

1996 ANNUAL REPORT

SUMMARY

The Environmental Protection Information Center, EPIC, is a grassroots, non-profit organization actively working to protect the coastal redwood forest in the redwood region of northern California. EPIC has been at the forefront of forestry reform, working for over a decade to ensure that state and federal agencies follow their mandate to uphold environmental laws and protect endangered species. EPIC pursues an integrated approach, combining public education and outreach, citizen advocacy, and strategic litigation to serve as a resource center supporting community environmental protection.

Much of our current work focuses on protecting endangered species habitat. We are working to uphold and strengthen the Endangered Species Act and to preserve Headwaters Forest, Pacific Northwest National Forest and forest on Earth. 1996 was a landmark year for Headwaters and endangered species. Highlights include our successful lawsuit decision in favor of our federal lawsuits that upheld the Endangered Species Act, the Endangered Species Act progress toward a debt-free Headwaters Forest, a successful public education of Headwaters' design.

EPIC's Leadership in Biodiversity National efforts to protect another natural resource critical support public's concerns and initiatives.

EPIC's Public Advocacy to address responsible for protection of forest practices. Our Endangered Species Act and public works to protect endangered species by public works to protect California and federal. Our litigation program and implementation of current laws. Our California Endangered species project is made up of volunteer writing and editorial work to protect the integrity

Our LEGISLATION PROGRAM seeks to ensure that public lands are managed responsibly, protecting biodiversity, preserving areas of critical wildlife habitat, and reform forestry practices. EPIC's LEGISLATION PROGRAM seeks to ensure that public lands are managed responsibly, protecting biodiversity, preserving areas of critical wildlife habitat, and reform forestry practices. EPIC's LEGISLATION PROGRAM seeks to ensure that public lands are managed responsibly, protecting biodiversity, preserving areas of critical wildlife habitat, and reform forestry practices.



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The Environmental Protection Information Center

1996 ANNUAL REPORT

SUMMARY

The Environmental Protection Information Center, EPIC, is a grassroots, non-profit organization actively working to protect the coastal ancient forest in the redwood region of northern California. EPIC has been at the forefront of forestry reform, working for over a decade to ensure that state and federal agencies follow their mandate to uphold environmental laws and protect endangered species. EPIC pursues an integrated approach combining public education and outreach, citizen advocacy, and strategic litigation. We also serve as a resource center supporting community environmental activism.

Much of our current work focuses on protecting endangered species habitat. We are working to uphold and strengthen the Endangered Species Act and to preserve Headwaters Forest, the largest unprotected ancient redwood forest on Earth. 1996 was a landmark year for EPIC in our work to protect Headwaters and endangered species. Highlights include: a U.S. Court of Appeals decision in one of our federal lawsuits that upheld important provisions of the Endangered Species Act; progress toward a debt-for-nature swap to achieve public acquisition of Headwaters Forest; a massive media campaign and grassroots organizing to protect Headwaters' clear streams and ancient trees.

EPIC's **EDUCATION & OUTREACH PROGRAM**, through the **Biodiversity Network** project, focuses our education, outreach and organizing efforts to promote key campaigns like Endangered Species Act (ESA) reauthorization and Headwaters Forest preservation. The Network also plays a critical support role for EPIC's litigation and advocacy programs by alerting the public to current threats, contacting media, and raising funds for our legal endeavors.

EPIC's **PUBLIC POLICY & ADVOCACY PROGRAM** organizes citizen advocacy to address management and policy issues with state and federal agencies responsible for protection of public trust values (water, air, wildlife) and regulation of forest practices. Our **Endangered Species Advocacy** project works to protect endangered species by petitioning for listing of species and advocating for stronger California and federal Endangered Species Acts as well as rigorous enforcement and implementation of current laws. Our **Coho Salmon Defense** project is made up of volunteer activists and watershed groups organizing to protect the integrity of local watersheds and the salmon and other wildlife who depend on these areas.

Our **LITIGATION PROGRAM** seeks to compel enforcement of laws protecting biodiversity, preserve areas of critical wildlife habitat, and reform forestry policy. The **Headwaters Legal Defense Network** project monitors proposed logging plans that may involve critical habitat in the Headwaters Forest area, and organizes public support and input into the timber harvest review process, litigating when necessary.

1996 PROGRAM REPORTS

EPIC'S EDUCATION AND OUTREACH PROGRAM

Biodiversity Network Project

The Biodiversity Network educates citizens and activists about environmental issues and helps mobilize support for key campaigns. The Network also creates, organizes and distributes critical informational materials, promotes statewide and national reform measures, maintains EPIC's database of members and key activists, and provides media support to EPIC's advocacy and legal work.

EPIC's media and outreach program has created incredible momentum toward protection of Headwaters Forest. In 1996 we were a leading participant in the **Headwaters Forest Coordinating Committee (HFCC)**, a coalition of environmental groups working together to facilitate public acquisition of Headwaters Forest and to ensure that the ancient redwoods remain a priority for the public and the Clinton administration. EPIC Programs Director Cecelia Lanman, along with other key HFCC participants, met with Congressional representatives, the Clinton administration, and the FDIC in Washington D.C. to discuss permanent protection for the Headwaters Forest. We provided maps of the critical groves and watersheds to ensure that the most biologically important areas were considered for acquisition. Our efforts resulted in an expanded government proposal aiming to preserve two ancient groves and critical buffer areas. However, we continue to advocate for protection of all 60,000 acres and all six remaining ancient groves of Headwaters Forest.

To this end, EPIC and the HFCC generated thousands of letters of support to the Clinton administration from the public, national environmental groups and influential Representatives and Senators. We also targeted the Federal Deposit Insurance Corporation and the Office of Thrift Supervision (OTS) to facilitate a debt-for-nature swap. Under such a plan, the public would acquire Headwaters Forest in exchange for the debt which Maxxam Corporation CEO Charles Hurwitz owes American taxpayers for his failed Texas savings and loan. Hurwitz acquired Pacific Lumber (including Headwaters Forest) in 1985, and the savings and loan failure may be connected to the high-risk junk bonds used to finance the takeover bid. The Clinton administration is now aware that acquisition of Headwaters through such a debt-for-nature swap is a top priority for many Americans.

In December of 1995, the OTS filed civil charges against Charles Hurwitz and former directors and officers of two Texas savings and loans that went bankrupt after they were taken over by entities that Hurwitz controlled. OTS filed 13 separate charges of violating federal regulations and engaging in unsafe and unsound practices. The government suit is seeking unspecified restitution for these alleged illegal acts, as well as \$889,000 in civil penalties. It further seeks prohibition from future banking involvement of all six individuals charged. This was a giant leap forward for the debt-for-nature campaign and has put pressure on Maxxam to settle its debt and surrender the forest.

The lawsuits against Hurwitz, along with a massive public outpouring of concern for the fate of Headwaters, created tremendous news coverage about the ancient redwoods. In conjunction with the Trees Foundation, a local organization that offers forest protection groups media and outreach assistance, EPIC staff prepared the press with historical and background information packets on the Headwaters Forest issue and produced press releases updating the media and other activists as events developed.

During the summer of 1996, EPIC's Education and Media Coordinator worked with a *pro bono* advertising firm and other members of the HFCC to develop a series of full-page newspaper ads which ran in the Western edition of the *New York Times*. These ads focused on influencing negotiations, targeting Maxxam Corporation, and sending out a unified message that a diverse coalition of environmental and religious groups supports a large acreage acquisition. We also worked with the Rabbis of the Redwood Region to place ads in Jewish weeklies in Los Angeles and Hurwitz's hometown of Houston, Texas. These ads inspired a dialogue between Hurwitz's Rabbi and local Rabbis in this region.

EPIC and the **Coalition to Save Headwaters Forest**, an ad hoc group of over 45 organizations, sponsored a massive rally on September 15, the "official" end of marbled murrelet breeding season (the murrelet, a threatened seabird that nests only on the moss-covered upper limbs of coastal old-growth trees, has been central to EPIC's legal efforts to protect Headwaters). On the eve of the rally, Charles Hurwitz, Deputy Secretary of the Interior John Garamendi, and Senator Dianne Feinstein were locked behind closed doors negotiating the fate of Headwaters Forest. At the eleventh hour they announced a two-week moratorium on salvage operations in all six ancient groves. Senator Feinstein immediately took to the airwaves, advising the crowds planning to attend the rally to stay home. However, citizens realized that this was just a stay of execution, and several thousand people peacefully demonstrated that the American public wants lasting ecosystem protection for Headwaters. Over 1,000 citizens, including Bonnie Raitt, Cecelia Lanman, and former Congressman Dan Hamburg, chose to get arrested in a ritual act of civil disobedience. The peaceful rally was the largest forest protest in U.S. history, and received coverage from CNN, *The Christian Science Monitor*, *Wall Street Journal*, *New York Times* and many other national media outlets.

An agreement announced by the Clinton administration on September 28 sets out a "deal" which, if all of its contingencies are met, would protect only two of the six ancient groves. The company agreed to a ten-month moratorium on salvage operations in Headwaters Grove and Elkhead Springs Grove, leaving the other four ancient redwood groves open to salvage logging. Acquisition is contingent on fast-track approval of a Habitat Conservation Plan (HCP) and Sustained Yield Plan (SYP) for all of Pacific Lumber's forest land, as well as Congressional support for the \$380 million in land swaps and cash which Maxxam would receive in exchange for the two groves and a small buffer zone. Our greatest fear is also the most likely scenario: that the HCP will allow the four other ancient groves, the residual old growth, and other remaining marbled murrelet and coho salmon habitat to be sacrificed. EPIC and Sierra Club are preparing to file a legal challenge against any scientifically or legally inadequate plan.

In 1996 Biodiversity Network staff produced and distributed a newsletter and several action-oriented mailers about forestry and legislative issues. BN also produced and distributed many alerts by electronic mail and created a World Wide Web page on the Internet, making photos, maps, and information about endangered species and Headwaters Forest available worldwide.

We continued to distribute our EPIC brochures, which provide background information, legal highlights and an overview of our programs and projects. We have successfully used this brochure as a membership development tool; we now have more than 800 members, a significant increase over the past year.

PUBLIC POLICY AND ADVOCACY PROGRAM

Endangered Species Advocacy Project

In the last year tremendous progress has been made on this project, including: creation of the state-wide Endangered Species Defense Campaign (ESDC); intensive involvement in state legislative issues; listing of the coho salmon and proposed listing of the steelhead trout under the Endangered Species Act (ESA); public education and grassroots organizing; participation in the state's Coho Salmon Initiative; and legal comments on proposed rule changes to the ESA.

Endangered Species Defense Campaign (ESDC)

In 1996, EPIC embarked on a major new statewide coalition, the ESDC. The ESDC is currently comprised of three components: media, legal/policy, and grassroots organizing. The media component has been sponsored by California Audubon, the Natural Heritage Institute coordinates the legal/policy analysis component, and EPIC has undertaken the grassroots organizing and education component.

The ESDC provided us with a powerful vehicle for influencing California politics. The combination of well-documented policy analysis and recommendations with massive statewide grassroots action prevented every bill which sought to weaken California's ESA from passing this year.

Additionally, the ESDC has organized several high-level meetings between state and federal agency personnel and representatives of the environmental community, allowing us to directly convey our suggestions for policy changes to improve the implementation of the Act.

Public Education and Organizing

In February, EPIC produced the ESA tabloid *Endangered Species on Trial*, which focused on Headwaters Forest and ESA issues including species of the redwood ecosystem, administrative and legislative attacks on the Act, and Habitat Conservation Plan issues. 40,000 copies of the tabloid were circulated to environmental groups around the country for distribution. EPIC has also been producing regular legislative and administrative updates via electronic mail and our fax-based action alert list.

In June, EPIC worked aggressively to defeat an amendment that local Congressional representative Frank Riggs (R-CA) attached to the Interior

Appropriations bill. The Riggs amendment would have eliminated funds for enforcement of the marbled murrelet critical habitat designation on 33,000 acres of Pacific Lumber's land. The U.S. Fish and Wildlife Service (FWS) designated this area of Headwaters Forest as critical habitat because of its extraordinary importance to the survival and recovery of the species.

EPIC worked with the national Endangered Species Coalition, Save America's Forests and the Sierra Club Legal Defense Fund to defeat Riggs' amendment. The House debate lasted four hours and provided a great opportunity for legislators to learn more about the marbled murrelet, Maxxam Corporation's Pacific Lumber, and the efforts to preserve Headwaters Forest. The vote was 257 (including 82 Republicans) to 160 in favor of striking down the Riggs amendment.

EPIC's Programs Director and ESDC's Field Organizer went to Washington D.C. to meet with Katie McGinty (from the President's Council on Environmental Quality) and key Senate and House committee staff. Representing concerns from the environmental community in northern California, they discussed the chronic failures of Habitat Conservation Plans (HCPs) and their potential to destroy endangered species habitat in the redwood ecosystem and elsewhere.

Coho Salmon

EPIC has been involved in the ongoing saga of the coho salmon, both through successful litigation (in coalition with many other groups) to force the National Marine Fisheries Service (NMFS) to list the coho under the ESA, and through California's now-defunct Coastal Salmon Initiative (CSI).

The listing of the coho is potentially one of the largest and most controversial designations under the ESA, both because of their large range throughout the Pacific Northwest, and because the majority of their habitat is owned by industrial timber corporations. On October 25, NMFS listed the Central California population of coho as threatened, but delayed their decision on coho in Northern California and Oregon for political reasons, claiming a "significant scientific dispute" where none really exists. The state Resources Agency actually sent NMFS a letter, most of which was written by the California Forestry Association (the state's most powerful timber lobby group), pleading for a deferral of the coho listing. The letter cited many marginal and imaginary points of "scientific dispute," none of which were significant in regard to the fundamental question of whether or not the coho are threatened in California and Oregon.

The State of California has also been attempting to preclude the listing by establishing the Coastal Salmon Initiative as an alternative to a traditional listing under the ESA. EPIC participated in the CSI process in order to monitor its progress and ensure that any alternative to a traditional listing was reasonable and based on sound science. Because the listing is needed to motivate landowners to follow stricter regulations, NMFS' failure to list the coho undermined the already tenuous CSI process. Collusion between the state and the timber industry, epitomized by the Resources Agency's letter to NMFS, added further strain. The environmental, fishing, and restoration community has since quit the process in disgust.

Because of the obvious inability of the CSI to reach completion prior to the court-ordered listing of coho on October 25, EPIC's CSI monitor John Gaffin has

initiated a dialogue, on behalf of CSI's enviro/fish caucus, with regional NMFS staff to examine the agency's options for ensuring recovery for the coho. This has been facilitated by relationships developed through the CSI process.

4(d) Rule Commenting

Under Section 4(d) of the ESA, the Secretary of Interior is allowed to make "special rules" regarding the protection of threatened species. Such a rule was proposed for the Northern spotted owl, claiming that public lands sufficient for its survival and recovery already exist, so that regulations governing privately owned habitat could be less stringent. However, suspension of environmental laws under the federal "salvage logging rider" led to significant habitat destruction of ancient forests on public lands, further imperiling the owl and other old-growth-dependent species.

In May 1996, EPIC attorney Brian Gaffney submitted comments and exhibits to the FWS advocating that this 4(d) rule should be withdrawn because it will not lead to the survival and recovery of the spotted owl. Mr. Gaffney advised the FWS that if they do not withdraw the proposed rule, the Service must prepare a biological assessment and a biological opinion to analyze the impact such a rule would have on the owl as well as other listed species and their critical habitat.

ARCO HCP

In August, 1996 EPIC and the Sierra Club intervened in the Arcata Redwood Company's (ARCO) draft HCP, which proposed the cutting of roughly 600 acres of marbled murrelet occupied old growth in exchange for funding "stand improvement" in adjacent areas of Redwood National Park. The trees in the areas proposed for improvement are currently about 30 years old, and ARCO proposed to thin these stands to accelerate the development of murrelet habitat. Allowing ARCO to mitigate destruction of habitat by donating money to the national park could set a dangerous precedent.

Coho Salmon Defense Project

The Coho Salmon Defense project (CSD) is a group of independent activists working under EPIC's umbrella. They work with watershed alliances and activists throughout the historic range of the coho in Northern California, organizing to protect the integrity of local watersheds and the salmon and other wildlife who depend on these areas. Activists monitor stream temperatures and turbidity, identify critical habitat for remaining coho populations, and document threats to salmon viability following timber harvest. This information enables watershed groups to show that existing regulations are inadequate for protecting habitat, and is used to advocate for policy change.

In 1996 the Coho Salmon Defense joined with Salmon Forever and the Mattole Salmon Support Group to monitor stream temperature conditions with Hobo temperature sensors. The Hobos take readings every 20 minutes for a month to three months at a time. CSD placed 33 Hobo sensors in the Eel, 15 in the lower Mattole, 5 in the Upper Mattole, and 3 in the Albion River. The project also purchased a turbidity meter used to measure suspended solids in watercourses.

The CSD conducted aerial reconnaissance with Lighthawk and used videos and photographs to document landslide incidents, stream conditions, and timber

harvest impacts in the watersheds of the Elk River, the Mattole River, the Eel River from Leggett to Fortuna, and the Yager Creek system of the Van Duzen River. This documentation has provided critical information for federal regulatory agencies involved in coho salmon listing and water quality issues.

Activists compiled information to support EPIC's petition to the California Board of Forestry for emergency rules to limit the impacts of salvage logging on watercourses. CSD also organized, researched and ultimately brought a lawsuit against the Department of Fish and Game and Elk River Timber in order to protect one of the best remaining wild runs of coho salmon in California (for a description of these issues, see the Headwaters Legal Defense Network section).

Through the CSD, a number of dedicated community activists are supported in their efforts to monitor Timber Harvest Plans and their environmental effects on local watersheds. EPIC provides assistance with photocopying, travel and other expenses incurred by these volunteers. Local campaigns to restore damaged watersheds, document cumulative impacts of logging operations, and petition state agencies to uphold their public trust obligations have all benefited from this support.

LITIGATION PROGRAM

Headwaters Legal Defense Network

Since EPIC's Owl Creek victory on February 27, 1995, Pacific Lumber has stretched our limited resources by proposing logging in all remaining ancient redwood groves. In 1996 EPIC challenged nearly 200,000 acres of approved salvage exemption logging and a Timber Harvest Plan (THP) to cut a road into the heart of Headwaters Grove.

Through our **Timber Harvest Plan Monitoring** efforts, EPIC tracks the filing of THPs within the Headwaters Forest area and analyzes their potential impact on old-growth groves, marbled murrelet nesting habitat and coho salmon spawning areas. Comments on these plans are also submitted to the California Department of Forestry, establishing a basis in the administrative record for potential legal action. This process keeps us informed of immediate threats to the ancient forest ecosystem and its dependent species; our litigation strategy begins with this effort to identify, comment upon and contest problem THPs.

Headwaters Road THP

Timber Harvest Plan 1-95-099 Hum, submitted only days after the decision in our Owl Creek case, proposed to cut a road through the most pristine part of Headwaters Grove. Wildlife surveys clearly show that the grove is occupied by the endangered marbled murrelet, but Pacific Lumber threatened the agencies with a "taking of private property" lawsuit if they were kept from operating on their land. EPIC generated comprehensive comments on the plan, maintained communication with the wildlife agencies, and informed the public about this threat. We were prepared for legal action if necessary, but in March 1996 the Board of Forestry unanimously upheld the California Department of Forestry's decision to deny the plan based on the public outcry and expert testimony that EPIC helped

generate. Pacific Lumber responded by filing the threatened "takings" lawsuit (see below).

Emergency Rules Petition

In 1995 Pacific Lumber filed salvage logging exemptions for all of their 200,000-acre holdings, including the ancient groves of Headwaters Forest. Under California's Forest Practice Rules, "salvage" logging of "dead, dying and diseased" trees is exempt from the Timber Harvest Plan process, which provides for at least some level of agency environmental review and citizen scrutiny. Salvage operations have the potential to seriously damage ancient forest ecosystems as well as Watercourse and Lake Protection Zones (WLPZs).

In response to this threat, EPIC and Sierra Club presented a petition to the California Board of Forestry requesting adoption of emergency rules to prohibit the practice of granting salvage logging exemptions in ancient forests and WLPZs. At their September 1996 meeting, the Board unanimously denied our petition. However, we asked that the Board reconsider their decision at their next monthly meeting. By early October, our petition had garnered the support of California Senator Barbara Boxer as well as key decision-makers at the National Marine Fisheries Service and Environmental Protection Agency. Pacific Lumber's commencement of salvage operations in Headwaters' ancient groves on the day before that meeting further highlighted the need for action, and on October 8, the Board voted 4-2 to adopt an emergency measure which would have prohibited salvage exemptions in most large groves of ancient coastal redwoods. Unfortunately, this decision fell one vote short of securing a majority of the nine-member Board. However, many Board members recognized that salvage logging without environmental review has no place in the ancient redwood forest, and we are continuing to pursue a change in the exemption policy through the Board's regular rule-making process.

Federal Headwaters Salvage Exemption Case: Marbled Murrelet, Northern Spotted Owl and EPIC v. Bruce Babbitt et al

Having exhausted our administrative and legal remedies under state law, EPIC filed a complaint in U.S. District Court to challenge the legality of salvage logging exemptions in endangered species habitat. EPIC asserted the need for a biological assessment or biological opinion under Section 7 of the Endangered Species Act, or an environmental assessment or environmental impact statement under the National Environmental Policy Act. Furthermore, EPIC alleged that such timber operations would cause a "take" of listed species in violation of Section 9 of the ESA. We are represented in this case by California's leading forestry attorneys, Thomas Lippe, Sharon Duggan and Mark Harris.

Initially, EPIC obtained both a Temporary Restraining Order (September 15, 1995) and a Preliminary Injunction (September 28, 1995) prohibiting salvage operations in marbled murrelet critical habitat. In May 1996, the Ninth Circuit U.S. Court of Appeals overturned the Preliminary Injunction, which meant that salvage operations could begin after September 15, 1996, the "official" end of marbled murrelet nesting season. We were unable to recover injunctive relief, and on October 7, 1996, salvage operations commenced in previously unentered

portions of All Species Grove. Shaw Creek and Allen Creek Groves, both formerly pristine, were also salvage logged.

Facing increasing difficulties in the courts, we were forced to dismiss our Section 9 claim. However, our litigation and advocacy with the agencies has resulted in numerous restrictions on Pacific Lumber's salvage operations. These restrictions significantly reduced the scope of the operations, prohibiting new road construction, helicopter yarding, and the cutting of standing trees in ancient and residual groves occupied by marbled murrelets without further agency consultation. In addition, our Section 7 claims and requests for injunctive relief are still pending.

Federal Owl Creek Case: Marbled Murrelet and EPIC v. Pacific Lumber

On May 7, 1996, the Ninth Circuit U.S. Court of Appeals upheld a permanent injunction on a logging plan in the Owl Creek Grove, an ancient stand of trees providing marbled murrelet nesting habitat in the Headwaters Forest area.

The victory obtained by EPIC's attorneys in *Marbled Murrelet v. Pacific Lumber* marks the first time that the citizen suit provision of the ESA has successfully been used to obtain a permanent injunction preventing logging on private lands under the ESA.

This case has the potential to strengthen the Supreme Court's *Sweet Home* decision, which determined that habitat modification constitutes a "take" of endangered species. U.S. District Court Judge Louis C. Bechtle permanently enjoined the logging plan in Owl Creek and concluded that its implementation would sufficiently "harm" and "harass" the murrelet as to constitute a "take" of the species under the ESA.

Judge Bechtle's original opinion is being heralded as a significant victory for the ESA and its citizen suit provision, in an era when the Act is under legislative attack. The fact that a tiny environmental group and its attorneys managed to enforce the ESA's provisions against a corporate Goliath, despite complete inaction on the part of the state and federal regulatory agencies, was not lost upon the court:

EPIC's success in this litigation has substantially contributed to the goals of the ESA by ensuring the conservation of one of the few remaining marbled murrelet nesting habitats in California. If EPIC had not undertaken its lonely efforts on behalf of the marbled murrelet, it is doubtful that the species would have maintained its historical range in Northern California. This is exactly the type of case that is encouraged by the citizen suit provision of the ESA... As far as the court is aware, this is the first case where a federal court has applied the "harm" and "harass" provisions of the ESA to permanently enjoin logging on private land to conserve the habitat of a threatened or endangered species.

—J. Louis Bechtle, *Memorandum and Order*, Case No. C-93-1400 LCB, 4-5.

Pacific Lumber's attorneys have filed a petition asking the United States Supreme Court to review the appellate court's decision.

Coho Salmon, Elk River Timber lawsuit : Coho v. DFG et al

The pristine streams of Headwaters Forest flow into the South Fork of the Elk River, which is considered one of the few remaining streams in California where viable populations of wild coho still spawn. On June 10, 1996 EPIC and the Coho Salmon Defense Project filed a claim challenging the California Department

of Forestry's and Department of Fish and Game's failure to uphold their statutory and public trust obligations, including their duty to protect the imperiled coho salmon from extirpation in the region. Attorney Mark Harris argued for a Temporary Restraining Order in state court, but when we did not receive injunctive relief and Elk River Timber Company began to cut in the timber harvest plan, it did not seem viable to continue the case. The plan is located within the area proposed for acquisition under the Headwaters Forest agreement.

Federal Takings lawsuit: Pacific Lumber v. U.S.A.

On July 24, 1996 Sierra Club and EPIC asked the Court of Federal Claims for permission to intervene in a lawsuit filed in May by Pacific Lumber Company. The suit, filed following the California Board of Forestry's denial of a timber harvest plan in Headwaters Grove (see above), seeks hundreds of millions of dollars from the federal treasury based on Pacific Lumber's claim that enforcement of the Endangered Species Act to protect the marbled murrelet constitutes an illegal "taking" of its property. Pacific Lumber plans to log the area, which would destroy the birds' habitat. This "takings" suit is now suspended as part of the tentative Headwaters agreement.

General Litigation

Three-Acre Exemption suit: EPIC v. CDF

This suit, brought against CDF and the California Board of Forestry, established that it was illegal for the Board of Forestry to exempt logging on parcels smaller than three acres from the requirement of preparing a timber harvest plan; this exemption was being widely abused by timber companies who were pressuring residents of forested neighborhoods to sell the trees in their back yards. As a direct result of our litigation, owners of these small parcels must now submit a THP or file for a more restrictive exemption in order to commence logging. The California Supreme Court declined to review the case; Thomas N. Lippe and David M. Fox, EPIC's *pro bono* attorneys, were awarded fees as a result of this favorable decision.

Clean Water Suit: PCFFA v. Marcus

EPIC is party to this suit, filed December 14, 1995 in federal district court by a coalition of fourteen fishermen's and environmental groups. The suit seeks to compel the Environmental Protection Agency (EPA) to establish a schedule for promulgating Total Maximum Daily Loads (TMDL) for north coast rivers and streams where fisheries are impaired. The attorneys are Joseph Brecher and Stephan Volker of the Sierra Club Legal Defense Fund. In September, 1996 the suit was settled with the agreement that the EPA will assure that TMDL for the critical watersheds of Yager Creek and the South Fork Eel River will be completed by 1999.

Steelhead Trout Listing Suit: ONRC v. Brown

The steelhead trout, a species of Pacific salmon, is in danger of extinction throughout its range in Washington, Oregon, Idaho and California. Plaintiffs brought suit under the Endangered Species Act to compel the National Marine Fisheries Service (NMFS) to determine whether listing as either endangered or threatened throughout this range is warranted and, if so, to publish proposed and

final rules adding steelhead to the list of threatened and endangered species. On July 31, 1996, NMFS proposed listing the steelhead as threatened. NMFS must make a final listing determination by July 31, 1997.

This suit was originally filed September 6, 1995 by the Sierra Club Legal Defense Fund (Michael Sherwood and Hank Bates) on behalf of a coalition of nineteen fishermen's and environmental groups, including EPIC.

Coho Salmon Listing Suit: ONRC v. Brown

EPIC is one of 24 plaintiffs in a group lawsuit, led by Michael Sherwood of the Sierra Club Legal Defense Fund, to compel the National Marine Fisheries Service to make a long-overdue decision on the listing of the coho salmon. The coho (silver) salmon is in danger of extinction throughout its range in Washington, Oregon, and California. The case was filed June 1, 1995. The court agreed that plaintiffs had standing to bring the case and that NMFS had violated the law by failing to publish the proposed rule by the October 20, 1994 deadline. The court determined that a final rule would be due July 25, 1996, but later extended the deadline to October 25, 1996.

On October 25, 1996, NMFS proposed that the coho be listed as threatened between the San Lorenzo river (near Santa Cruz) and Punta Gorda (on the northern Mendocino coast), and deferred a decision on the populations to the north until April 25, 1997. NMFS cited a provision of the ESA allowing a six month extension if there is "significant scientific disagreement." Considering the overwhelming scientific evidence about the imperiled status of the coho, EPIC believes that the delay is not warranted and will be detrimental to the species.

Chinook Listing Suit: Hayden v. CFGC

State Senator Tom Hayden, EPIC, Natural Resources Defense Council, Friends of the River and other environmental organizations filed suit against the California Fish and Game Commission on June 17, 1996 to urge "candidacy" status of the spring-run Chinook salmon in the Sacramento River under the California Endangered Species Act. Spring-run was once the most abundant population of California Chinook salmon, numbering as many as one million fish. Plaintiffs' attorneys are Roger Beers and Joel Reynolds of the Natural Resources Defense Council and Cynthia L. Koehler of the Natural Heritage Institute.

FUNDRAISING

EPIC receives its funding from memberships, donations, fundraising events, and foundation grants. In 1996 we sought to raise \$200,000 from foundation grants and \$293,000 from grassroots fundraising. At the time we felt this was quite a lofty goal (last year's income was just over \$195,000), but we knew the challenges we were facing would take that kind of commitment. We feel very fortunate to have not only achieved but surpassed our fundraising goals in 1996. We received \$302,513 from foundation grants and \$300,170 from donations, memberships, and fundraising events.

We worked with a coalition of organizations, as the Headwaters Forest Coordinating Committee, to cooperatively fundraise for the Headwaters Campaign. We received \$74,163 through the HFCC coalition fundraising.

As a grassroots organization, we utilize a significant amount of *pro bono* attorney services, in-kind staff time, and an unlimited amount of volunteer energy to accomplish our work. In 1996 we received at least \$26,000 in in-kind services and donations (not including attorney time, for which we do not have an estimate).

We remain very grateful to all of our donors, volunteers and supporters for providing support for our work, which over the years has gained national recognition and has implications for environmental protection far beyond the redwood ecosystem.

Headwaters Forest Coordinating Committee Coalition Fundraising	\$74,163
Individual Donors	\$200,000
EPIC at INKSTONE	\$200,000
EXPENSES	
Travel & Transport & Rental Fees	\$11,000
Advertising Expenses	\$2,000
Administrative Costs	\$1,000
Other Contract Services	\$1,000
Printing and Postage	\$1,000
Books	\$1,000
Utilities	\$1,000
Equipment Rep. Computer Software	\$1,000
Printing & Postage	\$1,000
Storage	\$1,000
Supplies	\$1,000
Postage and Video	\$1,000
Travel & Lodging	\$1,000
Self-insurance	\$1,000
Office and Equipment Repair and Maintenance	\$1,000
Insurance	\$1,000
Depreciation	\$1,000
Phone and Internet	\$1,000
Professional Professional Fees	\$1,000
Printing and Postage	\$1,000
Advertising Costs	\$1,000
Office Supplies	\$1,000
Office Equipment	\$1,000
Office and Equipment Repair and Maintenance	\$1,000

1996 INCOME AND EXPENSE STATEMENT

INCOME

Donations		\$ 231,536
In-kind Services and Donations		26,067
Memberships		28,865
Fundraising Events		13,702
Interest Earned		1,074
Private Grants:		
W. Alton Jones Foundation	\$ 28,000	
Seven Springs Foundation	10,000	
Human-i-Tees Foundation	4,000	
True North Foundation	20,000	
Further Foundation	5,000	
Foundation for Deep Ecology	20,000	
C. Harold Gaffin	3,100	
Columbia Foundation	20,000	
Mead Foundation	25,000	
Weeden Foundation	10,000	
Turner Foundation	35,000	
Foundation name withheld	10,000	
Compton Foundation	10,000	
Patagonia, Inc.	5,000	
Strong Foundation	500	
David Gold Foundation	20,000	
Carlin Fund	750	
Agape Foundation	2,000	
Headwaters Forest Coordinating Committee coalition fundraising	74,163	
Subtotal Grants		302,513
TOTAL INCOME		\$603,757

EXPENSE

Salaries, Wages & Payroll Taxes		\$ 112,133
Attorney Services		161,216
Attorneys' Costs		51,340
Other Contract Services		21,803
In-Kind Services		25,637
Rent		6,220
Utilities		2,305
Telephone, Fax, Computer Networks		14,288
Printing & Photocopies		10,843
Postage		6,409
Supplies		7,620
Photography and Video		351
Travel & Conferences		14,122
Advertising		1,140
Office and Equipment Repairs and Maintenance		2,546
Insurance		4,864
Depreciation		3,807
Dues and Subscriptions		940
Grants and Donations Given		10,150
Fundraising Costs		4,011
Bank charges, Tax, Licenses, Fees		102
TOTAL EXPENSE		\$ 461,847
INCOME OVER (UNDER) EXPENSE		\$ 141,910

1996 Sources of Funding

Grant Funding:

\$15,000	True North Foundation (<i>August 1995 to August 96</i>) ---ESA project
\$15,000	Richard and Rhoda Goldman Fund (<i>October 1995 to February 1996</i>) ---Headwaters Legal Defense Network
\$2,500	Bill Graham Foundation (<i>December 1995 to present</i>) ---for independent activists' lawsuit and THP monitoring
\$28,000	W. Alton Jones Foundation (<i>January to April 1996</i>) ---General Support and Headwaters Legal Defense Network
\$10,000	Seven Springs Foundation (<i>January to June 1996</i>) ---General Support
\$4,000	Human-i-Tees (<i>February to May 1996</i>)
\$5,000	True North Foundation (<i>March to June 1996</i>) ---General Support
\$5,000	Further Foundation (<i>March 1996 to present</i>) ---Headwaters Legal Defense Network
\$20,000	Foundation for Deep Ecology (<i>April to October 1996</i>) ---Biodiversity Network
\$15,000	True North Foundation (<i>May to December 1996</i>) ---ESA/Endangered Species Defense Campaign
\$20,000	Columbia Foundation (<i>May to December 1996</i>) ---Headwaters Legal Defense Network
\$25,000	Mead (<i>June 1996 to present</i>) ---Headwaters Legal Defense Network
\$35,000	Turner (<i>June to October 1996</i>) ---Headwaters Legal Defense Network
\$10,000	Weeden (<i>June 1996 to present</i>) ---Biodiversity Network
\$10,000	Foundation name withheld (<i>June 1996 to present</i>) ---Biodiversity Network
\$10,000	Compton Foundation (<i>June 1996 to present</i>) ---Headwaters Legal Defense Network
\$5,000	Patagonia (<i>June to December 1996</i>) ---General Support and Headwaters Legal Defense Network
\$500	Strong Foundation (<i>August to October 1996</i>) ---Activist Support
\$20,000	David Gold Foundation (<i>September 1996 to present</i>) ---Headwaters Legal Defense Network
\$750	Carlin Fund (<i>September to December 1996</i>) ---Headwaters Legal Defense Network
\$2,000	Agape (<i>October 1996 to present</i>) ---Headwaters Legal Defense Network
\$74,150	Headwaters Forest Coordinating Committee (<i>June 1996 to present</i>) ---Headwaters Legal Defense Network

Grassroots Fundraising (Net Incomes):

\$ 245	Donations, Board of Forestry Hearing on THP-099 (March 1996)
\$ 230	Fundraising concert (March 1996)
\$ 520	Helen Mathews birthday fundraising party (March 1996)
\$ 4,780	ESA Tabloid mailing (April 1996)
\$ 725	EPIC Yard Sale (May 1996)
\$ 1,725	Summer Newsletter mailing (July 1996)
\$ 2,250	Reggae on the River event: concessions, donations, raffle (August 1996)
\$ 1,380	Hog Farm Pig-Nic event: concessions, donations (September 1996)
\$ 3,940	Headwaters Action Alert mailing (September 1996)
\$ 2,370	September 15 Headwaters Rally: donations, raffle (September 1996)
\$ 375	North Country Fair (September 1996)
\$ 770	Quilt and Local Crafts Raffle (September 1996)
\$ 245	Headwaters Rally in Arcata: donations (September 1996)
\$ 2,360	Humboldt Bandwagon live radio event (October 1996)
\$ 11,195	Fundraising mailer (October 1996)
\$ 2,245	Concessions at Forest Aid concert featuring Bob Weir (October 1996)

*We also receive a significant amount of unsolicited donations.

EPIC BOARD OF DIRECTORS

January 1996

Jesse Noell, President, small landowner and Licensed Timber Operator, is a founding member of the Red Mountain Wilderness Defense, and is working with Children for Old Growth writing an ancient redwood forest ecosystem curriculum guide for school children. He is a regular attendant at California Board of Forestry meetings and is a statewide Coho Salmon advocate.

Paul Mason, Vice-President, is EPIC's Endangered Species Act advocate. He is currently completing an Environmental Advocacy degree at Humboldt State University. Paul has been actively involved in the Headwaters issue since 1992. For the past year Paul has been organizing activists at the grassroots level to reauthorize the federal Endangered Species Act.

Jamie Romeo, Treasurer, is a member of EPIC's Litigation Committee, helping shape our legal strategy, and is Legal Assistant to our attorneys. She works on fundraising events and is our primary grantwriter. She graduated from Humboldt State University in 1992 with a B.S. in Natural Resources and Appropriate Technology, and has been a Headwaters advocate since 1991.

Charley Custer, Secretary, is a freelance writer from Chicago who has lived and worked part-time in redwood country since 1983. He has written extensively about architecture, spirituality and urban ecology, with the aim of making interconnections between cities and trees more obvious to all.

Stephen Archibold works on fundraising projects for EPIC. He has worked on efforts to protect the Headwaters Forest area since 1989 and contributed to the Forests Forever Initiative of 1990.

Phil Kreider is a returning Board member again this year; he was an EPIC Board member in 1981. He has been in the community for 18 years and is Hall Manager for Southern Humboldt's Mateel Community Center. In addition to his local forestry activism, Phil has done development aid work in Africa.

Amy Shadwell practices "passive activism" by living close to the land in Humboldt County. She organized ecologically-oriented events in the city until moving to the country 15 years ago, where she is now involved in Mattole watershed issues. Amy has 12 years experience organizing with our local recycling center.

David Walsh has played an integral part in our efforts to protect the Headwaters Forest area. He monitors Timber Harvest Plans, works on mapping, public education and outreach projects, and plans community fundraising events.

KayDee Simon has been in redwood country for 3-1/2 years. She recently received her Masters degree in Sociology from Humboldt State University by completing a responsive evaluation of the 1994-95 nationwide Clearcut Education Project. The project's deep ecology philosophy reflects her vision of the direction humanity should take.

EPIC STAFF

Cecelia Lanman, Programs Director
Jama Chaplin, Administration
Jamie Romeo, Litigation Coordinator and Grantwriter
Dana Stolzman, Education, Outreach, and Media
Paul Mason, ESA Project Coordinator
Stacey Shull, ESA Field Director
Kevin Bundy, Office Manager
Kelly Kelly, Administrative Assistant
Anne Seaquist, Volunteer Coordinator
Hosanna Fox, Database Coordinator
Sue Moloney, Database Coordinator and Administrative Assistant
Cynthia Elkins, Database Entry
Arleen Olson, Bookkeeper
Stephanie Gawboy and Traci Thiele, Office Maintenance

CONTRACTORS

Chuck Powell, THP Monitoring
John Gaffin, ESA and Coho Advocacy
Greg King, Bay Area Media
Joan Courtois, Financial Consultant

ATTORNEYS

Tom Lippe
Sharon Duggan
Mark Harris
Brian Gaffney
Tara Mueller
Macon Cowles and Associates
Sierra Club Legal Defense Fund