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epic

Environmental
Protection
Information
Center

1999 & 2000

Annual Report

epic



The voices of the wild are seldom heard in the courtroom. We speak for the salmon, murrelets, spotted owls and other wondrous creatures whose lives depend on our majestic ancient forests.

Introduction

For the past 24 years, the Environmental Protection Information Center (EPIC) has worked to protect and restore the stunning wild places on California's North Coast, and in the process has achieved significant reform of the logging industry. From our humble beginnings in 1977 as a group of citizens concerned with aerial herbicide spraying in Southern Humboldt County, EPIC has grown into one of the most prominent conservation organizations in Northern California. While the organization has grown and matured, we have retained our connection to the local community, as well as our commitment to biocentric, science-based advocacy.

Over the past couple of years, EPIC has continued to expand our scope and focus, moving beyond the Headwaters campaign to work toward broader landscape-level change. As the number of pristine, untrammled areas continues to decline, it has become increasingly important to improve the condition of the "managed" landscape. For the endangered species of the North Coast, the time is long past when establishing a system of reserves could adequately protect the species. Recovering salmon, owls and murrelets will require improving the condition of the privately-owned forests in the region. To do this will involve more effective regulation of logging as well as large-scale restoration of cut-over lands.

To these ends, much of EPIC's recent work has focused on affecting change across the landscape. We've had some successes, as well as some frustrations, but we are committed to providing a voice for wild nature, lest it be completely eradicated in the unchecked quest for corporate profits.

We continue to be profoundly grateful for the financial and emotional support of our members and donors. The thousands of individuals who send checks and letters on a regular basis are the force that keeps EPIC strong and healthy.

For the Wild Forests,

The EPIC Staff and Board



DAVID CROSS

The Sinkyone Wilderness State Park in Northern Mendocino County was the site of EPIC's first legal victory fifteen years ago.

mission statement

The Environmental Protection Information Center, Inc. (EPIC) works to protect the long-term health of the coastal forest ecosystem of Northern California, and provides a resource center for community environmental activism.

The specific purpose of this corporation, as stated in EPIC's Articles of Incorporation, is to channel public concern for the environment into action in the public interest. Such action may include research, education, sponsorship of work projects, administration and issuance of grants, cooperation with other local groups, and legal defense of the environment; and the corporation may own or lease any property necessary or proper to the fulfilment of this purpose.

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The current EPIC Staff and Board of Directors.

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Paul Carroll

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*1999 Staff Members

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Headwaters Forest

On March 1, 1999, state and federal officials inked an agreement with Maxxam Corporation and Pacific Lumber Company, transferring 7,500 acres of forest, including two of Headwaters Forest's six remnant ancient groves, into public ownership. In exchange, the company received \$380 million in cash and property, along with a 50-year permit to legally kill thirteen different rare, threatened and endangered species. A "Habitat Conservation Plan" (HCP) accompanying the permit provided temporary protection for the four groves not acquired by the public, while the state of California promised an additional \$100 million to purchase more redwoods in the future. Finally, the HCP imposed



CYNTHIA ELKINS

Thousands of people from throughout California and around the world participated in the campaign to save Headwaters Forest. This massive rally in Carlotta in September of 1996 was a powerful show of support—the Headwaters Deal was announced less than two weeks later.

salmon protection measures, including temporary restrictions on logging near streams and on geologically unstable hillsides.

But the good news ended there. A leader in the effort to save Headwaters since the mid-1980's, EPIC helped to mobilize thousands of citizens and dozens of scientific and legal experts to read and comment on the HCP and the Headwaters acquisition. Careful review of the documents showed that the HCP and accompanying Sustained Yield Plan (SYP), a long-term logging plan prepared under

state law, would allow for short-term decimation of more than 15,000 acres of forest containing ancient redwoods and Douglas fir. Scientists demonstrated that the HCP's stream protection measures, though better than the state's existing rules, were much too weak to prevent the eventual disappearance of Coho Salmon and other sensitive fish from streams on the company's lands. Legal experts questioned the HCP's reliance on scientific studies that had not yet been designed, much less carried out. Frustrated taxpayers and community members decried the massive amount of money required to ransom the forest from one of the twentieth century's most notorious corporate raiders, Maxxam CEO Charles Hurwitz.

Negotiations between the company and public officials reached a fever pitch during January and February 1999 as final details of the HCP, SYP and acquisition were hammered out. Experts submitted a final round of comments on the deal in late February, but federal negotiators continued to make concessions to Hurwitz right up until midnight on March 1. By the next morning, roughly 3,000 acres of ancient redwoods belonged to the public, and the landscape of North Coast forestry had changed dramatically.

EPIC was involved in the Headwaters issue from the very beginning, shortly following Maxxam's hostile takeover of the then locally-owned Pacific Lumber Company. EPIC's lawsuits first slowed the chainsaws in Headwaters Grove in 1987, and further litigation built upon those early victories. A decisive federal court success in 1995, *Marbled Murrelet and EPIC v. Pacific Lumber Company*, ("the Owl Creek federal case") brought the Endangered Species Act into play, provisionally protecting old-growth habitat for that rare seabird and scuttling Hurwitz's plans to completely liquidate the forest. Further litigation attempted to stop the "salvage" logging of Headwaters' ancient groves in 1996 with some—but not total—success. Finally, EPIC helped organize the massive outpouring of citizen action during the last few years of the Headwaters struggle, and helped expose the final deal

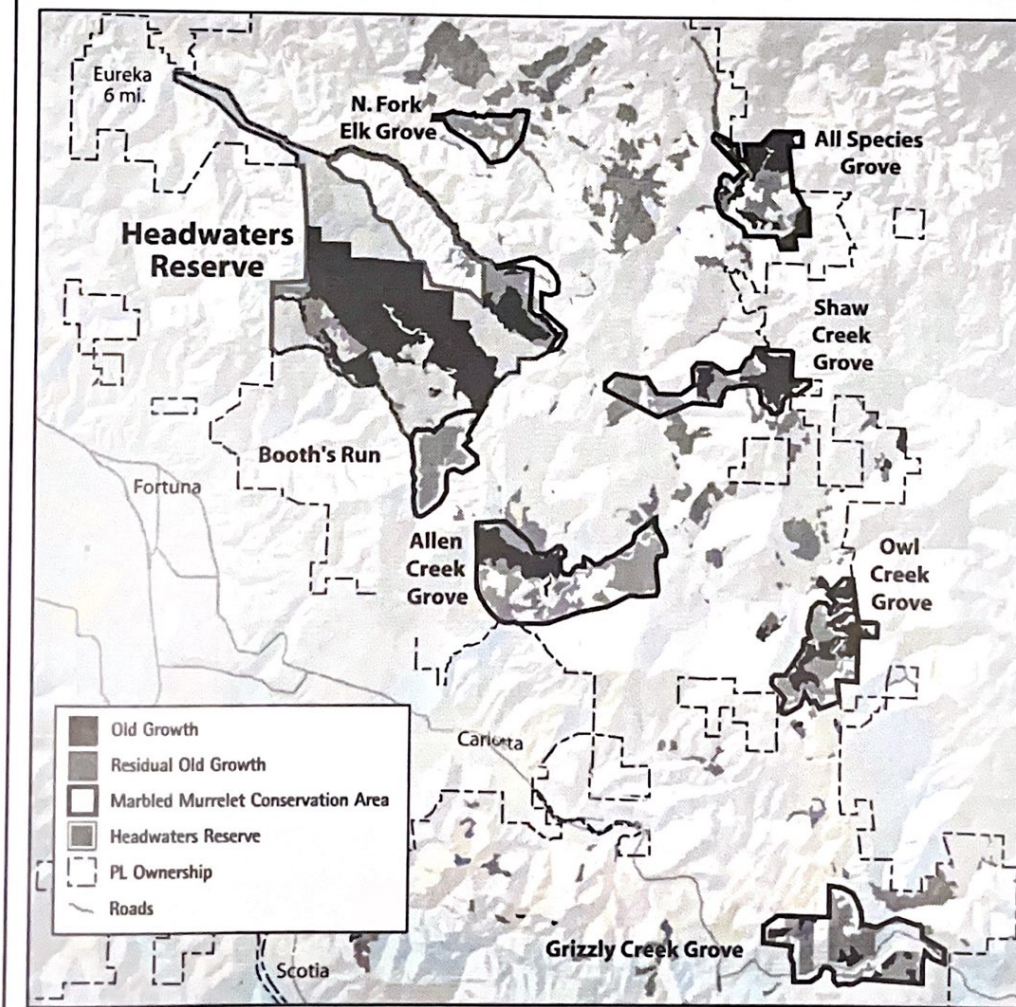
DEAN RIMMERMAN



as something far less than the “win-win” solution touted by politicians and company officials.

Despite the mixed outcome of the final deal, the Headwaters issue broadened EPIC's horizons. Our first Endangered Species Act case strengthened important precedents protecting endangered species habitat on private lands, a result with nationwide implications. Close involvement with the details of the HCP, especially the salmon protection measures, expanded our focus from the last fragments of old-growth forest to the health of forest watersheds and communities as a whole. There's a growing feeling at EPIC, and throughout the North Coast, that the time has come for landscape-level attention to the many threats posed by industrial logging to our fisheries, wildlife, water, and ultimately our quality of life. Our ten-plus years of experience in the Headwaters campaign point the way toward the challenges of the next decade.

Areas Protected by the Headwaters Deal



SCOTT LAMORTE, TREES FOUNDATION

Headwaters Forest

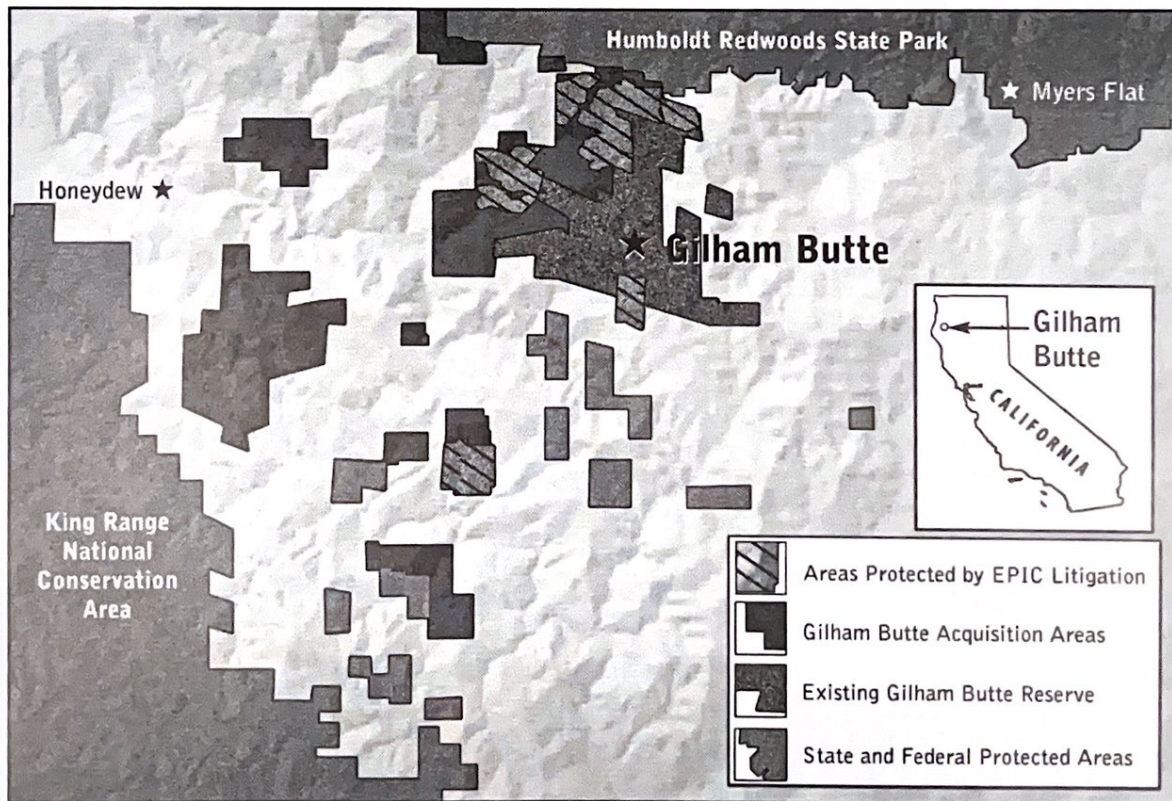
Gilham Butte

Another dramatic acquisition of ancient forest on the North Coast occurred last year with far less fanfare than the Headwaters deal. Nearly 4,000 acres of steep, wild Douglas fir and hardwood forests on the slopes of Gilham Butte became public land in an agreement thought by many to be an important model for future, similar projects. While numerous community groups, dedicated individuals, state employees, Ancient Forest International and Save-the-Redwoods-League crafted the final terms of the agreement, EPIC and Friends of Gilham Butte (long-time advocates for protection of this unique area) fought successfully in court against numerous logging plans that would have devastated much of the land now permanently protected. The new acquisition, nestled beside a core of old-growth habitat controlled by the Bureau of Land Management, may become part of a visionary "Redwoods to the Sea" corridor that would protect and restore a biological link between the Humboldt Redwoods State Park and the King Range National Conservation Area. This conservation pathway between the world's largest remaining stand of ancient redwoods and the longest stretch of roadless coastline in the continental United States could also serve as a model for other like efforts. Once again, citizen litigation was essential to set the stage for this crucial acquisition.

The lessons learned at Headwaters and Gilham Butte epitomize the opportunities and challenges EPIC faced in 1999 and will continue to confront in the new millennium. The objectives of our three program areas: Outreach, Advocacy, and Litigation are adapting to reflect the lessons we continue to learn while working to conserve the North Coast's forests and watersheds.

Without the years of litigation and advocacy by EPIC and Friends of Gilham Butte, this dramatic acquisition would have been of clearcuts rather than ancient forest.

EPIC Lawsuits That Protected Gilham Butte



SCOTT LAMORTE; FIONA BURGESS; TREES FOUNDATION; AND JEFF DAVIS, EPIC

Education and Outreach

EPIC's outreach and education program seeks to inform, educate, and activate citizens on environmental issues. To change society's relationship with the planet, individuals need to understand why environmental protections are necessary. Increased public understanding can result in the broad-based change essential to the success of any comprehensive conservation strategy. To that end, EPIC's education and outreach program works to explain in lay terms the social and ecological needs for the environmental protections we advocate, and build public support for these actions.

During the past two years, informing, educating, and updating the public took place in a variety of ways. "Wild California," EPIC's biannual newsletter, went out to our roughly 3,500 members and was widely distributed in public locations in communities throughout the North Coast. We periodically distributed action alerts and updates to our roughly 1000-member email list. In addition to our local and state constituency, we reached a broad national and international audience about issues of biodiversity and habitat protection through our continually updated and increasingly comprehensive website. Our website permits broad access to a summary of our litigation activities, a review of current local issues, as well as in-depth background materials on some of our more high profile projects.

However, EPIC's most effective and broad-based outreach to the community continues to be the work we do with the media. Over the years EPIC has developed a sterling reputation with California reporters for providing a source of reliable factual information and informed commentary. We regularly receive calls seeking information on environmental issues other than our own projects. Of course, we proactively generate media coverage on our conser-



DAVID BERGIN

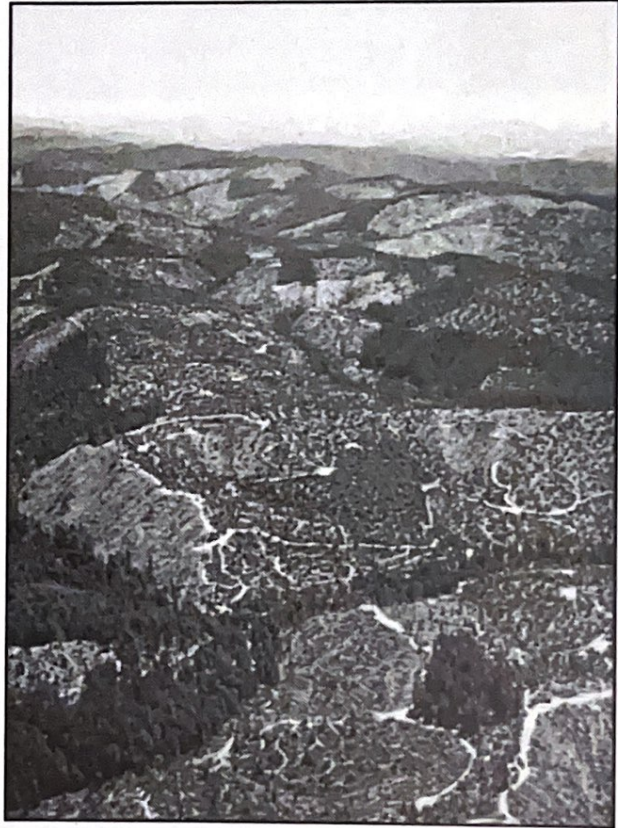
Educating the public about the reasons for EPIC's litigation is a critical aspect of promoting change in societal values. Here, Paul Mason explains the reasons behind EPIC's challenge to a Pacific Lumber logging plan in the ancient forests of the Mattole.

vation efforts as well. The majority of our media coverage is through print, radio, and television media on the North Coast, but we have received much broader coverage as well, with our media outreach resulting in substantial articles running in the *Santa Rosa Press Democrat*, the *LA Times*, the *Sacramento Bee*, the *San Francisco Examiner*, and other press outlets across the nation.

Finally, EPIC worked very closely with other local, regional and national organizations on a wide array of policy issues. Outreach program staff attended the California District Attorney Association's Environmental Enforcement conference and gave a presentation on how to enforce environmental laws. EPIC staff also presented a number of workshops at a two-day conference for forest activists covering issues ranging from how to use litigation to how to effectively present forestry issues to the general public. EPIC staff also made themselves available for numerous consultations with other smaller organizations working on forestry projects, helping nascent organizations develop a campaign strategy, find legal counsel, and get their message out to the media.

Advocacy Program

EPIC's advocacy program provides state and federal officials with an educated, science-based, grassroots perspective on the environment that they otherwise may lack. Our comprehensive advocacy program involves identifying key decision-makers, developing positions on important policy issues, and presenting these positions in both formal and informal circumstances. Activities within the advocacy program include monitoring, writing comments, research, and fostering ongoing relationships in order to track land use plans and practices. We are constantly monitoring the status of several regulatory policy-making bodies, primarily the California Board of Forestry and North Coast Regional Water Quality Control Board. We also maintain contact with agency personnel on a continuing basis to monitor the implementation of potentially destructive land-use activities, such as logging plans. These proactive monitoring efforts allow us to stay abreast of land use activities on California's North Coast and beyond. Our continuous presence and engagement allow us to build successful relationships with agency decision-makers. Our program encompasses both administrative and legislative advocacy on the local, state and national levels.



NICK WILSON

The Navarro watershed in Mendocino county is a painful reminder of why EPIC's advocacy work is necessary. In a classic cut-and-run style, Louisiana Pacific liquidated the forests in Mendocino County, then sold the land and fled the county.

California Board of Forestry

The Board of Forestry is the policy-making body that creates the rules governing logging on private land in California. Since the decisions of this 9-person board directly affect the legal landscape of EPIC's work, we pay close attention to the Board of Forestry, and regularly attend meetings and submit detailed comments on rule changes or other proposals set forth by the Board. Unfortunately, because the Governor appoints the Board, and because California's current Governor Gray Davis is not particularly conservation-oriented, passing positive rule changes has been a serious challenge. EPIC has been successful in instigating incremental improvements over the past couple of years, however, and stopped several proposals that would have egregiously undermined conservation efforts.

In January 2000, EPIC and concerned individuals petitioned the Board of Forestry to close a loophole that allowed the destruction of ancient trees and forests without any environmental review. This loophole is provided through the "exemption" process, and was responsible for more than 10 million board feet of ancient trees falling in 1998 and 1999 alone—the equivalent of more than 1,400 logging truckloads. Although the Board denied the petition, it did form a committee to define "old-growth" and



DEAN RIMMERMAN

With unprecedented levels of campaign contributions pouring in from the logging industry, California Governor Gray Davis has made sure their solid majority on the Board of Forestry is maintained, and that clearcutting and other destructive logging practices can continue unabated.

“In my official capacity as NMFS' representative...I have explained to the Board of Forestry and officials at CDF on numerous occasions that the state may be liable under the [Endangered Species Act] for promulgating a regulatory scheme which they are fully aware results in take of listed salmonids and adverse modification of critical habitat. The only action the Board of Forestry has taken to address these issues is the adoption of the inadequate interim changes to the California Forest Practice Rules.”

— Joe Blum, NMFS liaison to California

formulate a rule package to address this problem. EPIC served on this committee, but industry lobbyists and staff members of the California Department of Forestry effectively prevented progress through the end of 2000.

EPIC also worked on two major proposals for rule changes that were considered by the Board. One of these related to protection for salmon, and arose after the National Marine Fisheries Service (NMFS) decried the rules because they allow such serious degradation of water quality. The Board failed to enact meaningful reforms, however, and EPIC ultimately challenged these rules in federal court (see *EPIC v. Tuttle*). Another rule package the Board considered dealt with "watershed analysis." This concept sounds very good, and comprehensive assessments of the watersheds affected by logging are long overdue. However, the language developed by the Board was completely devoid of science, and would have established an easy way for the logging industry to lower the minimum standards of the rules with no public or agency review. Fortunately, work by EPIC and the Sierra Club helped lead to the defeat of this harmful rule package.

Timber Harvest Plan Monitoring

One of the most important ongoing activities of EPIC's advocacy program is our Timber Harvest Plan (THP) Monitoring Project. THPs are the written plans required under state law for logging on private lands, and provide the public with an opportunity to review, comment, and ensure that plans are consistent with state and federal environmental laws. Our Timber Harvest Plan Monitor receives notification of all THP submissions in the area and does "triage" to select the plans of most serious concern. Our THP Monitor tracks selected THPs through the state's review process, highlighting issues of concern and helping bring them to the attention of overworked agency biologists. The work of the THP Monitoring Project is critical in preparing for litigation on specific logging plans.

A challenge facing our THP Monitor over the past couple of years has been monitoring the implementation of Pacific Lumber's HCP/SYP. These documents created a complex set of rules in addition to the standard Forest Practice Rules. Unfortunately, but predictably, Pacific Lumber began pushing for novel interpretations of many of the provisions of the HCP in order to log more in sensitive areas—interpretations described as "language torture" by some of our agency colleagues. Aggressive oversight of the implementation of PL's HCP has been critical to preventing, or at least being aware of, concessions that weaken environmental protections.



DOUG RILEY THRON

Yager Creek, at the core of Pacific Lumber's ownership, used to be one of the best salmon streams around. Savage, and often illegal, logging has decimated salmon populations.



EPIC ARCHIVES

The watershed analysis process will be used to weaken the initial standards of the Headwaters Deal.

Pacific Lumber Watershed Analysis

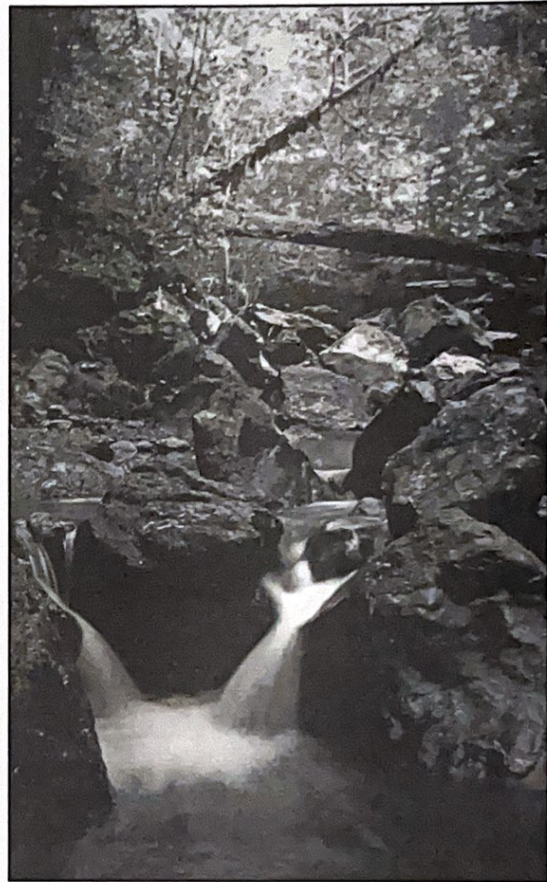
Watershed Analysis is a key element of the Habitat Conservation Plan approved as part of the Headwaters Deal. Under the HCP, Pacific Lumber operates under interim standards until they conduct analyses in 22 watersheds on their property. Through this process, Pacific Lumber has the opportunity to "rewrite" logging prescriptions watershed by watershed. PL is clearly eager to substantially weaken the current standards. EPIC has been following this complex situation and providing public oversight to prevent likely exploitation by the company. Continued monitoring of this analysis process will be essential to prevent a step backwards from the protective aspects of the Headwaters Deal.

Regional Water Quality Control Board

1999 and 2000 have been marked by increasing interaction with the North Coast Regional Water Quality Control Board (NCRWQCB). One of the positive side effects of the Headwaters Deal was increased funding of the NCRWQCB by the California Legislature. As a result of the increased funding and staffing, the agency has been able to take a much more active involvement in reviewing Timber Harvest Plans, particularly those by Pacific Lumber.

For many years, EPIC and other watershed groups have been raising the fact that excessive logging has seriously damaged the water quality of a number of North Coast streams. As a result of that ongoing advocacy, the NCRWQCB issued a "Staff Report" detailing how Pacific Lumber's logging operations seriously damaged water quality in five watersheds in Humboldt County. The Staff Report also recommended that several orders be implemented to prevent ongoing harm to the watersheds, including limiting Pacific Lumber's rate of logging in the area.

Following the release of the report in September of 2000, EPIC became a "designated party" in the ongoing administrative proceedings regarding the Staff's proposed orders. EPIC has contributed detailed legal comments, as well as additional technical testimony from noted experts with the firm Philip Williams and Associates. Unfortunately, like everything involving Pacific Lumber, politics are playing a very significant role, and the proceedings are moving at a glacial pace.



DOUG RILEY THRON

Politicians and PL would like the public to believe the company's HCP is a panacea for forest health, but the Water Quality Control Board has found that it is completely inadequate to protect water quality or meet the requirements of state and federal laws.

CDF Stewardship Committee

Because we are often forced to respond to environmentally destructive industry initiatives, EPIC is sometimes characterized as reactionary. However, EPIC is just as interested in promoting good forestry as we are in preventing bad logging. To this end, we have been involved in a "Stewardship" working group to explore incentives to encourage non-industrial landowners to practice more environmentally friendly forestry. Over the past year, EPIC has championed environmental interests in this working group, convened by the California Department of Forestry, and which represents all relevant state and federal agencies. In this forum we've explored alternative ways to achieve environmental protection that are more responsive to the needs of small landowners. Through this process we hope to encourage people to practice a lighter-touch forestry on non-industrial lands.

Simpson Timber Company Aquatic HCP

The largest landowner on the North Coast, Simpson Timber Company has recently begun negotiations on a Habitat Conservation Plan for aquatic species. Initial feedback from agency personnel involved in the negotiations indicate that Simpson has unrealistically low expectations of what it needs to do to conserve salmon on its property. EPIC provided extensive comments on the necessary legal and biological standards during the initial scoping process for the plan, and we continue to interact with agency personnel to monitor development of the plan. When the plan becomes public, we will provide detailed scientific comments on any upcoming public review drafts.

North Coast Railroad



EPIC has been involved in monitoring the proposed reopening of the North Coast Railroad and providing the public with credible information about the environmental destruction that would result from the railroad. EPIC has been following the process for funding and implementing the reconstruction work on the railroad, and challenged the railroad over its deliberate use of loud noises to scare endangered species away from the railroad so they could proceed with future repairs free of endangered

species concerns. EPIC has also been doing detailed background research and providing comments on the need for a comprehensive analysis of the viability of the proposed reconstruction.

Over 30 miles of the North Coast Railroad are built through the Eel River Canyon, an extremely unstable area next to the river. This stretch of railroad is by far the most expensive to maintain in the country, and is unlikely to ever be kept open over time. EPIC opposes attempts to reopen this stretch of the railroad, because of the environmental impacts of reconstruction and the near certainty of failure over time.



Legislative Advocacy

When EPIC makes progress in the policy arena, our opponents in the logging industry typically call on the California legislature to try to change the law. In some instances, we find it necessary to interface with the legislative process. We have found that our reputation for honest and well-informed policy analysis brings us respect and clout disproportionate with our size. We are also able to call on our California membership to put pressure on their elected officials regarding specific legislative issues. We are, of course, extremely careful to stay within the legal limits for 501(c)3 non-profit organizations.

Humboldt Bay

One of EPIC's most exciting new projects in 2000 is our increasing involvement in monitoring the development and management of Humboldt Bay. Humboldt Bay is one of the largest and most pristine estuary areas in California, but is facing increasing human impacts, as well as pressures to become an international shipping port. EPIC has initiated research into the current state of the Bay and published newsletter articles to educate our members and the local population about the outstanding natural values of the Bay, as well as the threats that are now facing this important habitat.



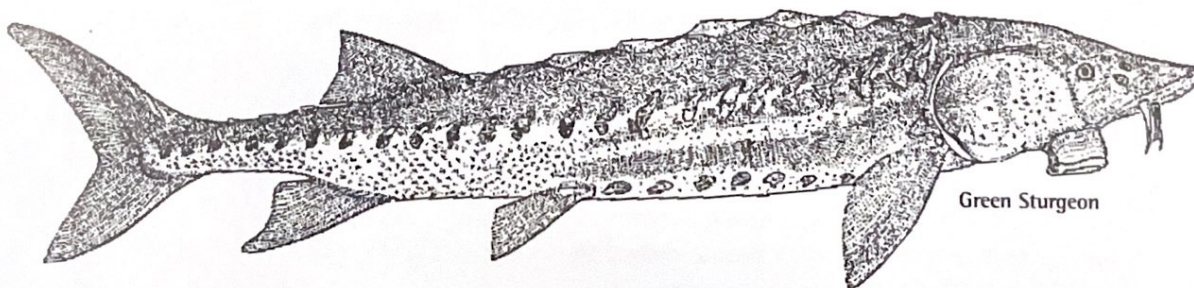
TRACI THIELE

Humboldt Bay is one of the largest and most biologically important estuaries on the West Coast. Its wetlands, intertidal mudflats and marshes provide essential habitat for a great diversity of life, including 141 invertebrates, 110 fish and 251 birds.

EPIC has also begun to put high-profile polluters on notice to clean up their operations. In August of 2000, EPIC and the Californians for Alternatives to Toxics notified Humboldt Bay Forest Products, the major import/export facility of raw logs and wood chips, that it is in violation of the Clean Water Act. Because of its location directly adjacent to the Bay, and its business of storing pesticide-soaked logs in the rain at the water's edge, the facility is a major source of polluted runoff. EPIC expects to continue to make protection of Humboldt Bay a major focus in years to come, and has continued putting prominent polluters on notice.

Endangered Species Act Listing Petitions

Listing a species under the ESA leads to additional protection for the species and its critical habitat. Many do not realize that species only receive listed status through citizen action—it has been years since the federal government listed a species without being compelled by a lawsuit. EPIC has been working on a listing petition for the Green Sturgeon, a long-lived anadromous fish native to the North Coast which is extremely endangered. EPIC also collaborated with the Center for Biological Diversity on a petition to list the Pacific Fisher as an endangered species.



Green Sturgeon

Advocacy Program

Litigation Program

EPIC began its litigation program in 1983 with our efforts to protect Sally Bell Grove, an ancient redwood grove that has since been acquired and added to Sinkyone Wilderness State Park. Through that landmark case, *EPIC v. Johnson*, EPIC successfully established that logging on private lands is subject to the requirements of the California Environmental Quality Act, and that the cumulative effects of multiple logging projects in the same area must be evaluated. However, since critically analyzing the negative impacts of the hundreds of logging plans filed each year would likely curtail the rate of logging, the timber industry and its friends in the Department of Forestry have avoided undertaking meaningful analyses. Therefore, 18 years after our first effort to create a cumulative effects analysis, EPIC is still struggling to implement this important victory.

Over the past couple of years we have brought several lawsuits seeking to gain better implementation of cumulative impact analysis in logging operations. Our *EPIC v. Tuttle* case challenged the California Department of Forestry for failing to adequately protect threatened Coho Salmon, based largely on the failure to deal with cumulative impacts. We also challenged Pacific Lumber's new Sustained Yield Plan, which, while covering over 210,000 acres, still fails to deal with cumulative impacts. Our challenge to PL's SYP has been particularly difficult—there is a perception that, given the tens of thousands of pages of documentation, such issues must have been addressed. Yet the documents clearly acknowledge that there is no overarching analysis of the combined impacts of hundreds of logging plans. Exposing this fact to the courts has been an uphill battle, in the face of PL's obfuscation of the issue, and its massive public relations campaign.

EPIC has also continued to move beyond forestry issues. In 2000 we brought two separate challenges to herbicide usage in California, one based on adverse impacts to endangered species and the other based on CDF's failure to analyze the impacts of widespread herbicide usage on either humans or wildlife.

We also filed a lawsuit to force the designation of Critical Habitat for Coho Salmon, as well as one concerning the impacts of in-stream gravel mining on Coho habitat. The Southern Torrent Salamander also received our attention, with a lawsuit challenging the Fish and Wildlife Service's inaction on a five-year old petition to list it as a threatened species.



"Postcard Grove" in the heart of Headwaters Grove.

Our ongoing diversification represents our commitment to protecting entire watersheds and ecosystems, from river-bottoms to ridge-tops. Through such a broad approach we hope to help achieve the recovery of many vanishing species in the region, both the famous "listed" species, as well as those which are less well known. Our litigation program continues to be an important component of our work, and provides a highly effective tool for protecting public trust values when other methods fail.

Pacific Lumber v. Marbled Murrelet and EPIC

1. Salvage Logging in Headwaters Forest

EPIC challenges Pacific Lumber's plan for salvage logging and the US Supreme Court upholds the citizen's ability to enforce public interest laws

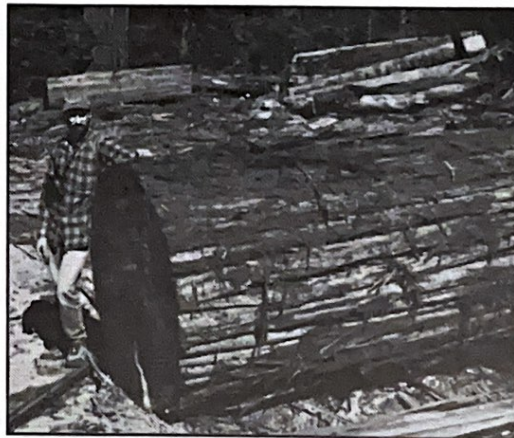
In February 1995, EPIC won an Endangered Species Act lawsuit that blocked Pacific Lumber Company from logging of Owl Creek grove, and by extension, other Murrelet-occupied old-growth redwood stands in the Headwaters area. Three days after this major victory, Pacific Lumber announced plans to salvage log these stands, using an exemption in the forest practice rules that allows the landowner to take up to 10% of the volume of a stand without environmental review.

EPIC filed a federal lawsuit in 1995 alleging that the salvage logging of the ancient groves would harm the Marbled Murrelet. Because of our lawsuit, the proposed logging operations were scaled back dramatically, and we were able to reduce the damage to the ancient groves. Two groves, Headwaters Grove and Elk Head Springs, were spared from salvage logging by a moratorium created by the 1996 Headwaters Forest Agreement.

We were able to prevent major damage to the ancient groves, but because of the very restricted nature of the proposed salvage logging, EPIC ultimately lost the case to Pacific Lumber. PL then removed downed logs from existing roads. Upon winning the case, PL attempted to twist the language of the Endangered Species Act to require EPIC to pay its legal fees. PL's request was denied by the District Court, and the Ninth Circuit upheld the denial on appeal, stating that Congress and the courts have long applied different fee awards standards for plaintiffs and defendants in civil rights and environmental cases, since defendants are pursuing personal profit, while plaintiffs seek to enforce the law without personal gain. The January 18, 2000 U.S. Supreme Court decision was a welcome victory for EPIC, and wisely maintained the citizen's right to enforce public interest laws.

“The Supreme Court has recognized that Congress' intent in creating the fee shifting provisions under certain statutes was to establish a 'private attorney general' enforcement mechanism.”

— Judge Louis C. Bechtle,
ruling against Pacific Lumber's
motion for attorney fees in this case.



DOUG RILEY THRON

Giant trees such as this were removed from the ancient groves of Headwaters Forest, without environmental review. PL's initial proposal, blocked by EPIC's litigation, would have taken 10% of the standing trees.

EPIC and Sierra Club v. Pacific Lumber

2. Preserving Alternatives for Pacific Lumber's Habitat Conservation Plan

EPIC's challenge to Pacific Lumber makes it more difficult for logging companies to obtain HCPs and associated permits to kill endangered species



In 1998, EPIC and Sierra Club obtained a verbal preliminary injunction in federal court against three Pacific Lumber logging plans. The injunction, based on the application of Section 7(d) of the Endangered Species Act, restricts an applicant for a Habitat Conservation Plan from making an "irretrievable commitment of resources" while in negotiation with the agencies responsible for approving the plan. In this case, PL's continued logging in sensitive areas would have foreclosed the possibility that such areas could be protected under the Habitat Conservation Plan.

In March 1999, U.S. District Court Judge Marilyn Patel issued a formal written order confirming the preliminary injunction and holding that Section 7(d) did indeed apply to private parties engaged in consultation with federal agencies. After the consultation period came to a close, the Judge ruled that our case had become moot because negotiations had been completed and the HCP approved.

The ruling contained language that strengthened the judge's previous rulings concerning the merits of our claim. Even though the ruling was ultimately in PL's favor, the company opposed the language of the ruling and subsequently appealed their own victory



TRACI THIELE

The 3,000 acres of ancient Douglas fir forest in the Mattole is the largest unprotected low-elevation Douglas fir forest in California. This area is one of the sacrifice zones established by the infamous Headwaters Deal.

to the Ninth Circuit Court of Appeals. EPIC and Sierra Club also filed an appeal on PL's mootness claims. Oral arguments were heard on November 13th, 2000.

Logging companies in Northern California have already slowed their once-vigorous efforts to obtain HCPs and associated permits to kill endangered species, citing our litigation as a reason for their reluctance. The important implication of this case is that corporations applying for Habitat Conservation Plans cannot rush out and liquidate habitat that would potentially be part of the plan's protections.

As the 7(d) case wound its way through federal court, EPIC staff attorney Sharon Duggan provided substantial assistance to Mattole Valley rancher Michael Evenson, who sought an injunction on his own behalf against two of the same logging plans in state court. EPIC's case protected this area until Mr. Evenson's case could be heard and the successful end result of his case was the approval of these plans being overturned by the court.

EPIC v. Simpson Timber and US Fish and Wildlife Service

3. Challenging Simpson's Northern Spotted Owl Habitat Conservation Plan

EPIC challenges Simpson Timber's permit to kill endangered and threatened species

In September 1998, EPIC filed suit against U.S. Fish and Wildlife Service and Simpson Timber Company concerning the impacts of the company's Habitat Conservation Plan (HCP) to species that were listed under the ESA since the HCP was granted. Simpson was the first logging company in California to receive an HCP to "take" (kill or harm) a protected species, receiving a permit in 1992 to take 100 Northern Spotted Owls during the first 10 years of the HCP, with additional take to be authorized in 2002. Since the permit was issued, the Marbled Murrelet, Coho Salmon and Tidewater Goby have been listed as "threatened" with extinction, but consultation on the impacts to these species has never been initiated.

Our lawsuit alleges that the Fish and Wildlife Service should have reevaluated the impacts of the HCP on these newly-listed species since these impacts were never considered in the initial review and approval of the Northern Spotted Owl HCP. The Endangered Species Act requires that formal consultation occur with appropriate fish and wildlife agencies if a new species is listed that might be affected by Simpson's HCP.

The Fish and Wildlife Service asserted that it did not retain any continuing discretion over Simpson Timber's permit that it issued, in spite of clear written statements to the contrary. Because courts tend to defer to the "responsible" agencies, and because the implications of our challenge could have shut



DOUG RILEY THRON

Simpson Timber is the largest landowner on the North Coast and was the first logging company to ever receive a permit to kill an endangered species. Their HCP allows the company to kill 100 Northern Spotted Owls in the first ten years, with additional "take" to be authorized in 2002.

down much of Simpson's logging, a District Court Judge denied our request to prohibit logging until the agencies had reviewed the impacts of the Simpson HCP on other listed species. We appealed this decision to the 9th Circuit soon after.

In 1998 Simpson bought Louisiana-Pacific's holdings in Humboldt and Del Norte counties to become the largest corporate logging company on the North Coast, with holdings of 380,000 acres of forestland. Simpson submitted a draft HCP for both the Murrelet and Coho Salmon but federal agencies rejected their proposal, saying the provisions they proposed, similar to those under which they are currently operating, are too damaging to consider. Simpson is now reworking its HCP for salmon and other aquatic species, and is expected to submit a draft aquatic HCP late in 2001.

EPIC v. CA Department of Forestry and Pacific Lumber

4. Sustained Yield Plan

EPIC disputes the California Department of Forestry and the Pacific Lumber Company's proposed liquidation of tens of thousands of acres of mature and ancient forest

As part of the 1999 Headwaters deal, California state officials approved a 120-year Sustained Yield Plan (SYP), a 50-year incidental take permit for the Marbled Murrelet, and other state-level permits for the Pacific Lumber Company. On March 31, 1999, EPIC and the Sierra Club challenged these plans and permits in Sacramento County Superior Court.



DOUG RILEY THROM

PL's "Sustained" Yield Plan establishes a rate of logging far heavier than the forests can support.

Our suit alleges that California state officials erred in approving the SYP because there has been insufficient analysis of the cumulative effects of liquidating tens of thousands of acres of mature forest over the next two decades. In addition, the suit alleges that the

Murrelet take permit, allowing for quick destruction of several thousand acres of ancient forest habitat, has also failed to meet standards for approval and is likely to cause the species to vanish from California. Finally, the suit challenges a five-year streambed alteration agreement providing blanket permission for water diversions and other activities impacting streams on Pacific Lumber property.

The case was transferred to Humboldt County in October 1999. On October 8th, EPIC received an exorbitant bill from the state for costs incurred in preparing the administrative record for the case. Without prior consultation, the state had prepared a digital version of the vast administrative record of the Headwaters deal, custom-designed for use by state lawyers and tailored to the legal requirements of the defense team we were opposing.

A Humboldt County judge heard our objections to the calculation and apportionment of the costs on December 10, 1999, and issued a ruling May 10, 2000 somewhat reducing the costs for EPIC and its co-plaintiff. Hearings on the substantial merits of the case are upcoming.

On February 25, 1999, CDF approved an annual harvest level of approximately 140 million board feet. Under political pressure, on March 1 CDF increased the allowable cut to 180 million board feet. Shortly thereafter, PL announced that it understood that it could cut up to 200 million board feet per year. In contrast, all the National Forests in California (almost 20 million acres) logged a total of 215 million board feet in 2000.

The Sustained Yield Plan authorizes PL to log 45,961 acres (21.7% of the property) in the next decade, including 2,031 acres of old-growth and 27,080 acres of mature forest.

The state permits issued as part of the Headwaters Deal allow PL to log 66% (9118 acres) of the 13,804 acres of suitable Marbled Murrelet habitat on the property, including nearly 4,000 acres where the birds are known to be present.



DOUG RILEY THRON

NMFS never quantified the impacts of in-stream gravel mining on threatend Coho Salmon.

EPIC and Center for Biological Diversity v. Daley

5. Gravel Mining Case

EPIC successfully challenges the NMFS on the impacts of gravel mining on Coho Salmon habitat and the resultant destruction of Coho Salmon in our local rivers

On July 22, 1999, EPIC and the Center for Biological Diversity filed a complaint challenging government approval of in-stream gravel mining operations in Humboldt County that result in destruction of Coho Salmon. The suit alleged that the National Marine Fisheries Service (NMFS) and William Daley, acting as Secretary for the Department of Commerce, improperly granted gravel mining corporations permission to kill Coho Salmon, a threatened species.

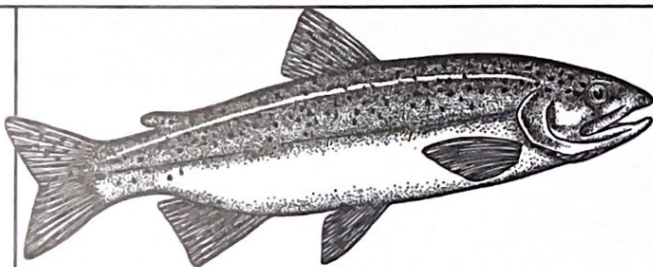
When government permits may affect a threatened or endangered species, the Endangered Species Act (ESA) requires federal agencies to issue a "biological opinion" which must specify the extent to which such take is permitted to occur. The biological opinion issued by NMFS failed to disclose the extent of the damage to the Coho habitat and the estimated number of Coho that would be harmed by gravel mining. By failing to establish this gauge, NMFS neglected to fulfill the provisions of the ESA and failed to establish a quantitative threshold to prevent rampant degradation of Coho Salmon habitat. As a result of EPIC's action, NMFS agreed to complete consultations on gravel mining impacts to Coho critical habitat, and issued a new biological opinion that specified the amount of take of Coho Salmon.

More gravel is extracted from Humboldt County than any other area its size on the Pacific Coast. In riverbeds, heavy equipment used to mine gravel can kill salmon directly, disrupt migration patterns, ruin spawning habitat and increase sedimentation. Habitat degradation has been the primary factor leading to the 94% reduction in northern California Coho Salmon populations in the past 50 years.

Coho v. National Marine Fisheries Service

6. Coho Critical Habitat

EPIC lawsuit forces National Marine Fisheries Service to designate critical habitat for Coho Salmon



On January 13, 1999, EPIC challenged the National Marine Fisheries Service on their failure to designate "critical habitat" for Coho Salmon. Under the Endangered Species Act, the agency is required to designate critical habitat on a mandatory statutory timetable. NMFS issued a proposed critical habitat rule in November 1997, but had not followed through with a final rule. As a result of our successful litigation, NMFS agreed to comply with its statutory responsibilities and issued a final determination of critical habitat.

EPIC v. U.S. Fish and Wildlife Service

7. Southern Torrent Salamander

EPIC challenges the U.S. Fish and Wildlife Service to protect the Southern Torrent Salamander under the Endangered Species Act

The Southern Torrent Salamander depends on old-growth Douglas fir and redwood forest ecosystems and is very sensitive to activities that degrade water quality and riparian areas. Populations of Torrent Salamanders have declined dramatically due to logging and other land alterations, and listing of the salamander could extend watershed protections well beyond what is currently required. Protection of the salamander's habitat would greatly improve the entire stream continuum, not adequately protected by the current Forest Practice Rules.

EPIC and other conservation groups submitted a petition to list the Southern Torrent Salamander under the protection of the Endangered Species Act in 1995. Although the Fish and Wildlife Service was required to determine whether the listing was warranted within one year of our submitting the petition, the agency failed to do so for numerous subsequent years.

On January 18, 2000, EPIC filed suit in federal court in San Francisco against the U.S. Fish and Wildlife Service to seek protection for the Southern Torrent Salamander. On April 10, 2000, through a stipulated settlement agreement, USFWS was required to take the necessary steps to arrive at a determination of whether listing the salamander was warranted. USFWS subsequently responded with the decision that the listing was not warranted. EPIC disagrees with that conclusion and is currently reviewing the record to see if that decision was arbitrary and capricious and without basis in fact.

EPIC v. U.S. Army Corps of Engineers

8. Dredging/Oil Spill Case

EPIC forces the Army Corps of Engineers to temporarily halt dredging operations after an oil spill in Humboldt Bay

On September 6, 1999, in the process of deepening and widening shipping channels through Humboldt Bay, the dredging ship Bean Stuyvesant ruptured its oil tank and dumped more than 2,000 gallons of oil just outside the bay's narrow entrance. The resulting oil slicks killed thousands of birds and other wildlife, including threatened and endangered species such as Marbled Murrelets, Western Snowy Plovers, and California Brown Pelicans. The spill migrated into estuaries, fouling over 40 miles of pristine North Coast beaches and forcing the closure of Clam Beach, a popular recreation area.

On October 22, 1999, EPIC and the Center for Biological Diversity obtained a temporary restraining order, halting dredging operations until the U.S. Army Corps of Engineers had reevaluated the project. This reevaluation was required by the National Environmental Policy Act as a result of the oil spills and consequent impacts on the fragile Humboldt Bay environment. After a ten-day shutdown, the Corps responded with a set of additional mitigation measures aimed at cleaning up the current spill and avoiding further damage.



EPIC ARCHIVES

Already in serious decline due to loss of their ancient forest nesting areas, California's Marbled Murrelet population took a serious hit from this oil spill. Some experts estimate that the spill may have killed up to 10% of the state's murrelet population.

Litigation Program

*EPIC v. Tuttle***9. California Logging Rules Don't Protect Coho Salmon**

EPIC challenges the State of California to prohibit logging operations that kill endangered Coho Salmon

This lawsuit is one of EPIC's most ambitious cases because it seeks to invalidate the State of California's entire regulatory structure for logging operations on private land within the range of the Coho Salmon. The basic premise is that the state acknowledges that California's Forest Practice Rules are inadequate to protect the Coho as required by the ESA, but has refused to enact meaningful reform measures to correct these violations. The National Marine Fisheries Service (NMFS), the federal agency responsible for protecting endangered salmon, agrees with our claims and submitted a declaration on our behalf in the case.

With the support of NMFS and Santa Cruz County, EPIC filed a motion for a preliminary injunction in May of 2000, and asked the court to prohibit logging operations that "take" Coho Salmon. Although our motion was also supported by testimony from leading fisheries and geological experts, the judge denied our motion, but set an expedited schedule for getting the case to full trial. Throughout 2000 we amassed volumes of evidence detailing the adverse impacts of logging on Coho Salmon and their habitat, in order to prove to the court that logging operations approved by CDF are illegal.



CYNTHIA ELKINS

Logging-related landslides are a major source of sediment filling North Coast streams.

*Lost Coast League, Humboldt Watershed Council and EPIC v. PL and CDF***10. The Ancient Forests of the Mattole River**

EPIC is committed to challenging unprotected areas of old growth inadequately protected under the Headwaters Deal

On September 8, 2000, EPIC, the Lost Coast League, and the Humboldt Watershed Council won an emergency stay from the California Court of Appeals to stop a 53-acre logging plan in ancient forest in the North Fork of the Mattole watershed. The plan we opposed, THP 475, proposed a clear-cut in the heart of the state's largest contiguous stand of unprotected low-elevation old-growth Douglas fir forest, in one of the most seismically active and geologically unstable areas in the U.S. The area is home to the threatened Coho Salmon and Steelhead Trout, as well as rare River Otters, Peregrine Falcons, Pacific Fishers, and Northern Goshawks.

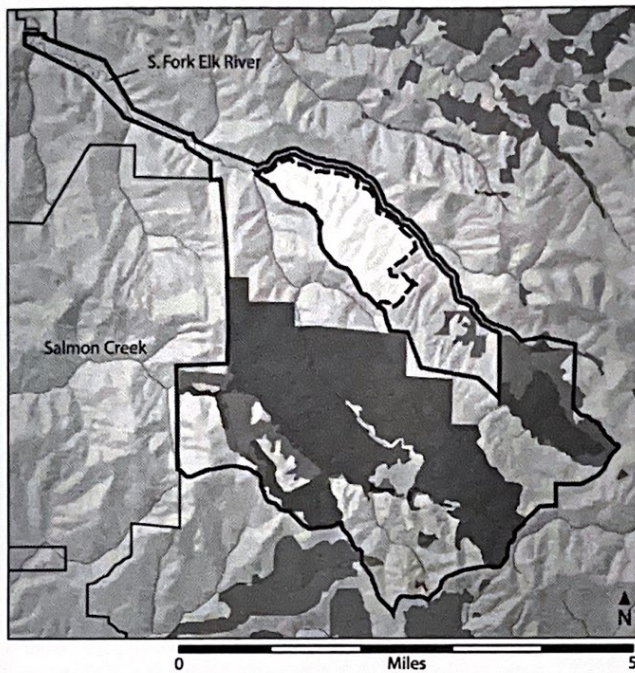
This plan is the first of six pending harvest plans in the immediate area, and if these plans go forward, PL could potentially liquidate much of the 3,000 acres of ancient Douglas fir in the Mattole River watershed. Unfortunately, the California Department of Forestry has illegally waived PL's responsibility to analyze the effect of leveling this old-growth forest.

This is the first logging plan that we challenged in court that allegedly complies with the standards of the Headwaters Deal. This challenge has illustrated how difficult it is going to be to overcome the perception by the court that the Headwaters Deal protections are adequate, simply because the deal entailed mountains of paperwork and documentation. EPIC maintains that the weaknesses of the Headwaters Deal urgently need to be exposed and remedied before all remaining high-quality habitat is liquidated.

EPIC and Sierra Club v. Pacific Lumber and CDF

11. The Hole in the Headwaters Case

On July 10, 2000 EPIC was granted a preliminary injunction preventing Pacific Lumber from logging this 705-acre area pending trial



SCOTT LAMORTE, TREES FOUNDATION

After years of EPIC litigation and citizen action, the Headwaters Reserve was transferred to public ownership on March 1, 1999. Unfortunately, as an artifact of the complex land exchange, a 1,000-acre hole was left on the northern side of the reserve. This area is surrounded by the public reserve, and is the only mature forest adjacent to the old-growth redwoods of the reserve.

Though this area will be the first new habitat to become mature enough for Marbled Murrelet nesting, and the South Fork Elk River is one of the best salmon streams in California, Pacific Lumber has an approved Timber Harvest Plan that covers 705 acres of this area. Even worse, the logging plan does not conform to the standards agreed to as part of the \$480 million Headwaters Deal. PL is attempting to log this area without complying with either its Habitat Conservation Plan or its Sustained Yield Plan.

EPIC and Sierra Club sued PL and the California Department of Forestry. We succeeded in receiving a preliminary injunction on July 10, 2000 but were stunned when the visiting judge required that we post a \$250,000 bond in order to keep the injunction in place until trial. Although we firmly believe in the public's right to seek unrestricted judicial review when government and private industry are colluding to break the law and damage the environment, we decided that this was neither the time nor the place to argue that case. Instead, we undertook a phenomenal short-term fundraising effort to raise the bond money. With substantial loans from musicians Don Henley and Bonnie Raitt, as well as a number of other donors, we were able to post the bond.

Litigation Program

“A believer in orchestration might reasonably conclude CDF’s actions were intentionally executed to prevent public exposure or comment”

- Hon. Quentin Kopp
7/11/2000 in his ruling granting a preliminary injunction

Californians for Alternatives to Toxics and EPIC v. CDF

12. Statewide Vegetative Management/Herbicides

EPIC disputes California Department of Forestry herbicide use

Over the past couple years, the Department of Forestry has been rewriting their statewide "programmatic" vegetation management plan intended to provide an overall analysis of the impacts of massive statewide fuel load reduction efforts. While we agree that fire hazard reduction is a necessary activity, the draft analysis anticipated massive herbicide use across the state as part of that activity.

When challenged about the fact that the impacts of such massive herbicide usage were

never adequately analyzed, the CDF removed all references to herbicides from the final document. However, herbicides will still be used, and they were removed from the analysis document in a half-hearted attempt to avoid the issue.

Based on CDF's failure to evaluate the impacts of this large-scale widespread herbicide use, EPIC challenged the vegetation management plan in state court on August 31, 2000.



DAVID BERGIN

Sharon Duggan, EPIC's staff attorney, has worked with EPIC for 17 years.

Californians for Alternatives to Toxics, EPIC, and Humboldt Watershed Council v. US Environmental Protection Agency

13. Herbicide Impacts on Endangered Species

EPIC contends herbicide use violates the Endangered Species Act

Under the Endangered Species Act, the US Environmental Protection Agency is required to consult with federal fish and wildlife agencies before authorizing the use of herbicides in an area that may impact endangered species. Unfortunately, despite the increasing use of toxic herbicides in endangered species habitat, the EPA has never analyzed the potential adverse effects on endangered species. On August 31, 2000, EPIC, Californians for Alternatives to Toxics and the Humboldt Watershed Council filed suit against the EPA for this reason, alleging that EPA's failure to consult on the impacts of these herbicides violates the federal Endangered Species Act. The lawsuit focuses on the effects of Atrazine, Roundup, 2 4-D, Garlon, and other herbicides on threatened fish species and listed plants such as the endangered Western Lily.

Many studies show that even small amounts of these chemicals can cause serious problems for humans, as well as fish, wildlife, and plants. Concern is heightened because the chemicals are usually mixed with large quantities of diesel fuel before being applied, resulting in tens of thousands of gallons of diesel sprayed on North Coast forests each year.

Every year in Northern California, roughly 50,000 acres of land are sprayed with toxic herbicides, generally following intensive clearcutting and burning. These chemicals pose serious risks to many species, including threatened salmon species, but impacts of the herbicides on endangered species have never been evaluated.

Litigation Program

Fiscal Report

1999 Financial Information

Revenue

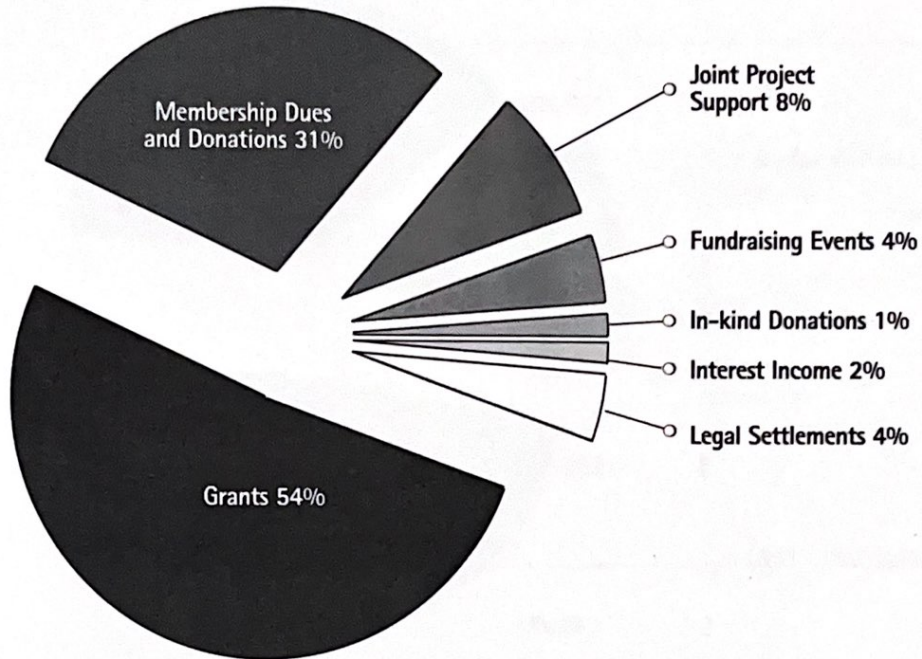
Grants	\$	164,100
Membership Dues and Donations	\$	94,663
Joint Project Support	\$	25,175
Fundraising Events	\$	13,391
In-kind donations	\$	4,392
Interest Income	\$	4,819
Legal Settlements	\$	13,209
Total Revenue	\$	319,749

Expenses (by program area)

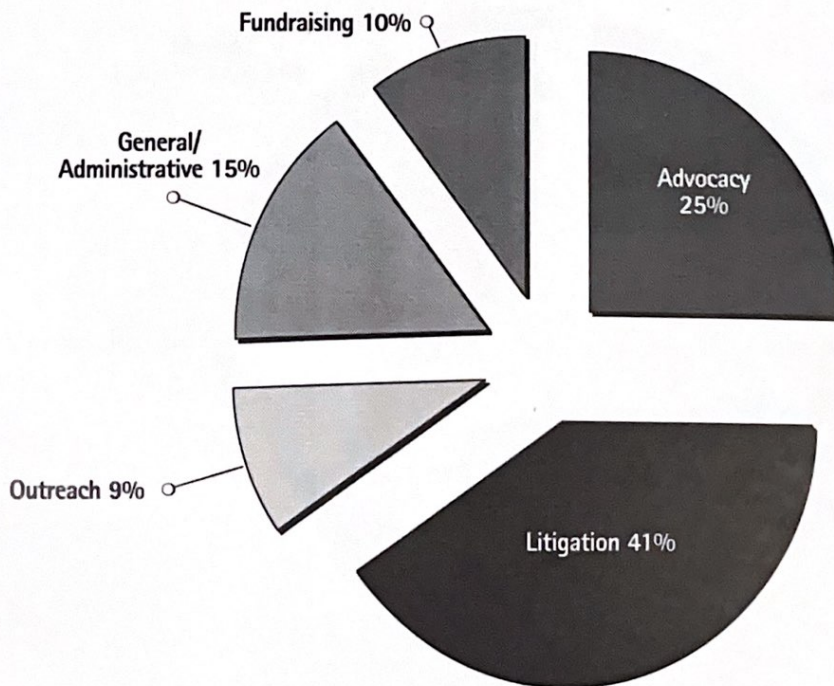
Advocacy	\$	81,804
Litigation	\$	128,438
Outreach	\$	29,963
General/Administrative	\$	49,385
Fundraising	\$	33,012
Total Expense	\$	322,602

Beginning Net Assets	\$	171,222
Change in Net Assets	\$	(2,853)
Ending Net Assets	\$	168,369
Unrestricted Net Assets	\$	113,942
Temporarily Restricted Net Assets	\$	52,977
Restricted Net Assets	\$	1,450

1999 Revenue



1999 Expenses



Fiscal Report

2000 Financial Information

Revenue

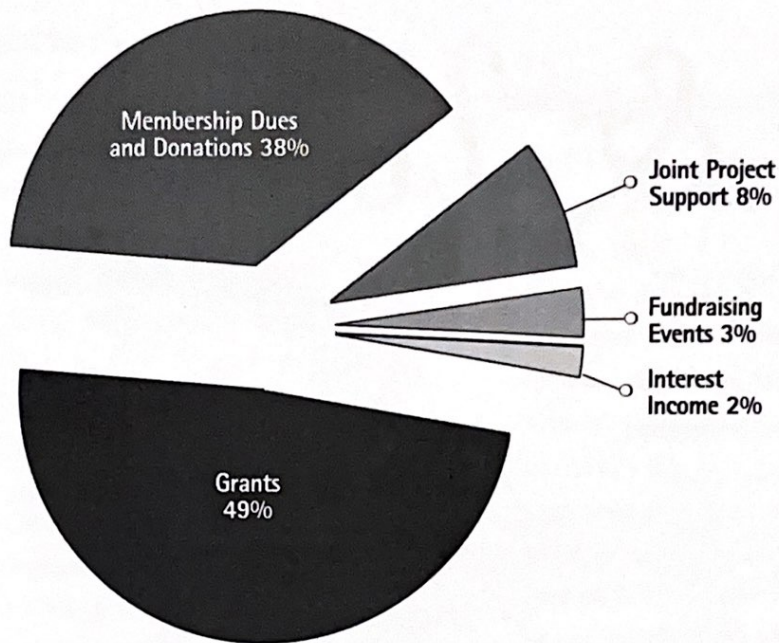
Grants	\$	199,050
Membership Dues and Donations	\$	155,708
Joint Project Support	\$	34,106
Fundraising Events	\$	12,176
In-kind donations	\$	599
Interest Income	\$	7,522
Total Revenue	\$	409,161

Expenses (by program area)

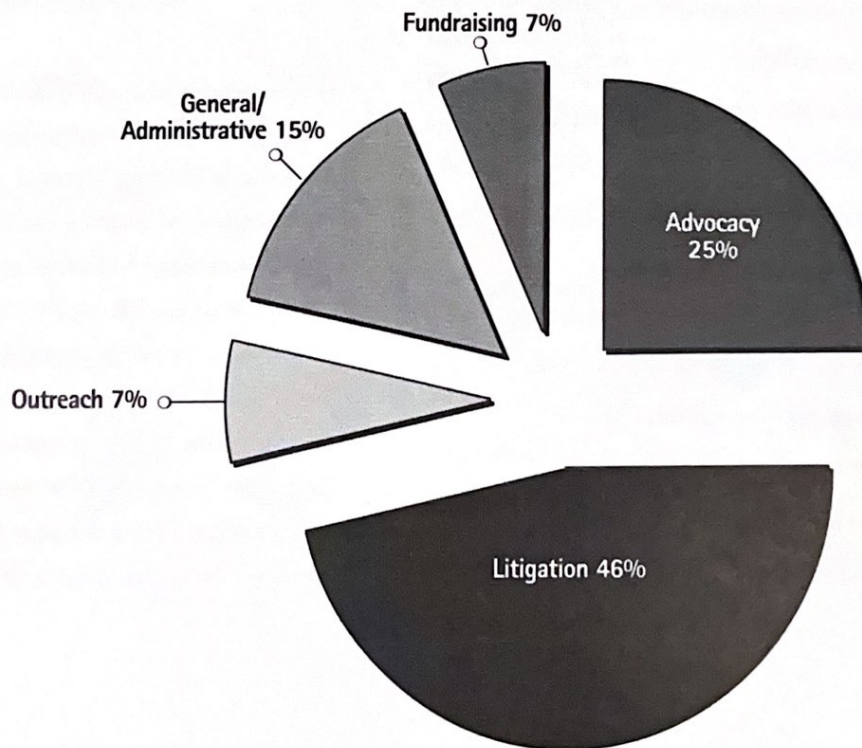
Advocacy	\$	100,484
Litigation	\$	190,207
Outreach	\$	29,277
General/Administrative	\$	60,135
Fundraising	\$	27,175
Total Expense	\$	407,278

Beginning Net Assets	\$	168,369
Change in Net Assets	\$	1,883
Ending Net Assets	\$	170,252
Unrestricted Net Assets	\$	118,595
Temporarily Restricted Net Assets	\$	35,907
Restricted Net Assets	\$	15,750

2000 Revenue



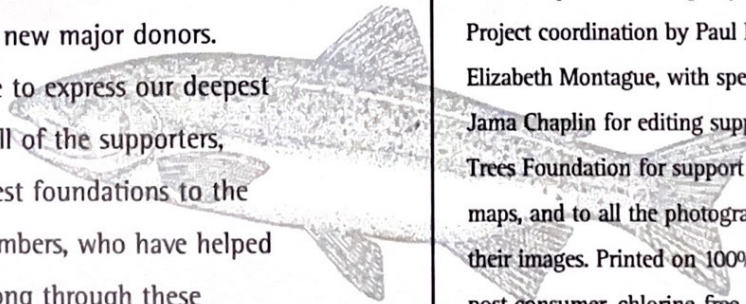
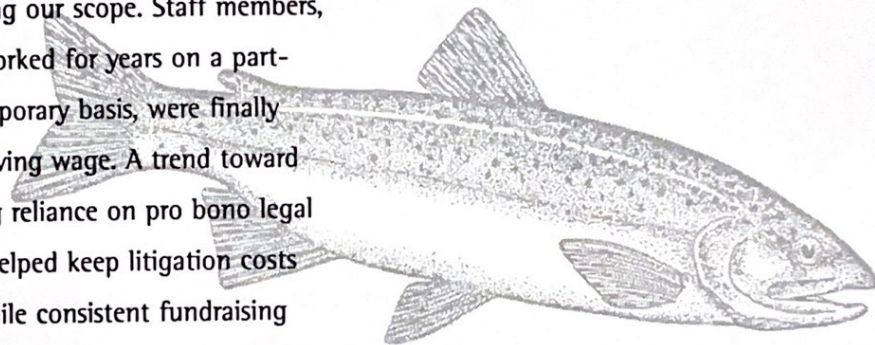
2000 Expenses



Thank You

1999 & 2000

Throughout 1999 and 2000, EPIC streamlined its operations to work more efficiently, while simultaneously broadening our scope. Staff members, having worked for years on a part-time, temporary basis, were finally given a living wage. A trend toward increasing reliance on pro bono legal services helped keep litigation costs down, while consistent fundraising and membership development efforts brought in sufficient resources to keep the organization strong and flexible. Finally, EPIC's reputation for cutting-edge advocacy and legal work continues to attract new major donors. We would like to express our deepest gratitude to all of the supporters, from the largest foundations to the individual members, who have helped us remain strong through these transitional years.



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Thank
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ENVIRONMENTAL PROTECTION INFORMATION CENTER

PO Box 397
Garberville, CA 95542

ph 707|923-2931
fx 707|923-4210

epic@wildcalifornia.org
www.wildcalifornia.org