

RCWA j

p. 1 of 13 pages

Jerry Bernhaut, Esq. SBN#206264
535 Cherry Avenue
Sonoma, CA 95476
Telephone (707) 935-1815
Fax (707)527-5443

Attorney for: Greenwood Watershed Association

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MENDOCINO**

**GREENWOOD WATERSHED
ASSOCIATION**

Petitioner,

vs.

**CALIFORNIA DEPARTMENT OF
FORESTRY AND FIRE PROTECTION, and
DOES I thru X**

Respondents

**MENDOCINO REDWOOD COMPANY, and
DOES XI thru XX**

Real Parties in Interest

Unlimited Civil

No. SC UK CVPT 0185331

**DECLARATION OF PJERROU IN
SUPPORT OF MOTION FOR AND
PRELIMINARY INJUNCTION**

Date: 6/1/2001
Time: 9:30
Dept. E

I, Mary Pjerrou, declare:

The facts stated in this declaration are of my own personal knowledge except those stated upon information and belief and as to those, I believe them to be true. If called upon to testify, I could and would competently testify thereto. The documents which are attached to this declaration as exhibits are true copies of the documents and I describe them to be.

I am a resident and homeowner in Elk, California. I am co-chair of the Greenwood Watershed Association (hereafter "GWA"), a community environmental group, founded in 1990; and President of the Redwood Coast Watersheds Alliance (hereafter "RCWA"), a

RCWA j-2

1 California non-profit, public benefit corporation, founded in 1989. The RCWA consists of ten
 2 community watershed groups and projects in Mendocino County, including the GWA. The
 3 RCWA's mission is to preserve the biodiversity and sustainability of Mendocino's forests,
 4 including wildlife, fisheries, water quality and other natural resources. To that end, RCWA
 5 members engage in watershed study and restoration work, and public education, and act as
 6 government "watchdogs" in the review of natural resource agency decisions that affect our
 7 forests and watersheds. I have regularly engaged in these activities since 1990.

8 From 1995 to 1999, I was Project Director of the Greenwood Creek Watershed Project,
 9 a community-based watershed study and restoration project that conducted extensive fish
 10 habitat and water quality restoration work within and adjacent to Timber Harvest Plan 1-00-
 11 357 MEN, the logging plan at issue here. (AR 402, 423, 464, 22-23, 1)

13 Greenwood Creek is a forested watershed on the south coast of Mendocino County,
 14 which provides habitat for coho salmon and steelhead trout and other redwood forest species,
 15 and which serves as the sole source of water for the town of Elk. (AR 620-659, 392)

16 Greenwood Creek watershed has approximately 50 different landowners, including private
 17 residences, ranches, vineyards and orchards, and a corporate timberland holding (about 60% of
 18 the watershed), formerly owned by Louisiana Pacific, and now owned by the Mendocino
 19 Redwood Company, plan submitter of THP 357. (620-659, 423-479, 402-409,1)

21 Corporate logging of Greenwood Creek has caused intense controversy in the
 22 Greenwood-Elk community over the years, including many efforts by the local community to
 23 obtain regulatory and legal remedies for the impacts of heavy logging. (AR 497-519, 520-
 24 526). The Greenwood Creek Watershed Project (hereafter "the Project") was designed to bring

RCWA j-3

1 folks together in positive efforts to remedy some of the impacts to the fishery and to water
2 quality. (AR402-409, 423-479, 401)

3 The Project garnered the support and cooperation of 35 watershed landowners, and five
4 federal and state agencies. Landowner cooperators included the Elk County Water District,
5 Sky Ranch Estates Association, Greenwood Ridge Vineyards, and many other small
6 landowners, and, to a limited extent, Louisiana Pacific. Federal and state agency cooperators
7 included the U.S. Forest Service, the U.S. Fish and Wildlife Service, the California Department
8 of Fish and Game, the National Emergency Assistance Program (U.S. Department of
9 Commerce – the salmon fishers' fund) and For the Sake of the Salmon. (AR 402-409, 423-
10 479)

11
12 The Project trained and employed a total of ten displaced salmon fishers and woods
13 workers over a period of three years, to conduct surveys and to implement restoration projects
14 in an area comprising about 25% of the watershed, all of it on small landowner property.
15 Project grant funding during Phase III (1997-98) totaled \$96,520. Funding was provided by
16 the above mentioned agencies and by private donations, and was supplemented by community
17 contributions of volunteer hours and in-kind donations.

18 The Project conducted two studies: "Greenwood Creek Stream Survey: Data Analysis
19 and Recommendations," May 15, 1996, and "Greenwood Creek Watershed Project: 1996
20 Road Survey Summary Report," September 15, 1997 (AR 423-479) (hereafter "The Project
21 Road Survey"). These studies were designed and overseen by Forest, Soil & Water, Inc. (Dr.
22 Fred Euphrat) of Healdsburg, California. The impacts of road erosion from the network of
23 rural dirt roads in the watershed, and stream sedimentation, were given a high priority for
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RCWA j-4

community action, and specific road maintenance and stream crossing remedies were prescribed and implemented in 1997-98.

Timber Harvest Plan 1-00-357 MEN (hereafter "THP 357") was approved by the California Department of Forestry ("CDF"), on February 9, 2001 (AR 318), in the Sky Ranch area of Greenwood Creek. I am very familiar with the THP 357 area, since I directed major restoration work on the roads and stream crossings within and adjacent to the proposed logging area.

The Project Road Survey identified 40 Sites of High Erosion in the Sky Ranch area. Sky Ranch also contained 7 of the 17 High Priority sites in the entire study that were chosen for immediate community action. (AR 423-479, 402-409, 401). The Sky Ranch South Fork Road, a fire and rescue road, is particularly sensitive since this fragile, old dirt road is directly adjacent to the south fork of Greenwood Creek, a steelhead stream. (AR 423-479, 106)

Project restoration work in the Sky Ranch area included installation of a flatcar bridge to replace a five foot culvert that was blowing out every year, sending tons of sediment into Greenwood Creek. The Project bridge is located over the main stem of Greenwood Creek, at the intersection of Sky Ranch South Fork Road and Maple Basin Road. (AR 406, 464, 22-23) Project work also included the installation of numerous erosion control structures (waterbars) on three miles of the Sky Ranch road system, including South Fork Road. (AR423-479, 402-409, 401)

Additional Project work in this area included a rootwad installation in the Russian Gulch tributary to Greenwood Creek, stream bank restoration (willow and alder plantings, a willow baffle and a rootwad installation) near Greenwood Ridge Vineyards, and other erosion control work along Maple Basin Road. (AR 423-479, 402-409).

RCWA j-5

1 The logging plan in question, THP 357, includes removal of 90% of the vegetation on a
2 steep ridge that drains into Greenwood Creek adjacent to the Project's Sky Ranch restoration
3 sites. (AR 37, 33-36) The plan submitter intends to use the Project's restoration bridge to
4 move logs and heavy logging equipment across Greenwood Creek--including a cable yarder
5 and a second, bigger flatcar bridge (an extremely heavy object) for an additional stream
6 crossing. (AR 12, 22-23; 464) The plan submitter further intends to use Sky Ranch South
7 Fork Road for heavy traffic to and fro from the logging area. (AR 23, map points A to B; 464)
8 The THP will also use Maple Basin Road as part of the haul route. (AR 22; 464)

9 Although THP 357 mentions the Project in a general way (AR 47), it did not mention
10 or assess the Project restoration work in and adjacent to the THP area, did not reference the
11 Project Road Survey (AR 423-479), and did not provide a cost-benefit analysis of the
12 restoration work versus the impacts/benefits of the logging. The THP also failed to consider
13 the alternative of not logging in a restoration area. (AR 26, 28), although it is clear from a
14 comparison of Project maps and THP maps (something to THP does not do) that the THP will
15 be using Project work sites and impacting Project erosion control structures. (AR464, 406, 22-
16 23)

17
18 It is my opinion and belief that THP 357 poses a serious threat to the physical safety
19 and existence of the restoration projects that were done in and near the THP area.

20
21 The Project flatcar bridge, which crosses Greenwood Creek at Sky Ranch South Fork
22 Road, is resting on the stream banks, not on deep pilings. The stream banks are supported only
23 by riprap (large boulders). The flatcar bridge installation was intended to carry a fire or rescue
24 truck, on the rare occasions when they might be needed. (AR 402-409) The bridge is
25 otherwise almost never used (and provides access to a road with a locked gate).
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RCWA J-6

1 THP 357 contained no assessment of the carrying capacity of the bridge and the stream
2 banks, or of the potential for damage, including potential collapse and destruction of the
3 project. (AR 283-291) The many waterbars that we installed, which are still functioning very
4 well as erosion control structures, will be destroyed by the heavy logging traffic, and are not
5 mentioned in the THP, or in CDF's O.R. CDF says that Project restoration work was limited
6 to removing "one culvert" and replacing it with "one bridge" (AR 331). In fact, we installed
7 numerous erosion control structures throughout the Sky Ranch road system, including the
8 South Fork Road, in addition to three major projects in the area. (AR 402-409, 423-479, 401)

9
10 In addition to the lack of consideration for the restoration work, this THP contained an
11 unusual number of serious factual errors, including errors about the existence and location of
12 federally listed fish, the basic geography of Greenwood Creek and where coho salmon and
13 steelhead were found, in addition to errors about the extent of Project restoration work, funding
14 mechanisms for the Project and the identity and involvement of Project participants. Not only
15 did CDF fail to provide the public with important review documents regarding the fishery,
16 during the public comment period for THP 357--in several cases, the information that CDF
17 relied upon is plainly wrong.

18 For instance, in its Official Response to public comment (the "O.R."), which is
19 published after the close of public comment (and after plan approval), CDF asserts that there
20 are no steelhead trout at the bridge site (THP area/South Fork of Greenwood Creek) and that
21 "all fish above [an alleged "barrier"] are resident, non-salmonid trout, not steelhead" (AR 347).
22 CDF refers the reader to O.R. "Attachment 2" (AR 362), a letter of the THP 357 forester to
23 CDF that contains no information on this subject. CDF also states that there is a "barrier" to
24 fish migration "1/4 to 1/2 mile downstream of the bridge." (AR 362) The THP itself contains
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RCWA j-7

1 no such assertions. nor did these assertions appear anywhere in the THP record prior to the
2 close of public comment (AR 1-368).

3 And, in fact, CDF is on wrong both points. The THP itself contradicts CDF on the
4 presence of steelhead at the bridge. The THP contains Louisiana Pacific 1994-96 Fish
5 Distribution Surveys for Greenwood Creek, which reveal that L-P found 10 to 40 steelhead in
6 the South Fork of Greenwood Creek (THP area/Project site) in 1996. (AR 106.) The bottom
7 of the survey page—fish survey site 84-9, "South fork of Greenwood Creek"--shows the
8 number "2" in the steelhead column (titled "STH"). The survey legend indicates that "2"
9 means that 10 to 40 steelhead were found there.

10
11 CDF is furthermore wrong about the location of the Maple Basin waterfall (what CDF
12 describes as a "barrier" to fish migration). It is not "1/4 to 1/2 mile downstream" of the bridge
13 (AR 347). Local residents know this waterfall as a swimming hole, which is located exactly 2
14 miles from the South Fork/Sky Ranch intersection). That doesn't settle the question of
15 whether a steelhead can jump it, but it's yet another factual error.

16 CDF provides no documentation for its assertion that there are no steelhead at the
17 bridge and for the location of a "barrier" other than personal communications which the public
18 cannot verify. (AR 347)

19 During the 1997 floods, I stood at the waterfall, along with California Department of
20 Fish and Game inspectors Herbert Pool and Scott Harris, and fisherman Jesse Russell, and we
21 watched for about 15 minutes as a 24 inch steelhead tried to jump the 15 foot waterfall. Three
22 times it tried, getting about 8 feet up each time. We had to leave, and never saw the
23 completion of the jump. Perhaps it didn't make it. But some did—for instance, the ones L-P
24 counted in 1996. (AR-106, 402-409)

RCWA j-8

1 On the issue of coho salmon presence in Greenwood Creek, CDF makes an even more
 2 egregious error. Previous owner L-P's Sustained Yield Plan for Coastal Mendocino states that
 3 "Coho populations are present within the upper and lower Greenwood Creek planning
 4 watersheds." (AR 627, 659, 40) In its O.R., CDF asserts that the SYP scientists did not really
 5 mean Greenwood Creek but meant another area nearby, unrelated to the Greenwood Creek
 6 drainage, which the SYP dubs "Cuffey's Point" (AR 335), where the streams drop off a 140
 7 foot cliff to the ocean.

8 A look at SYP Fish Map 26 plainly shows that "Cuffey's Point" is the area behind the
 9 town of Elk--locally known as "Mitchell's Hill"--and adjacent areas to the north. (AR 604,
 10 620) This area contains some little trickle streams that drain under people's houses and through
 11 their driveways, and across Highway One, thence off a 140 foot cliff into the Pacific Ocean.
 12 This is where CDF erroneously locates the coho mentioned in the SYP. It would be an
 13 amazing coho salmon indeed that could jump a 140 foot sheer cliff.

14 Attached to this declaration as Exhibit A is a larger version of the SYP fish map (SYP
 15 Map 8 - 3 pages), with my annotations, and Exhibit B, a photograph of Elk, and the hills
 16 behind Elk ("Cuffey's Point"), with the Greenwood Creek estuary in the foreground.
 17

18 CDF is saying, on the one hand, that a steelhead can't jump a 15 foot waterfall, and on
 19 the other, that a coho salmon can jump a 140 foot cliff.
 20

21 CDF supports this egregious error with hearsay statements by unidentified "L-P
 22 employees now working for MRC," reported to CDF in a personal communication of the THP
 23 357 forester dated January 31, 2001, almost two months after close of public comment (close
 24 on 12/6/00). (AR335, 318)
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RCWA j-9

1 None of this CDF information was in the public record. The public was thus prevented
2 from correcting this very serious error about Greenwood-Elk geography and where coho were
3 found.

4 As the maps and photo show, Greenwood Creek, to the south of Mitchell's Hill
5 ("Cuffey's Point"), has a clearly defined estuary (at Greenwood State Beach) with a gradient
6 suitable to coho salmon. It is unreasonable to presume, on the basis of hearsay evidence, that
7 the SYP scientists did not mean Greenwood Creek when they said "Greenwood Creek."

8 THP 357 states in its opening pages that "steelhead are known to exist in Greenwood
9 Creek, but coho salmon are not." It then states on page 58 that the presence of coho salmon in
10 Greenwood Creek is "unclear." (AR15, 58) The THP presents evidence that coho salmon do
11 not exist in Greenwood Creek (AR 62-63), but fails to mention authoritative evidence to the
12 contrary, including L-P's Sustained Yield Plan for Greenwood Creek (AR 627, 659, 545), a
13 National Marine Fisheries Service fish survey report (AR 410-421), the declaration of a local
14 fisherman (AR 615, 544), and a local historical account (AR 611-612, 544), all of which
15 describe coho salmon in Greenwood Creek.
16

17 In its O.R., CDF then describes a fish survey that the plan submitter reportedly
18 conducted in the year 2000, and asserts that no coho salmon were found. (AR 335) CDF does
19 not include the survey itself, which might contain details pertinent to the reliability of the
20 survey, and might contain other findings (such as location and number of steelhead). The
21 survey is not in the THP (AR 1-126). The information that a fish survey was conducted in
22 2000 was not available to the public prior to close of public comment, and the surveys
23 themselves are still not available, though the public asked about recent surveys and has
24 repeatedly asked for them in many THP records (AR 548-561, 562-592, 544)
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RCWA j-10

1 In view of CDF's and the THP's statements that there are no coho salmon in
2 Greenwood Creek (AR 15, 62-63, 335), the statement of the L-P SYP, that coho are present in
3 both upper and lower Greenwood Creek, takes on added importance. The THP omits this
4 evidence of coho presence. (AR 62-63) CDF then states, in its O.R., that "Questions related to
5 the SYP are not addressed herein, as intricacies of a withdrawn document do not have direct
6 bearing on the review of or operations on this THP." (AR 322, top)

7 CDF states that "the SYP was withdrawn in December, 1999." (AR 322) To my
8 knowledge, the current company, MRC, has not submitted a Sustained Yield Plan (SYP)--that
9 is, a long term management document that contains watershed planning and natural resource
10 information for specific forests and watersheds, and future proposed logging plans for that area
11 (as a SYP does). (AR 660-659) The "Option A" document that is attached to this THP does
12 not contain that kind of information. It merely states the company's overall financial goal and
13 general policies for the ownership. (AR, 127-210)

15 In the absence of a new SYP for the present owner, the old SYP by the previous owner,
16 which is rich in information about the resources of Greenwood Creek, is in truth very
17 important to the review and operations of THP 357, especially since L-P's SYP flatly
18 contradicts the THP and CDF on the presence of coho salmon. (AR 627, 659) Also, THP 357
19 discusses L-P fish surveys that were conducted in connection with the SYP (AR 63), and
20 includes a page of those surveys (AR 106), and CDF itself discusses (and presumes to correct)
21 the SYP writers' meaning of "Greenwood Creek." (AR 335)

23 For CDF to wash its hands of this document (the L-P SYP) and refuse to answer
24 questions about it, leaves the public without recourse, and with no response from CDF, on very
25 serious issues and concerns. (AR 322)

RCWA j-11 cont'd

1 THP 357 fails to include the details (acreage, silviculture, roads, exact location) of THP
2 1-00-312 MEN, a logging plan that CDF approved in this watershed in October 2000 (AR
3 548), and fails to provide details of other future plans (AR 52-53). CDF states on O.R. p.11
4 that "detailed information on any future plans is an unreasonable request...." (AR328, mid) In
5 the absence of a SYP and the details of future plans, CDF and the public are both left in the
6 dark as to the assessment of long term cumulative impacts.

7 CDF goes to considerable trouble to defend MRC's alleged easement over Sky Ranch
8 roads, including attaching an old deed to the O.R., and a hand-written note of the forester dated
9 1/25/01, almost two months after the close of public comment. (AR 358) At the same time,
10 CDF fails to attach or discuss information that is relevant to cumulative impacts assessment,
11 for instance, the Project's Road Survey containing details on 40 Sites of High Erosion on Sky
12 Ranch roads, which the RCWA and the GWA provided to CDF prior to the close of public
13 comment. (AR 423-479)

14 THP 357 does not provide any cumulative road impact information for its ownership in
15 Greenwood Creek. Please see the Project Road Surveys, text and survey site spreadsheets
16 (over 600 separately evaluated sites), for the kinds of detailed road survey information that
17 CDF should be requiring of THP submitters for adequate cumulative impacts assessment. (AR
18 423-479) CDF has approved nine other THPs for this watershed ownership over the last two
19 years (AR 50, 544), and, to my knowledge, the plan submitter has three more currently in
20 process at CDF, for a total of 13 THPs and associated roads. Ten of these THPs contain
21 logging that the California Forest Practice Rules describes as clearcutting. (AR 50, 37)

22 THP 357 and CDF's O.R. frequently contain statements based on incomplete or wrong
23 information—for instance, that RCWA's ownership of the Project bridge is "questionable" and
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RCWA j-12

1 that a single agency "paid for the bridge" (AR 347), that a fire truck cannot cross the Project
 2 bridge (and the bridge therefore needs to be widened by the logging company) (AR 345, top),
 3 that the Project restoration work was limited to "removal of one culvert" and "installation of
 4 one bridge" (AR 331), and that the Mendocino Redwood Company was a cooperator with the
 5 Project and donated equipment time (AR51) All of these things are in error. We provided
 6 CDF with facts and documents, that the bridge was funded by multiple agencies and private
 7 donors, and was purchased by RCWA (4-2-409, 423-479, 545, 401), that the bridge was
 8 chosen specifically for fire truck access (AR 405), that the Project scope included three major
 9 restoration projects and numerous erosion control structures in the THP area (AR 423-479,
 10 402-409, 401), the dates of Project work (MRC was not the corporate landowners during this
 11 work), and L-P's participation (they did not work on the Sky Ranch roads because, as they told
 12 me at the time, their cooperation would be limited to roads that they owned or had easements
 13 on, such as Maple Basin Road).

15 CDF's factual errors about the presence and location of coho salmon and steelhead, the
 16 content of surveys, the content of the SYP, Cuffey's Point and its 140 foot drop to the ocean,
 17 the location of the waterfall, the purpose of the bridge on a fire road, the Project cooperators
 18 and funding, and the extent of Project work, combine with other similar errors and omissions
 19 to make THP 357 a very insufficient and unreliable document. If CDF can't provide accurate
 20 facts about the watershed and its natural resources, how can the public rely on CDF's
 21 judgement that the mitigations in this THP are adequate for the protection of these resources?

22 Attached to this declaration as Exhibit C is a "Table of CDF Factual Errors and
 23 Unavailable Documents" (2 pages) which lists some of the errors and items of missing
 24 information in this THP record, many of them having to do with our disappearing coho salmon
 25 and steelhead fishery.

RCWA J-13

1 In his letter to CDF, fish biologist Edmund Smith said the following about the meaning
2 of the L-P 1994-96 fish surveys:

3 "The results of even this very limited survey...indicate that the salmonid
4 populations are not only stressed but may be driven to levels from which
5 they cannot return." (AR 595)

6 The fish are not only disappearing from our streams, they seem to be
7 disappearing as well from our management documents, our public records, our history.
8 Let's hope they don't disappear from our memory. The lone silver fish that I saw
9 trying to jump the "barrier" was not a rainbow trout.

10 I declare under penalty of perjury that the foregoing is true and correct of my own
11 knowledge and if called upon to do so, I would and could competently testify thereto, and that
12 this declaration was executed this 24th day of April, 2001, in Elk, California.

13
14 Mary Pjerrou
15 Mary Pjerrou