

**R. B. Boulton**  
**Calaveras County**

January 18, 2017

**Regarding: Forest Management Hearing on January 26, 2017**  
**PLEASE CONSIDER THE CONSTITUTIONAL ASPECTS**

Dear Commission Members,

Given the state of California's forests after five years of drought and consequent massive beetle infestation leading to over 100 million dead trees in the Sierra Nevada, I commend you on taking this action. I have very great concerns, however, about your ability to be effective; I fear your best efforts may be undermined by institutional corruption. Those will seem to many of you like harsh and ultra-political words, but I'm afraid not – I only wish they were.

Let me explain and illustrate. We live in a representative democracy where law is theoretically supposed to underpin our society. Citizens are ostensibly allowed to make input on agency decisions big and small, and to expect that those inputs, where valid, will have some impact on the outcome. Tragically, that actually doesn't happen too often with the result that what appears on its face to be a democratic process is anything but; it is in reality mostly an industry-driven outcome where public agencies aid and abet that industry. In effect, citizen input is window-dressing to make a corrupted process appear legitimate.

You may think I am exaggerating so let me simply quote from one of your own projects. Your own **Report #126, June 1994: Timber Harvest Plans: A Flawed Effort to Balance Economic and Environmental Needs** actually spoke directly to this problem, and I quote from the Executive Summary (p. 13): *Finding #2: The Timber Harvest Plan process has not proven effective in achieving a sound balance between economic and environmental concerns.*

*The authorizing statutes for the Timber Harvest Plan set the stage for logging while acknowledging the need to protect natural resources, including waterways, wildlife, fish, plants, scenic views and recreational areas. Despite timber industry complaints about the process, harvesting on private land has declined only marginally in the past five years and plans are **routinely approved** -- both **signs that economic interests are being met.***

Note the bolded section – “**signs that economic interests are being met**”.

Furthermore, the summary states: *“But the plan process has proven less effective in protecting the environment, as demonstrated in three areas:*

- *The process looks at potential damage on a site-by-site basis rather than across entire ecosystems, making it difficult to assess cumulative impacts over time and throughout watersheds.*
- *Litigation rather than resolution is often the focus of the participants, leading to a strained decision-making process and lack of consensus.*
- *Resources and priorities are devoted to issues of process rather than outcome, with the result that people are more interested in dotting i's and crossing t's than in how effective mitigation measures are.*

Because of these issues, the Commission made these recommendations:

***Recommendation #4:** The Governor and the Legislature should enact legislation to require the completion of master protection plans for watersheds containing productive forests.*

***Recommendation #5:** The Governor and the Legislature should direct the Board of Forestry to establish a certification process allowing timber owners to satisfy environmental concerns in advance of harvest proposals.*

***Recommendation #6:** The Governor and the Legislature should direct the Board of Forestry to develop an objective environmental-risk assessment system that would assist in the evaluation of Timber Harvest Plans.*

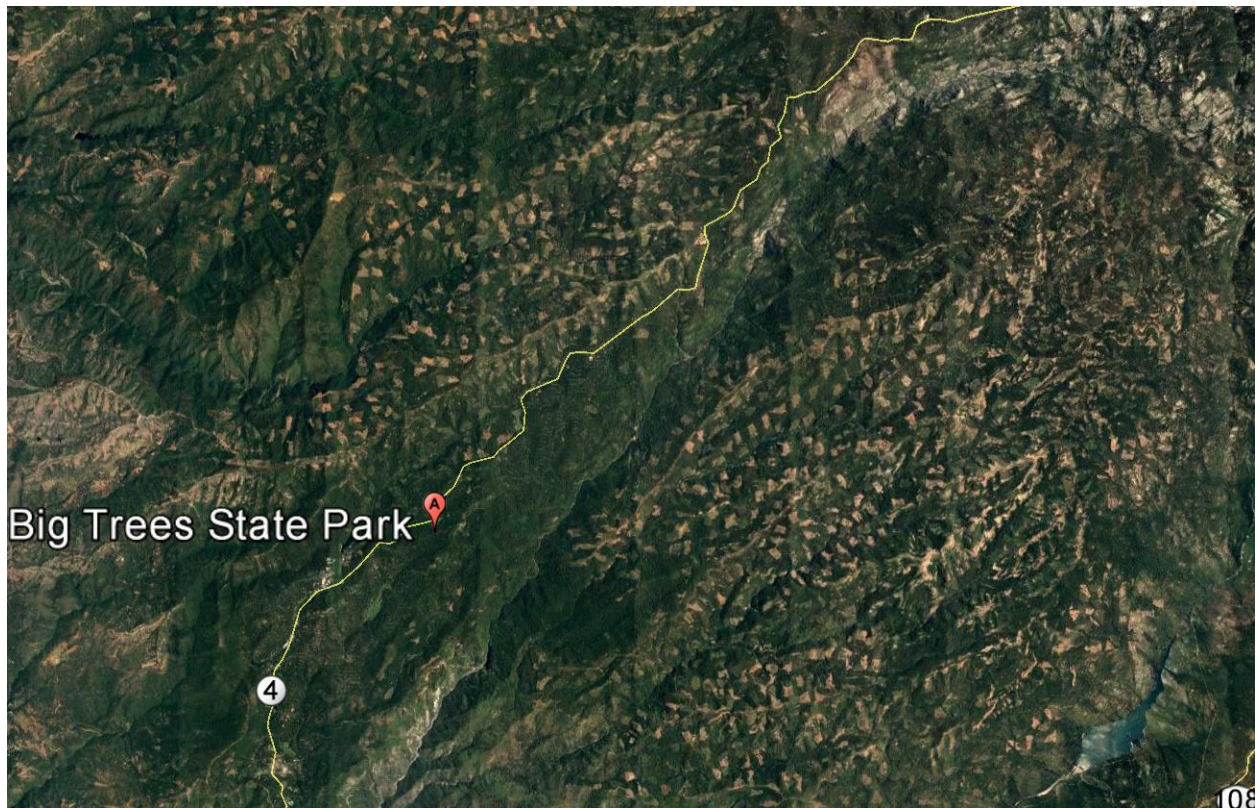
***Recommendation #7:** The Governor and the Legislature should enact legislation establishing a public appeals process to allow non-litigation challenges to Timber Harvest Plan approvals.*

***Recommendation #8:** The Governor and the Legislature should enact legislation to direct the Department of Forestry and Fire Protection to draft a plan within one year for shifting priorities from plan review to performance monitoring, feedback on effectiveness of requirements and enforcement activities.*

Please note that not one of these recommendations has been implemented – and probably not even seriously considered. That should make you wonder about the value of your work and what it says about our supposedly legal-based systems and democratic processes.

A very specific example and problem: the Forest Practices Act that oversees logging on private lands is subject to the conditions of CEQA which mandates consideration of cumulative impacts. This is not discretionary, not simply the Commission's 1994 recommendation, but mandatory because the Forest Practices Act is subordinate to CEQA. But, today, over 22 years following these recommendations, no Timber Harvesting Plan in California considers cumulative impacts. I must stress that, **not one THP considers cumulative impacts**; they simply report none and CalFire/Board of Forestry accepts that. That is clearly illegal but the situation gets worse because the judicial system is equally complicit. When we resort to lawsuits, as we must because there is no other recourse (see recommendation #7), the courts show undue deference to the agency (CalFire) where they should show deference to the law. The law allows no favoritism, but our agencies and courts do exactly that.

To show this problem issue of cumulative impacts that are never considered in private timberland Timber Harvest Plans, here's is an image from Google Earth showing THPs surrounding Calaveras Big Trees State Park in Calaveras County which contains many old growth Sequoia Redwoods. Each of the light polygons represents approximately 20 acres of logging, mostly clearcut style (that is, every tree logged leaving the 20-acre parcel denuded and ready for replanting). I think you will agree that to say "no cumulative impacts" flies in the face of all logic, yet that is what CalFire **always** allows. If you wish, I can provide more satellite views of such massive industrial scale clearcut logging across the northern Sierra Nevada. That is, the area around Big Trees State Park is not unique, not even unusual in the privately forested Sierra Nevada.



## CONCLUSIONS

The notice of meeting states that an ecologist will “*provide an overview of the tree die-offs and their impact, an assessment of California’s forest management policies and an analysis of **best practices in forest policy** that California could potentially implement*”. Given that 1.6 million acres of timberlands in the Sierra Nevada are in private hands (at least 1 million acres destined to be clearcut), it is clear that private management must be considered along with public lands. In following this process, you will need to be aware of the institutionalized corruption that I’ve already indicated and demonstrated in the case of CalFire and the judicial system. Not only aware, but be willing to do something about it. The reality is that our democratic processes are under assault and becoming progressively less respected precisely because they are corrupted in the ways that I’ve demonstrated here. People are realizing that they are not heard and the consequences, as we’ve seen in the recent election here and across Europe, are neither pretty nor constructive.

Public agencies must respond with openness and legality to restore public trust, and I urge you to consider this issue as you continue the process.

Yours respectfully,

*R. B. Boulton*

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