



Diggin' In: THE GIENGER REPORT

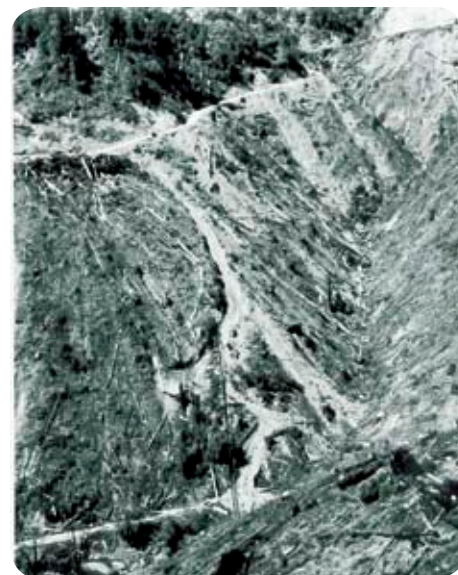
By Richard Gienger

In this issue I'll be "recapping" some of the continuing sagas, like the bond funding freeze and watershed/fisheries restoration work. But first I'm going to try to summarize some of the elements of the so-called "timber wars" over the last three-plus decades and then focus on crucial current conflicts and opportunities. I'll have to skim over years of fundamental detail in order to get to the here-and-now. For those who want to dig in deep, there are multiple sources to search out—you might be able to earn a PhD, or two, for your efforts. For a one-stop summary of a central aspect you might read and/or acquire Sharon Duggan and Tara Mueller's *Guide to the California Forest Practice Act and Related Laws*. For a millennial overview I'd recommend *A Forest Journey: The Role of Wood in the Development of Civilization* by John Perlin. And while you're thinking millennial, read *King of Fish: The Thousand-Year Run of Salmon* by David R. Montgomery.

My first experience of forestry in California came in the fall of 1971 in the Mattole Valley as I walked through battered landscapes ravaged by tractor logging after World War II and up through the 1960s—streams buried and skid trails disrupting hillsides with incredibly dense and damaging networks. I soon learned of the ad valorem tax brought to bear by the California legislature to make sure that the materials for the post WWII building boom were available. Landowners were taxed ON THEIR STANDING TIMBER until they cut 70% of it. This tax, which spawned the crazed gypo cat-logging frenzy, lasted into 1976. Many people don't realize this—and it is central to

understanding the damage that was done and why the state has a responsibility for enabling watershed recovery, bearing the burden for its role in watershed and fisheries habitat destruction. The ad valorem tax was replaced by a yield tax whereby you are taxed on cut timber when commercial harvest takes place.

I won't go through the specific names and litany of every legal case and situation that led up to this day, but in general: the huge storms and flood events of 1955 and 1964, with impacts greatly exacerbated by the logging damage—which deranged the hillslope hydrology (acknowledgements to Professor Donald Gray) such that streams became roads and roads became streams—wakened public perceptions and anger over the forestland destruction and horrific human and fisheries impacts. Coupled with these events was the environmental consciousness-raising in the late 1960s and early 1970s which resulted in landmark federal and California laws such as the Clean Water Act, the state and federal Endangered Species Act, the National Environmental Protection Act, and the California Environmental Quality Act (CEQA). On top of this the old California token Forest Practice Act was declared unconstitutional because (among other things) no rules could take effect unless approved by a small number of large landowners. This resulted in the modern Board of Forestry having an ostensible majority of members representing the public (5 public, 1 range, and 3 industry) and having the new world of forestry regulation ushered in by the Z'berg-Nejedly Forest Practice Act of 1973. All of a sudden you actually had to have a Timber Harvest Plan (THP)



Usal Creek in 1980
PHOTO: ROBERT BALLARD

submitted with erosion control standards, cutting restraints, regeneration standards, and mapping requirements, and there was a large increase in California Department of Forestry authority for approval and oversight.

This rudimentary forest regulation was better than nothing, but not by much. Streams were being stripped of their cover into the late 1970s and 1980s. Stream crossings and yarding and road damage could still be extreme. Clearcuts were often 120 acres each. The proverbial fan of accepted forest practice was hit when the courts declared that if any land-use permit required the application of an Environmental Impact Report under CEQA, it would certainly be the Timber Harvest Plan. Whoa, daddy—almost instantly logging trucks circled the state Capitol, and officials quickly negotiated a "functional equivalent" process to an EIR for timber operations, which remains in place today with various flaws intact. Despite the weakening of application

of CEQA to logging plans, the main substantive elements of CEQA that would apply to logging plans remained. It just took, and takes, constant vigilance, resources, and talent to see that CEQA, as the “polestar” of environmental protection, is complied with.

The early THPs were around five pages or so with mapping that was usually a joke—hard to tell what in heck was actually planned and what the impacts would be. Assuming the worst was usually the valid perspective. Logging dramas of various natures and nastiness were played out all over California’s private forestland, especially along the North Coast. Santa Cruz deserves special mention and its own history with its success in achieving selection forestry through County Rules.

The struggle over the expansion of Redwood National Park in the early and mid 1970s was one of the defining “educational” sagas, as huge areas of old-growth redwood were liquidated using the most damaging methods possible in the race to prevent protection. The legacy of that struggle, apart from the forest that was protected, was the seminal work done to restore the landscape from the incredible damage—the science and art of this restoration work was transferable to the rest of the North Coast and beyond. Such work continues to be applied today.

All over other, smaller and more local crises were dealt with. In the Mattole and Southfork Eel River watersheds some of these crises were stopping the

aerial spraying of phenoxy herbicides, protecting Gilham Butte, protecting the King Range, and protecting the Sinkyone Wilderness Coast. At the same time efforts were made to try and establish an economy based on a more sustainable forestry through stewardship. Some of these efforts came from Mateel area organizations such as the Forest Land & Products Cooperative (FLAPCO) and the Institute for Sustainable Forestry (ISF). The Hoedads Cooperative in Oregon was an inspiration all over the Pacific Northwest.

Yet another related basic social and economic movement grew during these times that had an emphasis on watershed recovery and focused on restoration of fisheries habitat and populations. The state and federal governments, as well as many private landowners, recognized this need. The fledgling “restoration industry” grew from a few nonprofits working for less than minimum wages on projects improving neighborhood salmon habitat, to a multi-million-dollar endeavor removing hundreds if not thousands of barriers to fish passage at road crossings, and upgrading or removing thousands of miles of forestland roads. I often cover the trials and tribulations of this work, but I’m trying to get to how all these forestland social, environmental, and economic phenomena relate to each other.

Getting back to a common link: All of these changes have been built on a foundation of information, education,

and positive response. And the context for this is really the cumulative effects or impacts on the land and waters around us. To actually make an effective positive response is usually difficult because many or most adverse cumulative impacts have an economic driver. Depletion of fisheries and forests usually happens because of over-harvesting and collateral damage to habitats. The forests of the North Coast were usually cut fast and sold cheap, with no real responsible vision and restraint that would enable future generations to live in economic, environmental, and social balance.

It really amazed me, when I first read the California Environmental Quality Act of 1970, that the legislators in their too rare wisdom had actually codified an ethical and intelligent human approach to the natural world: Would your project

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Lon Mulvaney, looking to the west contemplating Usal Creek watershed, Chimney Rock, and the top of the Sally Bell Grove on the farthest ridge.

PHOTO: RICHARD GIENGER

Since arriving in the Mattole Valley of Humboldt County in 1971, Richard Gienger has immersed himself in homesteading, forest activism, and watershed restoration. Richard’s column covers a range of issues including fisheries and watershed restoration and forestry, plus describes opportunities for the public to make positive contributions in the administrative and legislative arenas as well as in their own backyards.

harm the environment? What practices and alternatives do you need to choose to avoid or minimize adverse impacts? What must you do to prevent significant impacts to the environment?

It so happens that consideration of cumulative impacts is a substantive requirement of CEQA and applicable to the private and state forestlands of California, which was decisively confirmed in the 1985 *EPIC v. Johnson* decision, the Sally Bell Grove case. The California Department of Forestry's position during the arguments was that they didn't feel that they had to consider cumulative effects, but if there were any such impacts, they did. Georgia-Pacific's dominant-paradigm response was a lot less accommodating: they resubmitted the Sally Bell Grove THP within months of the Appeal Court decision—identical except for the change in date. Luckily their third run at ignoring cumulative impacts and cutting the Grove (the first attempt was in 1977) ended when Trust for Public Lands and the State of California finally acted to purchase the Georgia-Pacific holdings on the Sinkyone Wilderness Coast in 1986.

Another huge example, reaching the national stage, of the importance of disclosure of information and cumulative impacts was the battle over the fate of Pacific Lumber Company after it was taken over by Maxxam Corporation. This battle raged from February 1986 through the headwaters Deal of March 1999 to the settlement of bankruptcy in June 2008. The failure of Maxxam to disclose critical information about its forestland resources—from old growth to marbled murrelets, to rate of harvest, to conditions of and risk to fisheries habitat, the cumulative impacts—led to successful lawsuits and public outrage and action. Now, the new Humboldt Redwoods Company is trying to stay viable while treading the narrow trail through the damage from those cumulative effects.

Sally Bell Grove watershed pre-Georgia-Pacific in 1978 & post-Georgia-Pacific in the early 1980's
LEFT PHOTO: ROBERT BALLARD, RIGHT PHOTO: RICHARD GIENGER



All Timber Harvest Plans are required theoretically to consider cumulative impacts. After the 1985 court decision it took the California Department of Forestry and Fire Protection (now known as CAL FIRE) about six years to come up with a checklist process where no measurements were required. From what I understand, there has been only one THP that admitted that any cumulative effects would exist after timber operations were completed, and that one was approved along with the thousands of others that denied cumulative impacts.

One of the major rubs for me about the failure to come up with a viable and authentic process for the evaluation and response to cumulative impacts on California forestland is that a good process would not only reduce impacts from individual THPs, it would also inform landowners, agencies, and public and private watershed restoration interests about where the most effective work could be done to recover listed fish and wildlife species, reduce fuel hazards, prevent erosion, improve silvicultural conditions, and realize these and other distinct benefits for economy and community.

It's way past due for California to take on dealing with cumulative impacts on California forestlands. Here's a short list of reports and other milestones, with a few quotes pointing to action:

➤ From the 1994 Little Hoover Commission Report #126: **"Timber Harvest Plans: A Flawed Effort to Balance Economic and Environmental Needs":** "Recommendation #4: The Governor and the Legislature should enact legislation to require the completion of master protection plans for watersheds containing productive forests...."

Timber Harvest Plans cannot be fully effective in minimizing damage to the environment unless they address cumulative impacts across a broad area...."

➤ From the May 1999 "Keeley Report," done by noted cumulative effects expert Dr. Leslie M. Reid, at the request of Speaker pro Tem Keeley of the California Assembly: from page 3: "...Cumulative watershed impacts are of considerable concern because they are responsible for much of the damage to property and to public-trust resources that occurs away from the site of land-use activity...."

➤ From the "Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat, June 1999," page 2 of the Executive Summary: "The SRP concluded that the FPRs, including their implementation (the 'THP process') do not ensure protection of anadromous salmonid populations. The primary deficiency of the FPRs is the lack of a watershed analysis approach capable of assessing cumulative effects attributable to timber harvesting and other non-forestry activities on a watershed scale...."



✪ From the June 2001 report by the University of California Committee on Cumulative Watershed Effects, “A Scientific Basis for the Prediction of Cumulative Watershed Effects” [often referenced as the “Dunne Report” for Professor Thomas Dunne, Chair of the Committee]: from page 3 of the transmittal letter: “... the authors suggest a demonstration project wherein researchers would show how new models could be adapted and applied to the circumstances discussed in this report.”

✪ From the November 2001 report on the Interagency Watershed Analysis Team Pilot Project: “Goal: The goal of this pilot project is to develop, test, and refine a simple and credible interagency method, in cooperation with landowners and stakeholders, for analyzing watershed conditions, trend of resources of concern, and to identify protection and recovery needs, opportunities, and priorities on a planning watershed or sub-basin scale—consistent with both private and public trust values.”

✪ From the February 2004 California Coho Salmon Recovery Strategy—Recommendation for “7.24 Timber Management,” “ALT-C-03”: “The Department should develop and implement a program to design and implement a coho recovery plan for individual CALWATER Planning Watersheds...”

✪ From January 2010 Anadromous Salmonid Protection Rules, 14 CCR Section 916.9 [936.9, 956.9] (v)(10): “Board staff and the Department shall

work with agencies, stakeholders, and appropriate scientific participants... to: (1) describe and implement two pilot projects, including monitored results, using site-specific or non-standard operational provisions; ... The pilot projects and guidance shall address cumulative and planning watershed impacts...”

The Upshot:

In order to come up with the cumulative effects process that is needed (the old acrimonious venues for rule making like the windowless auditoriums of the Board of Forestry have gotten as far as they can go), we need to have all the major stakeholder groups (landowners/THP submitters, agencies, and the public) involved in on-the-ground pilot projects. Each group should have respected and qualified representatives that can come up with something that is doable, enforceable, and meets a high standard of public trust.

Our long-time North Coast advocate and now Assemblyman Wesley Chesbro has introduced legislation that would provide such a process in conjunction with, and through, the pilot projects designated in recently passed Forest Practice Rules (see above) as modified by his bill, AB 2575. This bill deserves staunch support and is in the interest of all three major stakeholder groups—it should make it easier to write good THPs, easier to enforce good THPs, and provide greater assurance that the standards are

adequate to protect public trust values. There are economic, environmental, and social benefits of implementing the measures necessary for the correction of past and current significant adverse cumulative impacts.

Go to the link: www.leginfo.ca.gov/bilinfo And type in the bill number AB 2575 to look at the bill, its history, and its place in the legislature. Or call Assemblyman Chesbro’s office for information.

Short Summaries of Other Issues:

- ✪ Mark Andre, Arcata’s Forester, has been appointed to a public seat on the BoF—great selection. Stan Dixon, Board Chair, and Tom Walz, SPI industry seat, were reappointed.
- ✪ Redwood Forest Foundation, Inc. (RFFI) and the Usal Redwood Forest: Key steps ideally leading to a conservation easement are being made. Initial action has been taken to designate the first formal acorn collection grove. Spawning and habitat scoping surveys continue. DF&G approved funding for Phase III of the Standley Creek watershed restoration work. Proposals for large wood stream habitat work and road evaluations for Indian Creek were submitted to DF&G. Work continues by Campbell Timber Management on the “Option a.”
- ✪ The appeal of the renewal of Water Quality Waivers continues—possible court date in July.
- ✪ Some bonds have been sold and some funding is still possible from a variety of sources, but overall the situation for adequate funding for watershed and fisheries restoration work is depressing. Check out ReSeed California’s website and/or reach the Association of Conservation Contractors and Workers for more information.

🌲 Get in touch with EPIC and Humboldt Watershed Council for the latest information on many of the above topics and other issues. Please get involved in ways that are effective and meaningful for you, and that contribute to real solutions.....fg