

The Calaveras Enterprise, June 4, 2002

Guest Column - By Penny Sarvis, Secretary of Ebbetts Pass Forest Watch

## Why Ebbetts Pass Forest Watch sues over logging

As recent news articles have reported, Ebbetts Pass Forest Watch has taken the route of litigation as one of our methods of protecting the forests. Why litigation? The reason is that, under the Forest Practice Rules of California, litigation is the one avenue available to appeal an approved logging plan.

When a logging company wants to log an area, it has to present a Timber Harvest Plan to the California Department of Forestry and Fire Prevention. The public is given a very short window of time - about a month - to read over a lengthy, technically complex plan, and submit comments expressing any concerns. The Timber Harvest Plan is basically the logging industry equivalent of an environmental impact report. CDF is required to read the comments and, if it judges the concerns to be important, it is supposed to deny the plan or require revisions before acceptance. If you submit comments, and the plan is approved anyway, the only avenue of appeal provided for under the Forest Practice Rules is to go to court.

Several Forest Watch members usually submit comments about Sierra Pacific Industries' plans. Also, we are working with an environmental lawyer, Tom Lippe, who submits comments on our behalf. Our main objection to CDF's review of the THPs is that CDF does not adequately take into account the cumulative impact of SPI's proposed logging. SPI contends that converting over a million acres of Sierra Nevada forests to tree plantations will have no negative impacts on water and wildlife. We contend that there will be unacceptable impacts, and that their logging plans will actually violate various laws designed to protect water and wildlife. Even though SPI owns the land it logs, water and wildlife are "public trust resources" which the state, representing the common good, is required to protect.

CDF is required by law to consider cumulative impact, but it is usually clear to us that the agency is not doing an adequate job. It is not looking at enough factors or considering large enough geographic areas. When a harvest plan is approved over our objections, the only next step available is to litigate. The cases we have filed are against CDF for failing to do its job adequately. We have not sued SPI. We are seeking what is called a Writ of Mandate, which means we are asking a judge to determine if CDF has, in its review of harvest plans, taken into consideration all it is required to take into consideration under the Forest Practice Rules.

Interestingly, these cases have not actually been heard. SPI has withdrawn its THPs in every case, made some changes, and resubmitted them later. The later submissions are considered new THPs by CDF and the whole comment process has to be done over again. On a number of occasions we have re-filed our lawsuits on the new version of the THPs. We have two goals in filing suit. One is to stop the massive clearcutting and protect the forest from being decimated. The other is a broader goal: to get a ruling on whether CDF is or is not adequately taking cumulative impacts into consideration. If a judge ruled that CDF is not doing so, it would force CDF to change how it goes about reviewing THPs. It would have to be much more comprehensive and thorough in its evaluation. So far CDF and SPI have not let any of these cases actually come before a judge to be decided on their merits.

Ebbetts Pass Forest Watch has been a plaintiff in several cases. Some of these have been in other counties, but we have participated because they address the same issue -inadequate review of cumulative impacts - and decisions in these cases would affect us in Calaveras County. There are millions of acres of forest, water

and wildlife at stake. We will continue to file suit until the total impact of leveling one million of those acres is fully addressed.