toward the best plan for managing the forest, not the one most politically expedient.<sup>245</sup>

By the end of December, and for the subsequent fourteen months, the conflict over Headwaters Forest focused on the financing of the acquisition of Headwaters Groves and the management proscriptions for the portion of the Headwaters Complex left under Pacific Lumber control. Pacific Lumber played into the hands of the environmentalists in October when they resumed salvage logging in the complex, logging five harvest areas inside or just outside the Marbled Murrelet Conservation Area, and by submitting new old-growth and residual old-growth grove Timber Harvest Plans. Senator Feinstein, Secretary Garamendi, and the Environmental Protection Agency all pleaded with the company and the Board of Forestry to halt old-growth logging during the final negotiations. They feared public backlash that might impede the negotiations. The Board rejected the appeals, and Pacific Lumber forged ahead with its operations, no

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<sup>245</sup> Memo from Kathy Bailey to HFCC, "Where we go from here," October 22, 1996, EPIC archives, Eureka, CA; Tracy Katelman to HFCC, "Re: Ongoing HFCC, Finances, etc...", October 22, 1996, EPIC archives, Eureka, CA; Darryl Cherney, "Official Statement to HFCC," October 22, 1996, EPIC archives, Eureka, CA; Kathy Bailey to EPIC and Whoever, "Re: What I have been saying and doing which may have caused some concerns to arise," November 21, 1996, EPIC archives, Eureka, CA; Michael Shellenberger to JFCC Media Committee, "Where we are now," October 24, 1996, EPIC archives, Eureka, CA;

doubt hoping the final negotiations would conclude quickly. On December 5, the state and federal agencies submitted to Hurwitz a list of public properties it was willing to swap for Headwaters and Elk Head Springs. On December 18, the company submitted its 120-year Sustained Yield Plan to CDF, and the final march to concluding the Deal was apace.<sup>246</sup>

### **Stalemate in the Woods and the Negotiating Room: 1997 – 1999**

The draft land management plans and list of possible land exchanges seemingly marked the inevitability of a final Deal, however the local activists and the company challenged California's – and national environmental groups'-- terms until March 1999 when the federal appropriation expired. Without the actions of the California legislature, forced by the local activists, the Deal would have undoubtedly concluded sooner and with

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<sup>246</sup> Glen Martin and Alex Barnum, "Earth First Ready to Defy Loggers," San Francisco Chronicle, October 9, 1996, unknown page, EPIC archives, Redway, CA; Jessie Faulkner, "Headwaters Rally Brings New Arrests," The Times Standard, October 13, 1996, unknown page, EPIC archives, Redway, CA; Felicia Marcus, Regional Administrator, Environmental Protection Agency to Robert Kerstiens, Chairman, CA Board of Forestry, October 1, 1996, papers of Kathy Bailey, Philo, CA; "Board Rejects Proposed Emergency Rule," CDF News Release, October 9, 1996, EPIC archives, Redway, CA; Senator Diane Feinstein to Governor Pete Wilson, October 18, 1996, papers of Kathy Bailey, Philo, CA; Kathy Bailey to Secretary Garamenid, "Re: Board of Forestry – Oct. 8," October 3, 1996, papers of Kathy Bailey, Philo, CA; Kathy Bailey, "Draft by KB 895-3716 October 11, 20:00 PDT: Environmental Groups Call for Cease Fire in Headwaters Forest," October 11, 1996, EPIC archives, Eureka, CA; Jessie Faulkner, "Headwaters Rally Brings New Arrests," The Times Standard, October 13, 1996, unknown page, EPIC archives, Redway, CA; Kathy Bailey to Elyssa Rosen, Josh Kaufman, Adam Werbach, Julia Bott, David Nesmith, Bill Craven, Joel Brecher, EPIC, "Subject: HW OF report," March 5, 1997, papers of Kathy Bailey, Philo, CA; Mike Geniella, "Pacific Lumber Faults Swap List," The Press Democrat, December 7, 1996, unknown page, EPIC archives, Redway, CA; Ray Delgado, "Feinstein Slams Forest Swap Plan," San Francisco Examiner, December 8, 1996, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Feinstein Softens Tone on Land Swap," The Press Democrat, December 14, 1996, unknown page, EPIC archives, Redway, CA; "Milestone Achieved in Headwaters Deal: DOI Identifies Exchange Assets," Press Release from US Department of the Interior, December 5, 1996, papers of Kathy Bailey, Philo, CA; "120 Year Sustained Yield Plan Submitted," PALCO News Release, December 19, 1996, EPIC archives, Eureka, CA; David Anderson, "Wait-see Attitude on Plan," The Times Standard, December 26, 1996, unknown page, EPIC archives, Redway, CA;

much greater local environmental objections. All told, the two years prior to the consummation of the Deal help underscore the powerful, yet underappreciated, roles local activism and local concerns have had on the development of the modern environmental protection regime. Additionally, those years call attention to the commitment of local activists to their decidedly anti-corporate, ant-corporatist vision for the Northcoast, chinking to some degree the nationalization and professionalization narrative of the development of national environmental politics. Finally, the final years of the negotiation also highlight how committed the Northcoast activists were to resource conservation methodologies, timber industry longevity, active landscape management, and ecologic health.

During the twenty-six months preceding consummation, lawmakers and local combatants debated the public and private valuation of Pacific Lumber land and the nature of private property rights. The price of the public land acquisition, the relative values of salmonids, ancient trees, murrelets, spotted owls, and shareholder wealth were contested. The goals and reach of the Endangered Species Act were debated. And the private role promoting the public good was challenged. These were the same issues that framed the redwood wars from their inception, and the negotiation of the final Headwaters Deal simply offered a finite and brief platform to intensely attend to those issues. Additionally, the more than two years beginning September 15, 1996 with the massive rally and the late fall arrest of Woody Harrelson on the Golden Gate Bridge provided some of the most enduring images of the redwood wars. In the end, the state ceded ground to Northcoast activists and the company alike, though both sets of actors

were disappointed with the final agreement and continued to challenge its terms well into the twenty-first century.

The Northcoast activists pursued their goals of a 60,000-acre public forest managed for timber and endangered species. The HFCC produced its own Citizens' Proposal, Earth First! took to the woods to protect the ancient groves not included in the Deal as well as many of the other old-growth trees on Pacific Lumber property. HFCC, led by EPIC, developed its own Habitat Conservation Plan., and it monitored and challenged the official HCP by playing the "agency game," as Josh Kaufman wrote. Many of the activists continued to challenge the acquisition price, arguing Hurwitz should not be rewarded for a business model that led to the public bailout of the Texas Savings & Loan industry. Finally, the HFCC devised new policy approaches using their greater influence on the California legislature. The activists walked away frustrated that the vast majority of Headwaters Forest remained in Pacific Lumber hands and that the government had surrendered part of the authority of the Endangered Species Act. However, many of the activists were grateful to have protected more ancient groves than they had proposed in the Forests Forever initiative while also strengthening the land regulations above what the federal government had accepted.<sup>247</sup>

The company used its leverage to hold its ground, but in the end agreed to accept restrictions beyond the HCP requirements in order to secure nearly \$500 million in cash and end one very frustrating portion of the redwood wars. The company withstood continued public relations nightmares not because it effectively navigated those incidents (it did not), but because the salvage logging exemption and the tentative Deal gave it

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<sup>247</sup> Josh Kaufman of the Redwood Chapter of the Sierra Club used the phrase "agency game" in a HFCC memo. Memo from Josh Kaufman to HFCC, "Idea," October 3, 1996, EPIC archives, Eureka, CA

enormous leverage. Pacific Lumber drove a hard bargain with the state and federal governments because it retained the ability to walk away and begin logging any time it chose. The company believed they received fair compensation and regulatory certainty.

While the details of the final agreement between the state and Pacific Lumber were ironed out, North Coast Earth First! and related activists worked to stop all clearcuts, old-growth harvests, and streamside operations with dramatically expanded direct actions. The escalation was uncontrolled and the movement splintered, leading to a decline in public sympathy for the activists. The activists were intent on highlighting the destructive logging practices of Maxxam/Pacific Lumber and placing their bodies in front of loggers to protect old-growth trees and endangered species such as the coho salmon and marbled murrelet. The small size of the proposed land acquisition and the inclusion of a Habitat Conservation Plan –which they, like EPIC and most environmental groups viewed as undermining the Endangered Species Act– created a sense of urgency because they believed the Deal would not prevent the degradation of the ancient redwood ecosystem or the local community. During 1997 and 1998, activists expanded their tree-sits to protect residual old-growth groves within and without 60,000-acre Headwaters complex such as Bear Creek, Grizzly Creek, and the Mattole watershed, and they ramped up their installation of road blockades. The move outside the Headwaters Forest complex only gave credence to their portrayal as obstructionists intent on stopping all Pacific Lumber logging. For the activists, the moves reflected their intentions to end industrial logging they viewed as unsustainable. However, their actions only contributed to unsympathetic local press coverage. For example, the pieing of Charles Hurwitz and of Carl Pope a year later did little to develop allies, and likely reduced middle-class support

for the Northcoast movement. Even the colorful road blockades, tree-sits, and Maxxam protests, due to their persistence and growing hostility, seemed to wear thin on the local press – though the actions remained relevant news.<sup>248</sup>

The actions kept the conflict in the news, yet they divided the movement. The activists differed in their strategic opinions, and due to the anarchic nature of Earth First!, many affinity groups struck out in their own directions. For every incident that tilted public opinion in their favor, some action erased the gains. For example, the December 31, 1996 mudslide that originated from a Pacific Lumber clearcut and literally buried nearly the entire town of Stafford resulted in greater working class frustration with Pacific Lumber and aided environmentalists. The mudslide eventually led to the 738-day tree sit by Julia “Butterfly” Hill that drew national attention to the protests over the Deal

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<sup>248</sup> Pastor David S. Kilmer, “Biblical Guides for Forest,” The Times Standard, June 21, 1997, unknown page, EPIC archives, Redway, CA; (“Tentative Workshop Schedule,” 1997, EPIC archives, Eureka, CA; fax from Darryl Cherney to Kevin Bundy, funder proposal for “Jail Hurwitz Campaign” and website. May 7, 1997, EPIC archives, Eureka, CA; Terri Langford, “Headwaters Proposal Thwarted,” The Press Democrat, May 23, 1997, unknown page, EPIC archives, Redway, CA; David Ivanovich, “Protesters Confront Maxxam,” Houston Chronicle, May 23, 1997, unknown page, papers of Kathy Bailey, Philo, CA; “Alleged Pie Hitter to Get Own Lawyer,” The Times Standard, September 28, 1997, unknown page, EPIC archives, Redway, CA; “Alleged Pie Hitter to Get Own Lawyer,” The Times Standard, September 28, 1997, unknown page, EPIC archives, Redway, CA; Shaun Walker, “3 Arrested in Protest at PL Site,” The Times Standard, August 23, 1997, unknown page, EPIC archives, Redway, CA; Barbara Henry, “Earth First Stages Headwaters ‘Teach-in’ on College Campuses,” The Times Standard, September 16, 1997, unknown page, EPIC archives, Redway, CA; “Carlotta: Protesters Block Road Near PL Land,” The Times Standard, September 19, 1997, unknown page, EPIC archives, Redway, CA; The Times-Standard, “Protesters Halt Pacific Lumber Logging Operation,” The Times Standard, September 27, 1997, unknown page, EPIC archives, Redway, CA; Mike Geniella, “Activists Tree-sit in Protest, but Old-growth Logging Goes on,” The Press Democrat, October 2, 1997, unknown page, EPIC archives, Redway, CA; The Times-Standard, “Riggs Office Closes Early after Death Threats Made,” The Times Standard, October 31, 1997, unknown page, EPIC archives, Redway, CA; (Associated Press, “9 Arrested in Sacramento,” The Press Democrat, November 4, 1997, unknown page, EPIC archives, Redway, CA; violent crime based on what EF! And (later police?) claim is a fraudulent flier. (David Anderson, “Mystery Flier Heats Forest Tiff,” The Times Standard, November 4, 1997, unknown page, EPIC archives, Redway, CA; The Times-Standard, “Police Observe Another Protest,” The Times Standard, November 14, 1997, unknown page, EPIC archives, Redway, CA; Andrew LaMar, “Humboldt Deputies Arrest 13 Protesters,” The Press Democrat, October 9, 1996, unknown page, Redway, CA; Suzanne Zalev, “Another Man Out on a Limb,” The Times Standard, October 20, 1998, unknown page, EPIC archives, Redway, CA; Jason Kennedy Steele, “Activists Vow PL action today,” The Times Standard, November 16, 1998, unknown page, EPIC archives, Redway, CA; Jason Kennedy Steele, “Deputies Arrest 18 Activists,” The Times Standard, November 17, 1998, unknown page, EPIC archives, Redway, CA; Jason Kennedy Steele, “Vandals Hit Car at Tree-sit,” The Times Standard, December 28, 1998, unknown page, EPIC archives, Redway, CA

but alienated many workers and activists who viewed the tree sit as a distraction and self-aggrandizing. Even the death of Judi Bari in 1997 from breast and liver cancer had negative unintended consequences. Her death prompted the California Senate to adjourn for the day in her honor, but left the movement without one of its rudders. Afterward, Littletree and Cherney increasingly focused on the car bomb litigation. The loss of their leadership opened the doors for splinter groups with uncoordinated efforts and messages, something the movement could not afford. Finally, the initiation of the use of pepper spray by Humboldt County sheriffs to remove locked-down, peaceful protesters drew the ire of the California Attorney General and the national public alike. The subsequent heckling of Congressman Riggs at a Veteran's Day event for his support of the pepper spray tactics, however, diminished public support for the activists. By the end of 1998, Bari, Cherney, and Littletree were largely absent from the Earth First! movement on the Northcoast, and the backwoods actions were directed by myriad smaller cohorts often without using the EF! moniker. The new action groups were fearless, inventive and reckless, leading to the death of David "Gypsy" Chain in September 1998 when a logger felled a tree in his direction and subsequently landed on the activist. Chain's death occurred during cat-and-mouse actions near Grizzly Creek to stop old-growth logging of an area they hoped would be included in the final Deal.<sup>249</sup>

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<sup>249</sup> Kathy Bailey, "Summary and Update On The Pepper Spray Cases: June 24, 1998," mailing prepared by Bailey, papers of Kathy Bailey, Philo, CA;; Jaxon Van Derbeken, George Snyder, and Sabin Russell, "FBI Probing Pepper Spray 'Swabbing'," San Francisco Chronicle, November 1, 1997, unknown page, EPIC archives, Redway, CA; letter from Tim Mckay to Attorney General Janet Reno, "Earth First and Congressman Frank Riggs AND the distribution of false documents..." November 6, 1997, EPIC archives, Eureka, CA; James W. Sweeney, "Protesters Heckle Riggs at Holiday Ceremony," The Press Democrat, November 12, 1997, unknown page, EPIC archives, Redway, CA; ("Lungren on Pepper Spray," The Press Democrat, November 20, 1997, unknown page, EPIC archives, Redway, CA; James W. Sweeney, "Riggs Urges Law Against Demonstrators' Devices," The Press Democrat, November 21, 1997, unknown page, EPIC archives, Redway, CA; Mikal Jakubal, "Saving the Forest for the Trees," proposal to unknown recipients, March 20, 1998, EPIC archives, Eureka, CA; David Anderson, "Southern Humboldt Rancher

HFCC shared the concerns of the direct action-oriented activists regarding the HCP and the acquisition, but it worked to influence the terms of the two plans through public advocacy, and that was the movement's most powerful tool, as litigation had been from the 1970s through the early 1990s. HFCC worked feverishly to demonstrate the inherent flaws in the HCP process, the Pacific Lumber HCP, and the acquisition deal. It used at least three discreet tactics to flag the flaws: maintaining public pressure on officials by courting celebrity spokespeople and continuing the annual September rallies in Carlotta, submitting its own scientific comments on the HCP as well as acquisition and management proposals, and lobbying the California legislature to impose strict management guidelines on the entire MMCA and coho salmon runs. If those efforts failed, EPIC prepared to challenge the HCP in court under the Endangered Species and National Environmental Policy Acts. Some in HFCC, including Earth First! and EPIC, wanted to block the entire Deal because they did not want Hurwitz rewarded, enabling him to move to another town to create another cataclysmic conflict over his business practices. That they achieved what they did in the final month of the negotiations is miraculous given the power Pacific Lumber wielded combined with the conflicts within HFCC<sup>250</sup>.

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Tries to Bar PL Logging," The Times Standard, July 22, 1998, unknown page, EPIC archives, Redway, CA; Jonathan Jeisel, "Civil Suit to Follow on Death of Activist," The Humboldt Beacon, December 24, 1998, unknown page, EPIC archives, Redway, CA; James W. Sweeney, "Activist's Family Calls Report Biased," The Press Democrat, December 19, 1998, unknown page, EPIC archives, Redway, CA; Rhonda Parker, "Pepper Spray Suit Dismissed," The Times Standard, October 27, 1998, unknown page, EPIC archives, Redway, CA.

<sup>250</sup> "Rally Committee List," faxed to Judi Bari on April 5, 1997, EPIC archives, Eureka, CA; Kie Relyea, "Star Musicians Host Forest Fest," The Times Standard, September 13, 1997, A1, EPIC archives, Redway, CA; Mike Geniella, "Record 6,000 at Headwaters Protest," The Press Democrat, September 15, 1997, A section, EPIC archives, Redway, CA; Thonda Parker, "Headwaters Rally Forming," The Times Standard, September 12, 1997, A1, EPIC archives, Redway, CA; "Headwaters Forest Rally Seen More Darkly This Year," The Times Standard, editorial, September 12, 1997, unknown page, EPIC archives, Redway, CA; 1997 EPIC and Sierra Club California Habitat Conservation Plan/ Sustained Yield Plan Monitoring Project, papers of Kathy Bailey, Philo, CA; memo from Brian Gaffney to Kathy Bailey and Paul Mason,

In the end, the consummation of the Deal on March 1, 1999 was nearly lost because the activists convinced the California legislature the HCP did not offer enough protections for the murrelet and salmon. To the end, many Northcoast activists held on to their plan for reform in the Redwood Empire, and their disdain for professional politics shined brightly at times. Pacific Lumber also greatly contributed to the chaos because it continued its brinksmanship until the last possible moment, extracting a few final concessions and then finally blinking. The federal appropriation expired at midnight on March 1, 1999, and the permits, deeds, and contracts were signed at nearly the stroke of midnight, if not well after. Nothing ever came easy during the redwood wars, especially after World War II, and the drama and intrigue was the result of local action, not beltway insistence.

The final negotiations were never easy. The all-cash federal appropriation had been signed by President Clinton on November 14, 1997. Senator Feinstein had convinced Congress and the Administration to pursue an all cash deal to avoid further strife with Pacific Lumber over land swaps. Under the all-cash appropriation, the federal government would contribute \$250 million toward the acquisition of the agreed upon groves, and the state of California would contribute the remaining \$130 million. The

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“Garamendi Hdwtrs Agreement,” October 3, 1996; EPIC archives, Eureka, CA; Kathy Bailey, memo to Chuck Powell, Cecelia Lanman, Paul Mason, and Kevin Bundy, Draft 1, August 19, 1997; Mike Geniella, “Celebrities Recast Headwaters Debate,” *The Press Democrat*, May 5, 1997, unknown page, EPIC archives, Redway, CA; Kathy Bailey letter to “Friends,” July 12, 1997, Bailey Papers, Philo, CA; Tara Mueller memo to Josh Kaufman, Elyssa Rosen, and Paul Mason, “Headwaters Agreement,” July 31, 1997, EPIC archives, Eureka, CA; Tara Mueller to Paul Mason and Josh Kaufman, “Re: Your HW Agreement Memo,” August 2, 1997, EPIC archives, Eureka, CA; Josh Kaufman to Kathy Bailey, Brian Gaffney, Elyssa Rosen, Tom Lippe, Tara Mueller, EPIC, “Subject: Tom’s Memo,” August 11, 1997, EPIC archives, Eureka, CA; Kathy Bailey, “Confidential: Common Interest In Litigation Privelage. Offer of Finanical Assistance from Environment Now!,” memo to Cecelia, Paul, Kevin, Elyssa, and Josh, June 1, 1998, papers of Kathy Bailey, Philo, CA; Kathy Bailey to Dave Montgomery, Chris Frissell, Peter Moyle, and George Pess, “PL HCP Review,” June 30, 1998, papers of Kathy Bailey, Philo, CA; Susan Reed Clark to Cecelia Lanman, “RE: Grant #99-38,” October 15, 1998, papers of Kathy Bailey, Philo, CA; Dan Hamburg, “\$130 Million Headwaters Is No Deal,” *San Francisco Chronicle*, July 22, 1998, unknown page. Hamburg papers, Ukiah, CA.

agencies and the company negotiated the terms of the HCP and Sustained Yield Plan for all of Pacific Lumber's land throughout 1998, and the company repeatedly threatened to walk away from the deal due to requests for tighter and tighter restrictions on timber harvests, especially the requests for wider no-logging zones along coho salmon watercourses. How the stalemate of 1998 broke is testament to the power of the Northcoast activists in California by that time, and to the desire of Pacific Lumber to sell the property and enter a more certain regulatory future.<sup>251</sup>

### **Breaking the Stalemate: Policy Innovations and Cash**

The California legislature, at the behest of environmental activists, included additional land management stipulations in its appropriations bill, passed on the final day of the 1998 session, and subsequently demanded Pacific Lumber sign a contract with the California Wildlife Conservation Board to enforce the state appropriation prescriptions. The federal appropriation had signaled trouble in California; Senator Byron Sher and

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<sup>251</sup> Carolyn Lochhead, "Headwaters Deal Runs Into More Trouble in House," *San Francisco Chronicle*, January 24, 1997, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Feinstein Urges All-cash Deal for Headwaters," *The Press Democrat*, January 24, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "Talks over Headwaters Held in Feinstein's Office," *The Times Standard*, January 29, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "PL Spurns State Offer, Seeks Cash for Forest," *The Times Standard*, February 5, 1997, unknown page, EPIC archives, Redway, CA; Mike Geniella, "Forest Deal Delayed until '98," *The Press Democrat*, March 13, 1997, unknown page, EPIC archives, Redway, CA; John Howard, Associated Press, "Hurwitz to Get Cash Offer for Headwaters," *The Press Democrat*, March 15, 1997, unknown page, EPIC archives, Redway, CA; The Associated Press, "U.S. Finds Cash for Forest," *The Times Standard*, May 17, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "Timber Deal May Hit Snag," *The Times Standard*, May 20, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "Senate Set to Affirm Forest Buy," *The Times Standard*, May 21, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "Headwaters Accord OK'd," *The Times Standard*, October 10, 1997, unknown page, EPIC archives, Redway, CA; Alex Barnum, "Veto Urged on Spending Bill That Would Buy Headwaters," *San Francisco Chronicle*, October 24, 1997, unknown page, EPIC archives, Redway, CA; Carolyn Lochhead, "Clinton OKs \$250 Million to Buy Headwaters Forest," *San Francisco Chronicle*, November 15, 1997, unknown page, EPIC archives, Redway, CA

Assemblywoman Carol Migden warned President Clinton that unless an additional 2,300 acres of old-growth were protected, they wouldn't have the votes to pass the California appropriation. Despite the uphill battle, Sher introduced a Headwaters appropriations bill during the summer of 1998, and his bill divided Northcoast activists. Sher's bill increased the no-logging buffers along streams to levels above Pacific Lumber's draft HCP but below those prescribed by the Federal Ecosystem Management Asset Team that developed the Northwest Forest Plan. Sher's bill also prohibited logging in Owl Creek until California could figure out how to acquire that grove, and it stipulated the company could not log old-growth inside the MMCA for fifty years. Kathy Bailey and Sierra Club decided they would work to improve the legislation with an eye toward supporting the bill. EPIC, EF!, and others wanted to kill the bill in 1998 because the official draft HCP had not yet been released. Pacific Lumber also rejected the terms of the bill, and in early August the California budget passed without the Headwaters appropriation. It looked like the Deal was dead.<sup>252</sup>

Later in August, Sher introduced a new bill, and though divided, the Northcoast activists influenced the final language and passage of the bill. Pacific Lumber continued to refuse any deal requiring them to do more than the final HCP prescribed. On the final

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<sup>252</sup> Mike Geniella, "Headwaters Impasse Feared," *The Press Democrat*, December 13, 1997, unknown page, EPIC archives, Redway, CA; David Anderson, "Forest Rescue May Go to Vote," *The Times Standard*, June 16, 1997, unknown page, EPIC archives, Redway, CA; The Times-Standard, "Thompson Details Headwaters Bond, Vote Plan," *The Times Standard*, September 24, 1997, unknown page, EPIC archives, Redway, CA; ("Joint Committee on Headwaters Forest and Ecosystem Management: Transcript: Habitat Conservation Plan Hearing," March 16, 1998, State Capitol Room 4203, Sacramento, CA, EPIC archives, Eureka, CA; Kathy Bailey, "Damned if we Do; Damned if we Don't – Draft," memo to undisclosed "Recipients," July 21, 1998, Bailey Papers, Philo, CA; From EPIC, Earth First!, Trees Foundation, Bay Area Coalition for Headwaters (BACH), Rainforest Action Network, Greenpeace, Salmon Forever, Tazpayers for Headwaters, Voice of the Environment (VOTE), Mendocino Environmental Center, Seventh Generation Fund, Headwaters Forest Stewardship Plan, Communications Works, Coyote Valley Band, Pmo Indians, World Stewardship Institute, John Muir Project of Earth Island Institute, Bay Area Action, Serving the Earth to Governor Wilson, the California Legislature, Resources Secretary Wheeler and all interested parties, no date other than 1998, EPIC archives, Eureka, CA; Bailey interview.

day of the session, the bill was amended to appease the company, and Kathy Bailey convinced Carl Pope to sign a letter to all legislators requesting they oppose the bill as amended. Senate President pro tempore John Burton knew Carl Pope well, and when he saw the draft letter, he went back to the table with Pacific Lumber. Burton returned with company approval for revised terms similar to Sher's bill from earlier in the summer. Burton also included an additional appropriation of \$100 million to acquire the Grizzly Creek and Owl Creek groves. The additional money swayed Pacific Lumber in the end, a sign the company knew its regulatory restrictions diminished the value of its old-growth holdings. Bailey never dropped the Pope letter, but she didn't actively support the bill either. EPIC and Tom Hayden opposed the bill, but just after midnight, both houses approved the bill. The day's events show how important California Sierra Club was to the local movement. When needed, local Sierra volunteers could harness the resources of the national group for litigation. And despite Northcoast opposition to the bill, Bailey called on Pope to reduce the negatives in the bill, something even EPIC and EF! had to appreciate. However, the Club engaged only at the request, and under the direction of the local volunteers.<sup>253</sup>

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<sup>253</sup> Greg Lucas, "Redwoods Protection Plan in Jeopardy," *San Francisco Chronicle*, August 14, 1998, unknown page, EPIC archives, Redway, CA; Seth Hettena, "Stars Protest Headwaters Buyout Plan," *The Times Standard*, August 21, 1998, unknown page, EPIC archives, Redway, CA; Greg Lucas, "Burton Says Headwaters Deal is Off," *San Francisco Chronicle*, August 22, 1998, unknown page, EPIC archives, Redway, CA; Carl Pope, "OPPOSE AB 1986 (Headwaters) as amended today," letter from Pope to Members of the California Legislature, August 31, 1998, Bailey Papers, Philo, CA; Greg Lucas, "Wilson Sent New Deal on Redwoods," *San Francisco Chronicle*, September 2, 1998, unknown page, EPIC archives, Redway, CA; David Anderson, "Headwaters Hits Roadblock," *The Times Standard*, September 1, 1998, unknown page, EPIC archives, Redway, CA; Greg Lucas, "A New Deal to Protect Headwaters," *San Francisco Chronicle*, September 1, 1998, unknown page, EPIC archives, Redway, CA; Memo from Carl Pope to Sierra Club Board of Directors, circa September 5, 1998, Bailey Papers, Philo, CA; Kathy Bailey, "Brief Summary of AB 1986 (Migden) as passed August 31, 1998," memo from Bailey to HFCC, SC, G07, and other colleagues, unknown date, Bailey Papers, Philo, CA; David Anderson, "The Headwaters Deal," *The Times Standard*, September 13, 1998, unknown page, EPIC archives, Redway, CA; Greg Magnus, "Headwaters in Public Hands," *The Times Standard*, September 20, 1998, unknown page, EPIC archives, Redway, CA; Bailey interview.

The Deal was not out of the proverbial woods yet, however, largely due to the persistence of the activists. The relentlessly pursued a means to further improve murrelet and salmon protections. Northcoast activists and some legislators were unconvinced the stipulations in the final California appropriation were enforceable because the HCP had the force of law. They decided to use the contract between the California Wildlife Conservation Board and Pacific Lumber as their enforcement tool. The WCB was the entity that acquired all wildlife conservation land for California, and was thus the signatory to the land deeds and contracts with Pacific Lumber. In February 1999, legislators and activists convinced Governor Grey Davis and the WCB to discuss crafting a contract to enforce the terms of AB 1986 -- the Headwaters appropriation. Simultaneously, the state and federal agencies were negotiating the final HCP/SYP, attempting to reduce the annual harvest along waterways. Pacific Lumber rejected their demands and just days before the federal appropriation was set to expire it threatened to walk away. Senator Feinstein leapt into the void and convinced the company to accept a compromise that inserted an “adaptive management plan” clause in the HCP/SYP allowing the company to change plans in the future without going through the normal agency bureaucracy. Pacific Lumber relented to the stronger watercourse protections in the HCP in exchange for the adaptive management section.

Meanwhile, Kathy Bailey told Senator Sher that Sierra would oppose the Deal if the WCB contract was insufficient. On February 25, 1999, the WCB unanimously approved the deed contract banning logging the MMCA groves for fifty years and widening the watercourse protections as delineated in AB 1986. Campbell was uncharacteristically silent. The same day the WCB approved the contract, and further

evidence of the influence of the activists' work, CDF Chief Richard Wilson steeled himself to force Pacific Lumber into agreeing to a nearly thirty percent reduction in the proposed annual harvests across the property, and the Department of Interior altered the language of the adaptive management plan making it more difficult for Pacific Lumber to implement future changes to the HCP. Hurwitz announced the Deal was off.<sup>254</sup>

On the final day of the federal appropriation, the leverage of Pacific Lumber was on full display, as was the company's desire to close the Headwaters chapter of its history. On February 27, the California Department of Fish and Game, U.S. Fish and Wildlife Service, National Marine Fisheries Service each sent Director Wilson letters pressuring him to lower his demands for the Sustained Yield Plan. On March 1, an apparently angry Wilson sent John Campbell a letter agreeing to an approximately fifteen percent reduction in planned annual harvests instead of thirty percent. Additionally, on March 1, Interior sent Campbell a letter assuring him the agencies would devote enough resources to the adaptive management process to accommodate reasonable requests for changes to the plan. The department also offered the personal availability of the Assistant Secretary of Commerce and the General Counsel for Interior, on a quarterly basis, to ensure the company could meet its now-approved 176 mmbf annual harvest. Just before midnight --some allege hours after midnight because the California Assembly

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<sup>254</sup> Kathy Bailey, "Timeline of Last-minute Events on Headwaters Deal," confidential memo for attorneys and clients, March 17, 1999, Bailey papers, Philo, CA; Bailey interview; Pacific Lumber Company, "Pacific Lumber/Scotia Pacific File Information on Sustained Yield Plan with California Department of Forestry and Fire Protection," News Release, February 17, 1999, papers of Kathy Bailey, Philo, CA; Agreement Relating to Enforcement of AB 1986, contract signed by California Resources Agency, California Department of Fish and Game, California Department of Forestry, California Wildlife Conservation Board, Pacific Lumber Company, Scotia Pacific Company LLC., and Salmon Creek Corporation, February 25, 1999, papers of Kathy Bailey, Philo, CA; Richard Wilson to John Campbell, "Re: SYP No. 96-002 Determination," February 25, 1999, papers of Kathy Bailey, Philo, CA.

clock was stopped at midnight-- the deeds, permits, and agreements were signed and exchanged.<sup>255</sup>

## Conclusion

The final Deal was monumental in American environmental political history; it helped transform the way land conflicts were handled and demonstrated the powerful influence of the local Northcoast activists. Late nineteenth and early twentieth century redwood conflicts were resolved privately, and early postwar conflicts were resolved legislatively – some after court orders pursued by citizen activists. The Headwaters conflict was resolved by Executive negotiation after years of stalemate on the Northcoast. The activists and the company backed the Clinton Administration into a corner through relentless and often unconventional pursuit of conflict resolution.

The final Deal included numerous transactions. The federal and state governments paid \$380 million for 7470 acres of company land, including 3000 old-growth acres. The land was transferred to the Bureau of Land Management and named the Headwaters Forest Reserve. California agreed to pay an additional \$100 million for approximately 1600 acres of old-growth in Grizzly Creek and Owl Creek. Pacific

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<sup>255</sup> Mike Spear and William T. Hogarth to Richard Wilson, “Re: SYP 96-002 Determination,” February 27, 1999, papers of Kathy Bailey, Philo, CA; L. Ryan Broddick to Richard Wilson, “Subject: SYP No. 96-002 Determination,” February 27, 1999, papers of Kathy Bailey, Philo, CA; Richard Wilson to John Campbell, March 1, 1999, papers of Kathy Bailey, Philo, CA; David Hayes and Terry Garcia to John Campbell, “Re: The Pacific Lumber Company Habitat Conservation Plan,” March 1, 1999, papers of Kathy Bailey, Philo, CA; Jim Carlton, “After Maxxam Spurns Headwaters Deal, Government Agencies Prepare for Battle,” *Wall Street Journal*, March 1, 1999, A6; Andrew Gumbel, “Ancient Californian Forests Under Threat as Deal Collapses,” *The Independent (London)*, March 1, 1999, pg. 10; David J. Hayes, “Saving the Headwaters Forest: A Jewel That Nearly Slipped Away,” 30 ELR 10131, papers of Kathy Bailey, Philo, CA

Lumber, in addition to cash, received 7755 acres of second growth forest from Elk River Timber Company. The federal government agreed to approve the HCP and ITP. The other ancient groves still owned by Pacific Lumber would be off limits for fifty years to help the murrelet recover. The state approved the SYP. The company signed the WCB contract and agreed to drop its takings lawsuits.

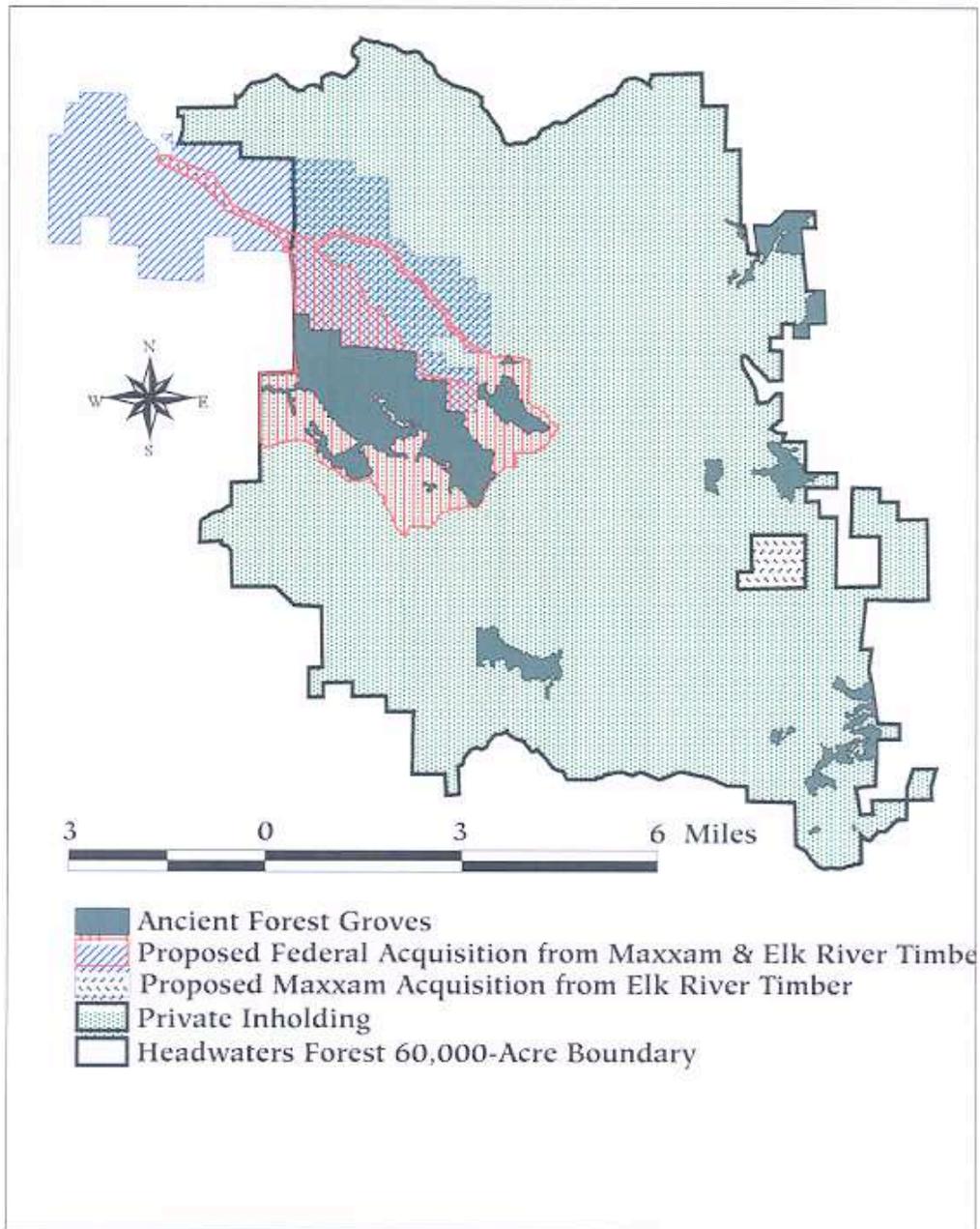
The Deal was expansive and contested, and Clinton and Secretary of the Interior Bruce Babbitt believed it provided a model for resolving other private land conflicts, especially because it included the nation's first multi-species Habitat Conservation Plan. Indeed, even before the Deal was consummated, Clinton used it as the impetus for negotiating eighteen million acres worth of HCPs in 1997 alone. Before 1994 when the federal government first actively engaged the Headwaters conflict, only thirty-nine HCPs had been produced since the passage of the 1982 ESA amendments. From 1994 to 1998, the federal government negotiated more than 230 HCPs.

However, it was the persistent activism of Northcoast locals working to transform their local communities, who forced the redwood wars, and the conflict over Headwaters Forest in particular, onto the radar of state and federal officials. The locals' rejection of middle class values enabled them to press for radical forestry reform using radical means at times. Their values also drove them to utilize all available means to challenge the entrenched system, including conventional tactics such as litigation and lobbying. From 1995 to 1999, the activists pushed the state to dramatically transform Northcoast logging, and while they were largely displeased with the final Deal and continued to challenge its terms well into the twenty-first century, most of the activists took some solace in

permanently protecting the Reserve and forestalling logging in the other ancient groves on Pacific Lumber property.<sup>256</sup>

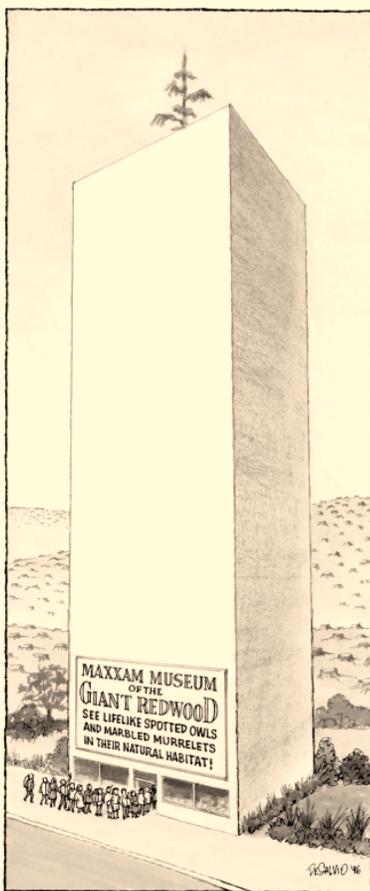
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<sup>256</sup> 88 calif.law review 2375 (2000); Findley Cases and Materials, 970; U.S. Fish and Wildlife Service, Status of Habitat Conservation Plans (Washington: U.S. Government Printing Office, 30 September 1997). Additionally, see Shi-Ling HSU “The Potential and Pitfalls of Habitat Conservation Planning under the Endangered Species Act,” Environmental Law Review, October 1999, 10592-10601 (29 ELR 10592)



**Figure 7: Map comparing Headwaters Forest Reserve with the Headwaters Forest Complex** (from The Trees Foundation, “The Headwaters Forest Stewardship Plan: A Citizens’ Alternative to Maxxam Management of Headwaters Forest,” (Redway, CA: The Trees Foundation, 1996) 7).

# President Clinton: *We need a forest, not a tree museum!*



Dear Mr. President,

Your Administration has been repeatedly asked to move decisively to save the Headwaters Forest. Instead, the Interior Department is reported to be cutting a deal for a fraction of the ancient redwood forest that needs protection.

Just over a century ago, California had two million acres of ancient redwoods. The rivers were clear, salmon and other wildlife were plentiful.

Today, less than four percent of these forests remain. Wildlife populations are in crisis. Coho salmon, once a mainstay of a coastal fishing economy, are on the brink of extinction. The endangered marbled murrelet depends on these ancient trees for nesting.

Now, the last few groves of unprotected ancient redwoods on Earth are on the chopping block. Thousand-year-old giants are being clearcut by Charles Hurwitz' MAXXAM Corporation which used junk bonds to finance the takeover of Pacific Lumber. Environmentalists and legislators support a Debt for Nature swap in which the public would acquire Headwaters Forest in exchange for Hurwitz' debt for his failed Texas Savings & Loan. This bailout cost American taxpayers \$1.6 billion. As federal authorities file charges against corporate pirate Charles Hurwitz, MAXXAM continues to plunder the ancient redwood forest.

To maintain the ecological value of the forest, and habitat for endangered species, your Administration must do more. You can not allow only one ancient grove to stand as a tree museum surrounded by barren hills and dying creeks.

*Protecting less than 60,000 acres will accelerate the extinction of the marbled murrelet and coho salmon in California. We need a biological, not a political, solution.*

**This is our stand:**

- Full and immediate protection for all the ancient redwood groves.
- Protect marbled murrelet critical habitat.
- Protect coho salmon critical habitat.
- Ensure job security for local workers through restoration and sustainable forestry practices.
- Institute a logging moratorium during negotiations.
- No land trades that include other ancient forests.
- Implement a Debt for Nature swap to trade Hurwitz' S & L debt for the rest of the old-growth groves in Headwaters.
- No restrictions on citizen participation in environmental or judicial review.

To gain the support of environmentalists in California you must act decisively to protect ALL of Headwaters Forest now. Don't leave a tree museum in the redwoods, and the extinction of the marbled murrelet and coho salmon as your environmental legacy for California, Mr. President. We need the forest, not simply a tree museum.

Sincerely yours,

**The Headwaters Forest Coordinating Committee:**

- Bay Area Coalition for Headwaters Forest
- Earth First!
- Environmental Protection Information Center
- Forests Forever
- Mendocino Environmental Center
- Rose Foundation for Communities and the Environment
- Sierra Club California
- Thron Nature Photography
- Trees Foundation
- Voice of the Environment
- and the 45-member Coalition to Save Headwaters Forest

For the last decade, environmental organizations have worked to protect Headwaters Forest through litigation, public education and grassroots organizing. For more information about Headwaters Forest and to support our efforts, please contact:

**Headwaters Forest Coordinating Committee**  
c/o EPIC  
PO Box 397, Garberville CA 95542  
(707)923-2931, FAX 923-4210  
e-mail: apc@hfg.org  
<http://www.hfg.org/headwaters/>

Contact:  
• President Clinton, (202)456-1111, FAX 456-2461  
e-mail: president@whitehouse.gov  
• Bruce Babbitt/Department of the Interior  
1849 C Street, N.W., Washington DC 20240  
(202)205-7351

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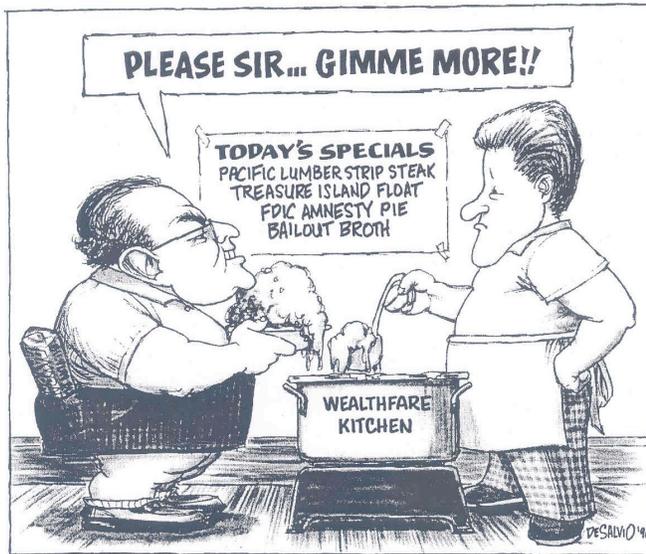
President Clinton  
The White House, Washington DC 20500

Please take decisive action to ensure full biological protection of the 60,000 acre Headwaters Forest. I urge you to implement a logging moratorium during negotiations, pursue a Debt for Nature swap and protect endangered species habitat.

Sincerely,  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

Figure 8: We Don't Need a Tree Museum Ad

**“Consider it the Charles E. Hurwitz relief fund.** After bailing out the Texas dealmaker’s failed savings and loan association to the tune of \$1.6 billion, the U.S. government is now on the verge of doling out thousands of acres and hundreds of millions of dollars worth of federal lands to him.” (Business Week, Eric Schine, 8/5/96)



Charles Hurwitz, Texas billionaire and corporate raider, has mastered the art of bluffing and frightening his opponents into doing what he wants. He did it when he took over the Pacific Lumber Company in 1985 and now he's doing it again.

Hurwitz is pressuring a strangely compliant Clinton Administration into making a deal that would save only a small fraction of the pristine Headwaters Forest in Northern California at exorbitant cost to American taxpayers. The Clinton Administration must instead utilize a "debt-for-nature" swap, trading part of Hurwitz's huge debt to the taxpayers in exchange for this irreplaceable national treasure.

Though the President's own Department of the Interior has recently designated 38,000 acres as critical habitat for threatened and endangered species within the Forest, the Administration appears content to protect less

than 20%. To adequately protect Headwaters Forest, all six remaining ancient redwood groves and sufficient second growth buffer areas must be preserved.

Two current federal suits against Charles Hurwitz, by the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS), charge that Hurwitz grossly mismanaged his Texas SoL, resulting in a \$1.6 billion taxpayer-funded bailout.

**We are forced to conclude that Bill Clinton intends to bailout Charles Hurwitz for a second time.**

David R. Brower  
President, Earth Island Action Group  
Ralph Nader  
Consumer and Environmental Advocate  
Lewis D. Seiler  
President, Vote Action Committee

**AMERICA BETRAYED.**  
*This is the fourth in a ten part series.*

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415.868.1338

President Clinton  
202.456.1111, FAX 456.2461, president@whitehouse.gov  
The White House, Washington DC 20500  
Please fight to save Headwaters Forest through a "debt-for-nature" swap that preserves all old growth groves and does not further burden us, the American taxpayers.  
Sincerely, Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

**Figure 9: Advertisement opposing the Deal as a corporate giveaway**

## **Conclusion/Epilogue: The Uncertain Future of Headwaters Forest, yet a Certain Impact on Environmental Politics**

### **The Post-Deal Battle over Headwaters Forest**

The consummation of the Headwaters Deal among California, the federal government, and Pacific Lumber emphatically marked a shift toward Executive Branch policy-making and conflict resolution of Endangered Species law, but it did not end the redwood wars or the battle over Headwaters Forest. The impact of the redwood wars on national politics diminished thereafter, but their impact on the Northcoast continued to develop. The activists innovated and realized newfound success regarding both Headwaters Forest and logging reform. Their innovations followed their previously defined path: investigate local developments and concerns, and pursue all available legal, political, and extralegal means of addressing those concerns. For its part, Pacific Lumber was again transformed as a result of its operations, and entered the second decade of the twenty-first century with a new lease on its corporate life. On March 1, 1999, President Clinton, Governor Grey, Charles Hurwitz, and John Campbell had hoped that the battle over Headwaters Forest was complete, but in fact, the Deal marked only one benchmark in the redwood wars over industrial logging on the Northcoast and the type of community it engendered.

Even before the Deal was completed, Northcoast activists embarked on a plan to undermine the terms of the Deal. In January, they continued their shift toward the use of

Salmonid habitat as a vehicle to restrict logging on Pacific Lumber land and the rest of the Northcoast. By the end of March, EPIC and Sierra Club filed suit against the state for approving Pacific Lumber's Sustained Yield Plan that lacked cumulative impact analysis. The suit also challenged a Streambed Alteration Permit, and the Incidental Take Permit despite California law forbidding incidental takes. The activists also vowed to pursue their goal of acquiring all sixty thousand acres of Headwaters Forest, and before 1999 ended, they had filed suit in federal court arguing that EPA and NMFS for alleged violations of NEPA and ESA with respect to the Pacific Lumber HCP – the first time activists used NEPA in the timber wars. The year ended when Julia Butterfly Hill came down from her two hundred foot perch on Pacific Lumber land after more than two years.

Hill's tree sit highlighted activists' anger about the Deal and the lack of protections afforded the broader redwood forest and its human communities. Even as she descended, the splinter groups of Earth First! flocked back to backwoods of Pacific Lumber land to continue thwarting logging along salmon streams and in mature groves of redwoods and Douglas firs. The lawsuits continued, and the activists' strategy evolved over the ensuing years, attacking Northcoast timber operations via the Regional Water Quality Control Boards. The Boards were not signatories to the Headwaters Deal, and they used their authority to further restrict logging operations near streams. By 2008, Pacific Lumber had filed for bankruptcy and was under new ownership. The California Supreme Court had invalidated the company's Sustained Yield Plan and forced it to work on a new plan. The new ownership, the Humboldt Redwoods Company, vowed not to harvest trees living prior to 1800, and the Northcoast activists continued to press the Board of Forestry to abandon its corporatist and development-focused traditions via

lawsuits, regulatory proposals, and legislative action, but the direct actions died down considerably. Northcoast residents accepted all of the news of 2008 with a sigh of relief and a nervous air of optimism that the war would die down and that some sense of stability would prevail.<sup>257</sup>

The post-Deal history of the redwood wars largely reinforces the important historical findings established by the pre-Deal history. Sustainable forestry remained a top priority for Northcoast activists, and unsatisfied with the Habitat Conservation Plan and the Sustained Yield Plan, they continued to agitate and press their demands at the

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<sup>257</sup> EPIC, “Summary of EPIC Forestry Lawsuits, 1997-present,” EPIC archives, Eureka, CA; Kathy Bailey, “Facts and History on Headwaters Forest transaction,” Memo by Kathy Bailey to Sierra Club, date unknown, but after 2001, Bailey Papers, Philo, CA; EPIC, “Summary of EPIC Forestry Lawsuits, 1997-present,” EPIC archives, Eureka, CA; Kathy Bailey, “Why I Should Feel Good (even if I don’t),” memo from Kathy Bailey to unknown recipient(s), March 4, 1999, Bailey Papers, Philo, CA; Staff Reports, “Maxxam Tries to Hide from Shareholders at Annual Meeting,” *Investor Relations Business*, June 7, 1999; Mike Geniella, “Pacific Lumber to Keep Logging,” *The Press Democrat*, August 4, 1999, unknown page, EPIC archives, Redway, CA; “Complaint for Declaratory and Injunctive Relief,” Environmental Protection Information Center and Sierra Club v. William D. Daley, Secretary of Commerce, Penelope D. Dalton, Director, National Marine Fisheries Service, Bruce Babbitt, Secretary of the Interior, Jamie R. Clark, Director United States Fish and Wildlife Service, The Pacific Lumber Company, Scotia Pacific Company, LLC, and Salmon Creek Corporation, United States District Court for the Northern District of California, San Francisco Division, October \_\_, 1999, EPIC archives, Eureka, CA; Luna Preservation Agreement, December 15, 1999, EPIC archives, Eureka, CA; Julia Butterfly Hill, “Out on a Limb,” *Earth Island Institute*, Spring 2000, Vol. 15, Issue 1, p. 48; “Woman Strikes Deal with Lumber Company to Leave Redwood Home,” *New York Times*, December 19, 1999, Section 1, p. 1, 39; Carl Pope to Senator Dianne Feinstein, “Re: Headwaters Debt for Nature Exchange,” January 12, 2000, papers of Kathy Bailey, Philo, CA; John Howard, Associated Press Writer, “Environmentalists Urge Immediate Halt to Logging Old-growth Timber,” *The Associated Press State & Local Wire*, January 12, 2000; EPIC, “Summary of EPIC Forestry Lawsuits, 1997-present,” EPIC archives, Eureka, CA; “The Pacific Lumber company Statement on Posting Bond in THP 520 Litigation,” *Business Wire*, July 20, 2000; John Howard, Associated Press Writer, “Forestry Board Rejects Proposed Logging Rules,” *The Associated Press State & Local Wire*, October 4, 2000; Don Thompson, Associated Press Writer, “California Board Takes First Step to Protect Old-growth Trees,” *The Associated Press State & Local Wire*, September 10, 2001; (“Come On Down, At Least for Now:[Caption],” *New York Times*, March 19, 2003, p. 23; “National Briefing West: California: Injunction Against Tree-Sitters,” *New York Times*, March 12, 2003, p. 20; Don Thompson, Associated Press Writer, “State Water Board Orders Monitoring of Palco’s Headwaters Cuts,” *The Associated Press State & Local Wire*, October 18, 2001; Dean E. Murphy, “Scientists’ Report Finds Grounds for Regulating Redwood Harvest,” *New York Times*, January 14, 2004, p. A21; Kai Ryssdall and Craig Miller, “Pacific Lumber Threatens Bankruptcy Due to Lawsuits and Water Regulations,” transcript, *Marketplace*, June 22, 2005; S.C. Gwynne, “Tree Ring Circus,” *Texas Monthly*, April 2006; Loren Steffy, “It Seems Like Charles Hurwitz Just Can’t Catch a Break,” *Houston Chronicle*, January 23, 2007 (online version); Paul Elias, Associated Press Writer, “Supreme Court Orders New Headwaters Logging Plan,” *The Associated Press State & Local Wire*, July 17, 2008; John Blakeley, “Palco Emerges from Ch. 11,” *Daily Deal/The Deal*, August 1, 2008; Terence Chea, Associated Press, “Gap Family Takes over Troubled Timber Firm,” *San Francisco Chronicle*, July 30, 2008; Evelyn Nieves, Associated Press Writer, “Last Tree-sitters Come Down from Calif. Redwoods,” *The Associated Press State & Local Wire*, September 23, 2008

local, state, and federal levels. Like Robert Dudley, they were interested in the fusion of preservation and conservation ideals. Also true to historical form, the activists innovated in response to the Deal. When the Endangered Species Act was cut off as a tool because of the HCP, they turned to the Regional Water Quality Control Board to assert its local authority on timber operations – a tactic never used prior on private timber lands. In response, Pacific Lumber filed suit against the government alleging it breached the terms of the Deal. It was that spirit of innovation and response that had propelled the redwood wars onto the national scene, what made them so protracted, and what gave them the wide influence on state and federal agencies. Finally, the post-Deal events reinforce the independence and often radical nature of the Northcoast activists. When faced with a nationally praised Deal, they fought back because it did not conform to their vision for the Northcoast. Maxxam still owned Pacific Lumber. Only a handful of the ancient groves were permanently protected. Salmon runs were not as tightly protected as they hoped. They commented on and litigated the terms of the Deal. And, they rushed back into the forests to stop logging at the point of production. And so, in 2008, when the last treesitter emerged from Headwaters Forest and the Mattole Watershed, detente was finally reached in the redwood wars.

### **Conflicts over the Redwoods: Patterns and Trends**

The long history of conflicts over logging in the redwoods is defined by its continuities, its rootedness in locale, and the importance of the independent and often radical actions of Northcoast residents. By the end of the twentieth century, the local

actors of the redwood wars played a major role transforming American environmental politics by aiding the ascension of the Executive Branch creating and implementing the modern environmental protection regime. At their core, the conflicts arose when citizen activists challenged the state and the timber industry over the relative value of intact ancient redwood forests versus the timber those forests could produce. Despite political and social transformations, four generations of redwood activists remained committed to conservation methodology, demonstrated by their persistent work to promote the long term feasibility of Northcoast timber operations as part of their more preservationist activism. They also developed a successful set of private land acquisition strategies that remained a constant source of temporary conflict resolution incapable of ending the redwood wars. Most often, actors outside the Northcoast most doggedly pursued the acquisition strategies. The intensity of the conflicts and the final forms of the compromise, however, were most powerfully influenced by the interactions between the local industry leaders and local activists over the development of specific plots of land. Finally, the conflicts over the redwoods were continually pushed and prodded by local Northcoast women, and by independent actions taken by Northcoasters that challenged corporatist development and traditional private property rights.

Because of the long-running and fairly consistent drama that ran for more than one hundred years, the sentiment of release and anxious hope in 2008 was the repetition of reliefs of past generations each time crisis in Redwood Country seemed averted. Similar to those of the Murphy Family, Laura Mahan, and the other members of the Northcoast redwood preservation movement of the early twentieth century. Similar to the feelings of Miller-, Louisiana-Pacific-, and Pacific Lumber after Congress authorized

the Redwood National Park purchase in 1968 and again in 1978. Similar to the relief felt by the Sempervirens Club and William Kent during the first decade of the twentieth century. If nothing else, the long history of strife in Redwood Country is the story of seemingly irrepressible conflict over the value of the redwoods – standing and fallen – and over competing social visions for the Northcoast. During each moment of crisis, the conflicts bound Redwood Country to the broader political and economic trends of the nation, and they also highlighted how local the conflicts over redwoods truly were.

Nowhere was that trend more evident than during the last third of the twentieth century when local activists battled local timber companies over the future of Northcoast industry, society, and redwoods, especially over the fate of Headwaters Forest. The concerns of the combatants were informed by broader intellectual forces including ecology, civil rights, and industrial efficiency, but they were local in nature. Still, the combatants – activist and company alike -- pressed their agendas to the highest levels of government searching for an institution capable of releasing the intractable conflict from its moorings.

That the Headwaters Deal of the final years of the twentieth century did not end the redwood wars is not a surprise because the wars were a product of the stubborn insistence of activists and lumber leaders that their vision alone was best for the Northcoast communities. The intractable nature of the conflict was a product of that stubborn commitment to ideals, the willingness to explore tactics and strategies, and the successes of those strategies. It is also not a surprise that the conflict over Headwaters Forest helped transform national environmental politics. The redwoods have long held sway as symbols of American exceptionalism, and so garnering a statewide or national

audience for the redwood wars was no difficult task. Additionally, because the redwood wars took place on private land, they more easily prompted political concerns from business leaders and politicians. Combined with the popularity of ecological health as a major social goal, the increasingly divergent philosophies of the two major political parties with respect to environmental protection during the 1980s and 1990s, and the increasingly deadlocked legislative system with respect to environmental protection, and the situation was ripe for the expansion of Executive Power. And, the local combatants pushed the Headwaters Issue into center of the fray.

From its earliest years, the conflicts over the redwoods revolved around whether particular groves of giant ancient trees ought to remain standing. The defining features of the first seventy years of conflict were the resolution mechanisms, the investment of wealthy citizens, professional scientists, parks boosters, and philanthropists, and the emphasis on preventing the tallest and grandest groves from falling to the lumberjack so they could offer the nation's residents places for recreation, spiritual renewal, and scientific research. All of the conflicts were fought on private property. The battles were over the literal and philosophical boundaries of American industrial and urban development. The campaign to protect Big Basin occurred during the emergence of the national movement to conserve the nation's natural resources, but it remained somewhat separate from those discussions about efficiency and wise-use to ward of a timber famine. Robert Dudley and the Sempervirens Club wished to permanently protect from the axe the giant trees so the urban residents of the San Francisco Bay area could visit them and escape the city for a while. Those visits were deemed regenerative for society, a time to release the tensions attendant to modern American living. The rugged and largely

undeveloped Northcoast seemed to offer the nation an endless supply of redwood timber, so the concerns of the activists were whether the heavily developed Bay Area offered enough public park space outside of the city. Only Dudley seemed to publicly warn of the dangers Northcoast timber operations posed to the redwood forest.

The activists developed a campaign strategy during the Big Basin conflict that was replicated throughout many twentieth century conflicts over the boundaries of development in the West, including the late twentieth century redwood wars. The Sempervirens Club physically hiked the groves of ancient trees, mapped their boundary, documented the landscape, and developed a photographic presentation for public and legislative viewing. In short, they used modern publicity to generate public and governmental support. Different from the postwar era, the prewar redwood movement privately raised the funds necessary to acquire ancient redwood groves and then donated the lands to the state for public management. In that way, the early movement was directly aligned with that part of the progressive movement committed to private-public partnerships and corporatism, what became known as Associationalism during the 1920s. Similarly, that early strategy linked the redwood preservation movement to the national conservation movement led by wealthy white male professionals.

Even early on, however, the Northcoast residents committed themselves to more local concerns than the wider redwood movement. During the interwar period, the redwood activists turned their attentions northward to Pacific Lumber property and implemented their public relations and private negotiation strategy to great effect. Despite the predominance of the well-funded Save-the-Redwoods League, that early move north exposed the differences between the more genteel movement and the

irascible Northcoast activists, as demonstrated by the 1924 direct actions conducted by Laura Mahan and other Humboldt women. As the redwood action continued to move north, the influential, and sometimes radical, role of Northcoast activists on larger political systems, despite their stubbornly local interests, continued to froth. The fractures between what developed into the mainstream environmental movement and the Northcoast would blow wide open during the redwood wars

The immediate postwar period marked a transition in both the conflicts and the resolutions, driven by the evolution of citizen activist goals and expanded timber operations on the Northcoast. The evolution of activist goals coincided with the evolution of the conservation movement's goals, in particular, those goals associated with protecting landscapes not for human benefit alone but also for the benefit of the landscape systems themselves – ecosystem health. The Northcoast, though remote and heavily isolated behind the “redwood curtain” and its shroud of fog, was deeply connected to national economic trends. The timber industry dramatically increased the scale and scope of its timber operations to take advantage of the postwar building boom. Accordingly, during the 1950s, the redwood preservation movement focused their resources on watchdogging timber harvest practices on private land and protecting watersheds and larger units for ecological health instead of the single-minded focus on the tall groves along the river flats. Because the activists wanted to remove larger tracts of forest from timber production at the same time the industry planned to increase its harvests while prices were high, tensions escalated with no détente until the twenty-first century.

The activists – driven by the Sierra Club and David Brower -- targeted the National Park Service and Congress to resolve the conflicts, and they attempted to extrapolate the public-private partnerships of the earlier era to the national stage. Eventually, the activists leaned on Congress to foot the entire bill. That development was no surprise; the cost of acquiring tens of thousands of acres was enormous, and the public increasingly turned to federal funds and institutions to finance public interest programs in other areas such as Medicare, unemployment benefits, and pollution control. Still, the basic strategy of the campaign for Bull Creek, Redwood National Park, and other groves remained true to the Sempervirens' strategy: publicize, pressure lawmakers, negotiate with private landowners. And again, the Northcoast resisted exterior resolutions. In 1968 it was Miller Timber Company and Louisiana-Pacific that remained defiant, clearcutting right up to the proposed park boundary. After 1968, both the Northcoast activists and Northcoast timber companies bristled at regulatory options that came from either outside their own ranks or outside the Northcoast.

After the National Park battle, the politics of redwood conflicts were transformed from park acquisition campaigns into battles over the regulation of private property and management prerogatives on private land. During the 1970s, the redwood wars began, led by a migration of residents who rejected middle class work and culture, and became intensely focused on Northcoast and statewide regulatory reform. Those migrants were part of the constituency swept up in the rising tide of environmental activism during the late 1960s. In most histories, the high tide of insurgent, grassroots environmentalism was Earth Day 1970. However, the migrants to the Northcoast retained and even increased their radical demands on society during the subsequent decades of the twentieth century.

Citizen activists attacked the official and de facto corporatism of the California Board of Forestry through the successful innovation of litigation strategies.

The Northcoast citizen efforts were related to the broader trend of using the National Environmental Policy Act and the federal courts to prod agency compliance with the new social regulations of the 1970s. Unlike the national movement, the Northcoast activists first attacked the constitutionality of the law establishing the Board of Forestry. Once that was accomplished, the activists attacked the de facto corporatism of the Board and the Department of Forestry by challenging their decisions under the umbrella of the California Environmental Quality Act – the state version of NEPA. Where the national litigators challenged the production of Environmental Impact Statements and compliance with Congressional deadlines, the state activists focused specifically on the forestry agency's failure to analyze the cumulative effectives of timber operations when they approved specific Timber Harvest Plans. In essence, the Northcoast activists alleged abuse of agency discretion, while the national activists litigated missed deadlines. At the core of the Northcoast activists' transformed campaign was a challenge to the very core of Northcoast society – development-focused timber harvests and self-regulation.

After the successful challenge to Georgia-Pacific's logging plans for the Sally Bell Grove, the redwood wars transformed again. Concurrently, national environmental politics was changing in similar ways. During the Reagan years, the administration and industrial interests publicly attacked environmental laws and the costs associated with them. Environmentalists established defensive campaigns to prevent the undermining of the new social regulations of the 1970s. They used the courts to hold agencies

accountable to the goals of the modern environmental protection regime's laws, and they influenced the rule-making processes inside the agencies when faced with the erosion of the bipartisan commitment to environmental protection. Those circumstances were a major reason Dave Foreman, Mike Roselle, and others created Earth First! in 1980 – to invigorate offensive and idealistic efforts. On the Northcoast, activists used the courts and agency meetings to attack de facto corporatism and industrial logging, while legislative campaigns took a back seat. Those same activists, unlike their national counterparts, also embraced the radicalism of Earth First! and biocentrism.

After 1985, the litigation campaign grew dramatically in scale and frequency, direct actions at the point of timber production exploded upon the Northcoast as they did across the western United States, and attentions gravitated toward Pacific Lumber as proxy for the ills of industrial logging on Northcoast ecosystems and communities. The Maxxam takeover of Pacific Lumber drew activist attentions to the company's land as it drew the attention of Congressional lawmakers to the acquirer's balance sheets. And, as the "junk" bond scandal involving Charles Hurwitz, Ivan Boesky, Michael Milken, and Boyd Jeffries grew, so did the conflict over Pacific Lumber's redwood lands. The two controversies were entangled and grew together. Because of the high interest debt, activists worried the new owners would cut the forest and run, leaving Humboldt County without its largest employer and without what was discovered to be the world's largest ancient redwood forest in private ownership. Activists worked frantically to map the forest and thwart the company's logging plans via direct action and litigation. Both efforts were successful; the direct actions drew attention to the forest and the litigation halted individual Timber Harvest Plans. The resulting pressure drove the company to

voluntarily prohibit logging inside the largest grove – Headwaters Grove, the lawsuits virtually halted ancient redwood harvests elsewhere on the property, and the combination led the Board of Forestry and the Department of Forestry to grudgingly step back from its de facto corporatist traditions.

As the volume of activity increased and garnered statewide and national attention, the geographic scope of the redwood protection campaign narrowed, and the parkland acquisition strategy regained prominence because the agencies did not act swift enough or deeply enough to please the Northcoast activists who continued to ratchet up their direct action and litigation efforts including the production of Redwood Summer in 1990 to protest de facto corporatism and logging ancient redwoods. Placing Headwaters Forest into public hands seemed a necessary step to quell the redwood wars. This time, however, taxpayers, not wealthy donors were the first and only constituency targeted to foot the acquisition bill. In 1990, activists attempted to end the redwood wars via Proposition 130, a ballot question that would have dramatically reformed timber operations on the Northcoast, reformed the structure and operations of the state forestry agencies, and authorized a park bond to acquire approximately 3300 acres of Headwaters Grove. The initiative narrowly failed, and the wars continued, led partly by an ever-growing cohort of female activists such as Kathy Bailey, Judi Bari, Cecelia Lanman, and Betty Ball.

After 1990, the redwood wars were federalized legally, legislatively, and perceptually, driven out of the Northcoast by the local activists and timber industry leaders. In many ways, for the activists it was the ideal time federalize the redwood wars. The deforestation of the Amazon rainforest was generating major press, and the world

prepared for the 1992 United Nations Earth Summit in Brazil to discuss global deforestation and biodiversity losses. Endangered species and ancient forests were incredibly popular issues, and incredibly controversial in America as demonstrated by the spotted owl conflicts in the Pacific Northwest during the same era. On the Northcoast, two campaigns developed: one to convince Congress to acquire Headwaters Forest, and one to continue challenging de facto corporatism and development-focused timber regulations while the industry defended its traditional prerogatives.

Both groups of combatants had an interest in federalizing the acquisition effort because of the amount of acreage and money involved. That effort was dramatically aided by the election of Dan Hamburg to the Northcoast Congressional seat, and even though his bill failed, it pushed the conflict onto President Clinton's radar. Even with respect to the litigation, both parties benefitted from federalization. The activists were shut out of Northcoast courtrooms, and when inside, the volume of administrative record produced was beyond the capacity of the local courts. The federal system was far more capable of handling the record and was more inclined to do so because of the listing of the marbled murrelet on the federal threatened species list. For Pacific Lumber, federalization was an asset because they needed and wanted a bargaining chip to end their involvement in the redwood wars. If the federal courts sided with the company, they could restart timber operations in their ancient groves. If the federal courts sided with the environmentalists, the company could file a takings suit against the government and either win compensation outright while upholding their traditional private property rights, or drive the President to negotiate a buyout to avoid a federal court battle over the Endangered Species Act on private land.

The federal courts sided with the environmental activists, and the subsequent actions of the Executive Branch transformed American environmental politics. After 1994, the battle over Headwaters Forest retained its dual campaign identity, and the activists' federal litigation led to a major precedent-setting ruling on Endangered Species Act law that further restricted the rights of property owners. Pacific Lumber's takings suit then drove the Clinton Administration to intervene, furthering the encroachment of the Executive Branch on environmental protection policy-making. For endangered species law and regulations, that process began with the 1982 Congressional amendments to the Endangered Species Act that authorized Executive Branch negotiations with private landowners. Those provisions were rarely used prior to the Headwaters Deal. President George H.W. Bush asserted Executive authority over the law when he convened the "God Squad" to attempt to deal with the spotted owl conflict on public land in the Pacific Northwest. President Clinton pushed Executive power by personally negotiating an administrative compromise intended to end the spotted owl conflict in order to ward off Congressional attacks on the Endangered Species Act as an unworkable system.

The Headwaters Deal was unprecedented, however, in price and scope. The Deal authorized the first multi-species Habitat Conservation Plan and was a major experiment with what became Clinton's 1999 "No Surprises" and Safe Harbor Agreement rules designed to encourage landowners to negotiate with the federal government. Under Clinton, the use of administrative tools to implement and alter Endangered Species policy exploded, including a dramatic increase in the granting of Habitat Conservation Plans and Incidental Take Permits. Again, part of the administrative strategy was to ward off

attacks by the Gingrich Congress and its successors from attacking the ESA, and to prevent a high stakes court battle over regulatory takings in a more conservative Supreme Court than during the 1970s. The Clintonian expansion of Executive power also included the designation of individual de facto wilderness areas via National Monument designation, and designation of wilderness writ large via the Roadless Rule in 2000 that prohibited development on nearly sixty million acres of National Forests.

That the administrative actions to end the battle over Headwaters Forest did not work is testimony to the widely divergent valuations of the redwood forest at odds during the conflict, and the stubborn confidence of the Northcoast activists and Pacific Lumber that they could force their wills upon each other. In the end, only the collapse of the Hurwitz-owned Pacific Lumber and the accommodation of the Northcoast activists' demands by the new owners quelled the redwood wars, a testimony to the powerful influence of the Northcoast activists who largely rejected middle class work and culture, yet skillfully, if gruffly, navigated the structures of power they moved to the Northcoast to avoid. The peace is sure to last so long as the Humboldt Redwood Company's timber operations and revenue goals don't ride up against their voluntary commitment to leaving the remaining ancient trees standing. That the resolution of the battle over Headwaters Forest was so tenuous and riddled with nervous optimism is testimony to the reality that the modern environmental protection regime had not, as of 2008, adequately defined the public interest duties attendant to private property prerogatives.

### **Historiographic Implications**

The history of the conflicts over the logging in the redwoods offers new perspectives on American environmental history. First, the patterns found throughout the conflicts highlight the continuity of conservation ideas and methodology. Due to the persistence of that conservation goal, the redwood wars help complicate our understanding of the evolution of the so-called wilderness ideal by inserting forestry techniques and landscape management into the historical discussions about landscape protection. Second, the redwood wars offer a prominent example of local activists fighting a local battle and unintentionally transforming national politics and the implementation of the modern environmental protection regime, in opposition to the standard narrative about the professionalization and DC-ification of environmental politics. Nowhere is the influence of the locals more evident than during the battle over Headwaters Forest where decidedly non-middle class activists and timber company leaders locked horns and pressed their demands up the ladders of power – often against their better judgments, given the combatants preference for local governance. Finally, the battle over Headwaters Forest helps identify how, when, and where the regulation of private property with respect to environmental protection began to shift into the hands of the Executive Branch.

During the fight over Redwood National Park and Humboldt Redwoods State Park, the continuity of Pinchotian and Muirian influences stand out in stark relief from the once-standard narrative about the transition from “conservation to environment” and the extrapolation of the tensions between Muir and Pinchot to represent the false dichotomy within the twentieth century environmental protection movement. More historians, including Paul Sutter, Adam Rome, and Thomas Wellock, are highlighting the

continuities between the pre- and postwar eras in American environmental politics, and the Northcoast conflicts offer powerful examples of such continuity. The conflict over Bull Run during the 1950s was the result of the Sierra Club's insistence that the state regulate logging operations on private land to protect ancient forests protected by the state park system. Similarly, the 1978 expansion of Redwood National Park was the result of litigation over the impacts of logging on private land adjacent to the park. In both instances, the local activists' desires were to reform private logging operations on the Northcoast despite the acquisition of additional park lands designed to end the conflicts.

The redwood wars of the final quarter of the twentieth century also highlight the commitment of Northcoast activists to active landscape management. The redwood wars began not over the harvest of a particular grove, but over the development of industrial logging and the dramatic deforestation of the landscape that had begun during the postwar housing boom. Northcoast activists worked to protect their rural lifestyles and their rural communities by working to reform logging practices on the Northcoast. Their landscape vision was similar to Aldo Leopold's vision of a landscape matrix comprised of myriad ecosystems and land use patterns. Creating a landscape that included timber harvests, salmon runs, ancient redwoods, mature second growth forests, stable slopes, and long-term employment was a vision for intense landscape management. In that way, the late twentieth century activists of EPIC, Northcoast Earth First!, and Forests Forever differed greatly from the image of wilderness advocates as activists working to keep humanity out of the woods. To the contrary, though they wanted logging and road-building prohibited from groves of ancient trees, the Northcoast activists wanted humans

to work in the forests to supply timber and to rehabilitate slopes and streams. What they most desired was to protect their bucolic, small town society and the health of the landscape they defined as one rich in biodiversity. Additionally, they wanted to rid Northcoast logging of the presence of large corporate owners.

The persistence of sustainable forestry and conservation methodology complicate our understanding of the so-called wilderness ideal. Though the activity on the Northcoast was contemporaneous with the passage of the Wilderness Act and Roderick Nash's seminal work on the intellectual history of wilderness ideas, the Northcoast activists' ideas and goals with respect to redwood preservation did not comfortably fit into Congress' or Nash's definitions. They were more like the inter-war activists described by Sutter who founded The Wilderness Society. Aldo Leopold, Benton Mackaye, Robert Sterling Yard, and Robert Marshall viewed roadless wildlands – their notion of wilderness – as resources worthy of conservation, alongside timber and water. Leopold, in particular, envisioned landscapes as matrices of myriad land uses, including roadless areas. As a group, they saw in wilderness places where humans could escape cars and industrial society to rejuvenate their souls. In that way, their motivations were similar to Muir's decades earlier. They also saw in wilderness places where men could challenge themselves and retain survival instincts. And Mackaye, saw in his original plan for the Appalachian Trail a way to physically connect rural working communities in ways that reinforced their connections to the land.<sup>258</sup>

Sutter sees some of the origins of the modern environmental movement in the Wilderness Society founders, and the Northcoast activists reinforce some of his analysis, but also differ in significant ways. The Northcoast activists were interested in efficiency

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<sup>258</sup> Sutter, *Driven Wild*.

and conservation as methodologies toward the promotion of wildland protection and ecological health (an idea Leopold hinted at in his writings). And they viewed the ancient redwood forest as a place humans might escape and refill their spirits with optimism. The Northcoast activists, however, were also deeply committed to sustainable forestry practices, and created organizations committed to both wildland protection and forestry reform. Those concerns with logging methodologies, sustainable development, and ecological health remained hallmarks of Northcoast activists during the redwood wars. And, though Earth First! was a major organizational actor in the redwood wars, the local Northcoast chapter strayed dramatically from the often misanthropic views of the original founders and many of the other national chapters. The Northcoast EF! activists blended labor organizing, sustainable rural, anti-corporate, feminist, and biocentric ideals into their work, aiding their mass movement goals.

The successes of the late twentieth century activists in Earth First!, EPIC, and Forests Forever at least partially chink the narrative regarding the dominance of middle-class professional organizations and their Capital Hill counterparts at making and implementing the modern environmental protection regime. The migrants and locals who led the citizen movement to break corporatism and reform timber operations were largely individuals who rejected middle-class work, politics, and culture. Some wanted to live out their counterculture goals and values. Later migrants wanted to escape corporate work and culture. They were largely individuals who moved to the Northcoast precisely because it lacked (or at least was perceived to lack) strong middle-class tendencies. At the very least, the Northcoast offered refuge to those individuals seeking an alternative to middle-class life. They lived off dirt roads, some without electricity. Many rejected

consistent, regular employment. They rejected middle-class work not because they were independently wealthy, but because they rejected to a large degree consumer culture and the materialism of modern American society. They bartered and work-traded, and they earned wages as needed to secure a material lifestyle of their choosing. The activists of the Northcoast enthusiastically embraced direct action at the point of production as a means to achieving their forestry and political goals, many to the point of syndicalism. Often, their actions crossed the boundaries of “good taste,” and at other times they performed civil disobedience.

But the activists were largely not anarchists, they were organizers, and used more traditional political avenues to push their goals, even so far as pushing Congress and the President of the United States. The Northcoast activists were tactical pragmatists, though unwilling to compromise the specifics of their vision for Northcoast society and landscapes. The trajectories and strategies of the redwood wars were not the product of middle-class activists working for relatively well-funded and established organizations. Nor were the redwood wars the product of policy entrepreneurs in Washington, DC. The redwood wars, and especially the battle over Headwaters Forest, were legally, legislatively, and promotionally the product of Northcoast activists. Kathy Bailey, Woods, and others took their Forests Forever proposal to Sacramento and then forced their issues into the voters’ consciousness. Likewise, Northcoast activists pressed Dan Hamburg to adopt their Congressional resolution for the battle over Headwaters Forest. It was Northcoasters who advocated their cause in DC and organized a nationwide constituency when they decided to pursue their Headwaters protection strategy at the federal level. The Northcoast activists pursued their vision for Northcoast society and

their vision for the redwood forests wherever a potential decision-maker resided. Their paths, against personal political preference, led them higher and higher up the hierarchy of government because the conflict protracted as the activists and the company adjusted to each others' moves and the moves of the local and state institutions. Like the activists, Pacific Lumber pursued its own strategies to defend its prerogatives and traditions in court and in the halls of government at progressively higher levels of authority.

Because of the persistence of the locals, the state and national governments were forced to accommodate Northcoast actors more often than the Northcoast was forced to accept edicts handed down to them. In the case of Headwaters Forest at least, national policy and politics was driven to the beltway from afar. In many ways, the process was similar to the way rural residents of the Pacific Northwest – logger and activist alike – drove the spotted owl conflict onto the national stage. The major differences were that the owl conflict was federal in nature because it was conceived of as a public lands issue. The Northcoast activists largely treated the Headwaters conflict as a local conflict and only federalized the conflict when local institutions grew incapable of governing.

The Headwaters Deal marks a pivotal development in the ascension of the Executive Branch inside the modern environmental protection regime. The Headwaters Deal was not the first instance where the Executive Branch asserted its influence over environmental protection policy, rather it marked the branch's most forceful foray into private land management conflicts. As environmental historians and political scholars have noted, Congress and the courts drove the early process of creating, defining, and refining the regime by passing laws and holding agencies accountable to legislative deadlines. Scholars of the final two decades of the twentieth century have noted the

increasing influence of the Executive Branch as law was settled, implementation and innovation became rooted in the agencies, and bipartisan commitment to the regime faded, especially with respect to air, water, and toxic pollution clean-up. Since the creation of the modern environmental protection regime during the 1970s, presidents have exerted tremendous influence over the implementation of the programs through their control over agency budgets and priorities. With respect to Endangered Species policy and law, the Executive Branch had largely intervened on public land or in conflicts over federal projects, most notably when the so-called God Squad was convened to consider overriding court injunctions regarding the snail darter and northern spotted owls during the late 1970s and early 1990s, respectively.

Executive influence on the environmental protection regime progressively increased under President Clinton. Clinton asserted direct control over Endangered Species policy in 1994 when he and Vice President Al Gore convened a conference in Portland, Oregon to negotiate a compromise forest plan for the National Forests affected by spotted owl habitat designation. The Headwaters Deal was the Clinton Administration's response to the first ever federal court order halting logging on private land because of Endangered Species policy, the presence of a noisy Congressional opposition to reauthorization of the Endangered Species Act, and the takings suit filed by Pacific Lumber -- to be heard by a court increasingly reducing the power of the Endangered Species Act. In that way, the Headwaters Deal was similar to the Clinton Administration's response to the increasing difficulties passing new wilderness bills and legislatively reforming National Forest Service budget shortfalls in an increasingly deadlocked Congress. In January 2000, President Clinton signed the Roadless Rule,

executing an end-around Congress to pass a sweeping set of new policies for National Forests. The Headwaters Deal was more complicated in that it required a Congressional act to purchase the Headwaters and Elk Head Springs Groves, but it nonetheless was the product of an increasingly rigorous Executive Branch exerting policy influence on the modern environmental regime.

In the end, the redwood wars speak to the persistent tension over private property rights, competing social visions, and the development of American politics. Just as Irving Berlin and Woody Guthrie promoted contrasting visions of their contemporary and ideal societies, so did the Northcoast redwood activists and leaders of Pacific Lumber. Unlike Berlin and Guthrie, the activists and loggers fought their battles in the forest, in the courtroom, and in the legislature. They were long and bloody wars, and in the end, though the locals transformed environmental politics, nobody won. Pacific Lumber was bankrupt, vast acreage of Headwaters Forest had been harvested, mudslides buried towns and choked salmon runs, a new corporation owned the forest, and a county was left holding its breath.

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