



**Ebbetts Pass Forest Watch**

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TRANSMITTED VIA FACSIMILE AND EMAIL

Wesley Chesbro, Chair  
California State Assembly Committee on Natural Resources  
[Assemblymember.Chesbro@assembly.ca.gov](mailto:Assemblymember.Chesbro@assembly.ca.gov)  
Committee Fax 916-319-2192

April 14, 2010

re: **AB2163** (Mendoza)  
Position: **Oppose**

Dear Committee Chair Chesbro & Members of the Committee:

Ebbetts Pass Forest Watch (EPFW), formed in 2000 “to protect, promote, and restore healthy forests and watersheds to maintain the quality of life in the Sierra Nevada,” works for responsible forest management and logging methods through advocacy and public education.

EPFW thanks the committee for the opportunity to submit its comments in opposition to AB2163 (Mendoza), which would expand last year’s approved legislation, AB1066, to include timber harvest plans (THPs) already in an extension period.

Although AB2163 is being portrayed by its proponents as a minor “clean-up” bill, in fact it is a bill with significant import and effect. After consideration, EPFW hopes you will conclude as we have that this is a unnecessary and potentially harmful bill.

These major points are discussed in some detail below:

- **AB2163 is unnecessary and there is no valid economic argument for extending these particular THPs**
- **These THPs avoid protections that have been instituted since their initial approval in 2005 and 2006**
- **AB2163 will do nothing to fix problems inherent in the current Forest Practice Rules**
- **Both AB1066 and AB2163 do not protect habitat of endangered species that may be listed during the bills’ extended extension timeframes**

## **AB2163 is unnecessary and there is no valid economic argument for extending these particular THPs**

Submitters of the THPs affected by this bill had plans in place to finish their started logging operations over the next two years. There is no reason this cannot be accomplished and that another two years is needed for completion.

The primary argument set forth for extending plans in AB1066 was the current economic condition and the owners' desire to maximize their profits from logging. However, saw log prices are currently back up to 2006-2007 levels. The THPs being considered in this bill were filed in 2005 and 2006, so the expectations owners had for financial return at the time of plan filing is currently the same as it was then. There is no reason to grant extensions for them to delay harvest, hoping for even higher prices at the mill. (see: <http://naturalresourcereport.com/2010/04/logs-up-housing-down/> and <http://online.wsj.com/article/SB10001424052748703562404575067750815490316.html>)

AB2163 would actually be economically damaging because workers who were counting on work during the next two years and while unemployment is still extremely high will likely lose work. If the economy, particularly building, picks up and timber owners move forward simultaneously on many of these plans affected by AB1066 and AB2163, outside contract workers would most likely be required to accomplish the over-cutting for those short periods. While all of this might be in the long-term best interest of timberland owners, it is certainly detrimental to rank and file workers, including truck drivers and mill workers who are currently suffering.

## **AB2163 will do nothing to fix problems inherent in the current Forest Practice Rules**

Last year, in its consideration of AB1066, the Assembly Committee on Natural Resources was given comment from well over 20 public interest groups opposing the bill due to the serious and significant deficiencies in California's timber harvest approval and review process. AB2163, as an expansion of AB1066, to a minimum of 40 THPs exacerbates rather than addresses those major problems.

By allowing many plans under both AB1066 and AB2163 to be executed within a longer timeframe, it is very likely that considerable logging will take place at the same time when economic conditions are best for owners. This means that environmental effects from that behavior will be concentrated and multiplied at those times. For years, state-funded reports have acknowledged cumulative impact review for THPs to be cursory at best and inadequate at worst. But even the amount that was done at the time of the THPs in question for this bill did not envision their impacts extending into a timeframe overlapping many other plans with their potential or real negative impacts.

## **These THPs avoid protections that have been instituted since their initial approval in 2005 and 2006**

Current regulations and enforcement guidance for THPs has been increasing in certain areas due to pressure from conservation groups, changes in CEQA requirements (for example, the need to assess greenhouse gas impact), court rulings, new scientific findings and other factors. The 40-80 THPs estimated by CAL FIRE to be impacted by AB2163 were approved without these protections and, by allowing an additional two years to complete logging operations, they could avoid re-submittal and adherence/consideration of many important resource protections. If this bill were defeated and these THPs were unable to be finished under their current extensions, they would have to be resubmitted and would have to be written and reviewed in light of the following new rules, information and perspective. Examples of protections or review skirted by these plans include:

- The newly-adopted forestry rules regarding Salmonids
- Increased attention to critical oak resources within clearcutting
- The 2009 memo between Fish and Game and CAL FIRE on Botanical resources
- Recent Fish and Game focus on stream water drawing
- Significant new findings from studies on topics such as forests and carbon, older trees resource value, fire ecology of the Sierra, early successional forests, adverse impacts on frogs and other biological systems from forestry herbicides used in clearcutting
- Greenhouse gas analysis

Although CAL FIRE has the authority to require timber operators to conform to rules or practices instituted since initial plan approval, in practice this is not done. As well, a landowner is allowed to cite the compliance as constituting a “hardship” on them, and this is generally accepted as a reason to exempt them from compliance.

## **Both AB1066 and AB2163 do not protect habitat of endangered species that may be listed during the bills’ extended extension timeframes**

As discussed above, landowners availing themselves of the expanded extensions provided under both AB1066 and AB2163 are not required to adhere to any new rules instituted since their initial approval. In fact, they are given only two small requirements for protection of resources or the public. One of these is that they are required to report if “Listed species, as defined in Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game Code or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), have been discovered in the logging area of the plan since approval of the timber harvesting plan.” However, if a species becomes listed since that initial approval, they are not required to reveal whether or not the plan area contains habitat suitable for that species which should then be set aside from logging operations.

In doing a true “clean-up” of AB1066, among the protections that should be added is the addition of a phrase to the landowner requirements to read:

(3) The notice of extension, pursuant to subdivision (b), includes written certification by a registered professional forester that neither of the conditions in subdivision (f) have occurred....

(1) Listed species, as defined in Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game Code or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), have been discovered in the logging area of the plan since approval of the timber harvesting plan **or a species with suitable habitat within the logging area becomes listed subsequent to approval of the THP.**

AB 2163 has the potential to compound existing problems associated with the timber harvest process, further compromise California's fragile public trust resources, increase the burden on regulating agencies, and negatively impact the economy. Rather than pass this ill-conceived bill, EPFW asks Assemblymember. Mendoza and members of the Committee to work with us and others to fix the timber harvest plan process to make it a true functional equivalent to CEQA. Without that commitment, we must strongly oppose this bill.

Therefore, EPFW respectfully urges a "No" vote on AB 2163. Thank you for your serious consideration of these comments.

Sincerely,

QuickTime<sup>a</sup> and a  
decompressor  
are needed to see this picture.



on behalf of Ebbetts Pass Forest Watch