

There is a Fish in my Forest and other Post-Timber War Musings

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Appplied forestry is a combination of science, engineering, economics, and art requiring a reasonable understanding and holistic vision of past, present, and future forest condition in order to balance the economics of timber growth and yield over time with ecological needs and overall forest productivity. The 'canvas' is very much alive and therefore each action should be carefully considered.

Timber Wars

I was fairly ignorant of the so-called 'Timber Wars' (circa 1980-2000) until I went to work as a forestry technician with a local family-owned consulting firm in the early 1990s working on a variety of forestry ownerships, both public (i.e. USFS) and private (i.e. industrial and non-industrial). Not long after achieving my registered professional forestry license, I went to work for Pacific Lumber Company in 2001 as a compliance forester responsible for helping implement the company's newly attained multi-species Habitat Conservation Plan (HCP). This provided for a front row seat and an occasional stage appearance for one of the many 'Ground Zero' conflicts of the Pacific Northwest Timber Wars. The Timber Wars as I knew them, were fought mostly over the clear-cut har-

vesting of old growth forests at unprecedented rates and concern over related impacts to wildlife, fisheries, and water quality.

Aside from the many majestic stands protected in parks and reserves throughout the 1900s, the majority of old growth forests in the redwood region were harvested in the first 125 years of lumbering (circa 1850-1975). However, isolated stands of old-growth timber, unique in age and structure compared to the second growth forests surrounding them, still exist on privately owned timberlands. The lumber found in these old-growth stands is prized for its beauty and durability and can demand an impressive market price compared to other woods. To the activists of the 1980s and 90s these forests were priceless and their subjugation to a clear-cut management regime intolerable. Primeval and cathedral-like, rich in their abundance of forest structure and diversity, they are considered critical habitat for a variety of rare and endangered species such as the northern spotted owl (*Strix occidentalis caurina*), the marbled murrelet (*Brachyramphus marmoratus*), Pacific fisher (*Pekania pennant*), and several salmonids. Ultimately an effective case for old-growth forest conservation dampened their exploitation and most have either been transferred to public ownership or set aside in private reserves; living memorials to a hard-fought collective decision of sorts.

Today's Private Management of Old-Growth Forests

Today, although legally allowed within the constraints of the California Forest Practice Act and the Endangered Species Act, there are relatively few arguments over whether or not to clear-cut harvest a recognized old-growth stand. However, determining what constitutes an old-growth stand can be complicated and therefore debated when trying to attain common ground and agreement between parties with inherently different perspectives and goals. What characteristics define an old-growth tree? How many old-growth trees are necessary to define an old-growth stand rather than a second- or third-growth stand with an old-growth legacy component? What is the land use history of the area or is the stand previously un-entered? What types of timber harvest, if any, can be conducted without degrading key old-growth stand characteristics? Are certain types of harvest and management actions beneficial? Third-party stewardship certification programs, with their own experts, often today play a role in creating both useful criteria and a forum for these now rare, but sometimes difficult and prolonged discussions. HCPs, Safe Harbor Agreements, and conservation easements provide other voluntary alternatives for addressing forest stands with significant environmental or cultural value.

Holistic Forest Management Strategies

While such local stand-level debates do still occur, I am interested in strategies that go beyond the individual tree or stand and instead favor the function of the forest as whole. Certainly, this means that the management of rare stand types should be considered carefully and tailored to the conservation of the ecological values that make them unique within the larger forested context, but it also means that the need for set-aside preservation

becomes less when the forest as a whole is managed for both ecosystem and timber productivity. Such strategies seek to accomplish working forested landscapes that provide for a myriad of benefits including open space, productive and beautiful environments, renewable wood products, sustainable rural economies, challenging and meaningful work, and return on investment.

In practice, this type of forest management knits together the necessity and benefits of regulation with voluntary pro-active strategies such as restorative growth and yield harvest rates, HCPs, conservation easements, and third-party certification. Regulatory reform, particularly as applied to riparian protection, unstable areas, and road system management has been progressive over the last two decades, resulting in reduced sediment loading to streams and restoration of forest diversity and function, particularly along riparian corridors. Non-Industrial Timber Management Plans under the California Forest Practice Rules, HCPs, or other similar forest management plans focus on sustainable rates of harvest that maintain and restore timber inventory over time while maintaining mature forest characteristics. Mature forests include nutrient-rich soil, large wood, snags, cavities, and hardwoods that provide for the diverse habitat needs of fish and wildlife. Where such plans are embraced, one can cautiously begin to lay claim to good stewardship. With the added benefit of a biological monitoring element, common now on industrial timberlands in the form of structured monitoring and reporting, confidence may grow. The non-industrial manager or landowner typically relies more heavily on general, Leopold-like observation which certainly too has its merits for the trained eye.

Habitat Conservation Plans and the Endangered Species Act

HCPs are a beneficial and interesting development in forest management. HCPs, a sub-rule of the Endangered Species Act, are voluntary but once established, are enforceable and regulated conservation agreements for a set number of years, designed to provide assurances that rare, threatened, or endangered (RTE) species, and associated critical habitat are protected. In agreeing to the protective measures of an HCP, typically meaning a loss of some commercial access as well as seasonal restrictions on when logging and other operations may occur, the landowner receives in exchange a regulatory ‘pardon’ of sorts for the incidental take of an RTE species or some element of its habitat as permitted under the negotiated HCP. The goal is to achieve and maintain an overall environment protective and beneficial to the recovery of the RTE species while providing some degree of certainty and allowance for the resource and economic needs of the landowner and industry. Sometimes targeting the protection of multiple species, and typically ecosystem driven, HCPs are landscape-level management plans. Though HCPs are generally championed as successful strategies for improving forested habitat conditions, some still decry the idea of an incidental take permit for any RTE species.

While an HCP typically provides some degree of ‘umbrella coverage’ for species with similar habitat and ecological needs as those specifically protected, HCPs cannot currently provide pre-emptive incidental take for species not yet listed as rare, threatened, or endangered. Therefore, the nomination of new species for RTE listing under state law (California Endangered Species Act, CESA) creates continual uncertainty over the real or perceived need for additional forestry restrictions. Under CESA, whether or not there is need for additional protection measures

must often be negotiated with limited scientific information available, because the information necessary for nominating a species as a *candidate for listing* is substantially lower than what is subsequently required to actually list a species as rare, threatened, or endangered. However, under CESA, the candidate species must be protected as though it were actually listed, during its one to two year scientific review period. Because the State Forest Practice Rules and HCPs are designed to protect forest ecosystem function and minimize habitat loss and conversion, there is often debate over how much and what type, if any, of additional protection should be required for a newly nominated candidate species undergoing scientific review. This element of the CESA, as it is currently written, requiring candidate species to be protected as though they were actually listed species, is somewhat confounded by another section of CESA that requires such protection for candidate species where *substantial evidence* can be provided that such immediate protection is warranted. This is a notable difference from its counterpart, the Federal Endangered Species Act, where the species must actually be determined to be rare, threatened, or endangered (‘listed’) before requiring protection.

Ultimately one of the issues to be considered here is how we equitably address landowners who, through voluntary actions such as HCPs (and similar programs, such as Safe Harbor Agreements), improve habitats such that greater biological productivity and diversity is demonstrably achieved. Are they ultimately penalized for producing critical habitat through the development and retention of healthy soils, large wood, snags, cavities, hardwoods, or is there incentive? How does effectively providing habitat for RTE species such that the species are commonly found affect the landowner’s operations? It is a bit of juxtaposition that regulators, landowners, forest managers, and environmentalists need to continue to consider.

Conservation Easements

Another voluntary conservation measure, although somewhat different in its function, is the conservation easement. Conservation easements, long a practice on the East Coast, have now come into their own on the West Coast with the growing development of non-profit land trusts over the last 20 years. Conservation easements are useful as a tool for landowners and the public wishing to conserve open space and keep larger tracts of land intact. These voluntary agreements *permanently* surrender certain property rights, such as subdivision, in exchange for the upfront market value of these rights. However, since these agreements often involve the transfer of limited public funds to private parties, there is appropriate concern that publicly-funded easements protect the most meaningful and threatened landscapes, or otherwise provide public trust value such as domestic water supply or public access. Of particular interest to rural communities and economies dependent upon farming, ranching, and forestry is that these conservation easements protect 'working lands' values and do not simply set aside tracts of land as parks and reserves. The sale and trade of carbon credits accumulated through forest carbon sequestration agreements is another relatively new strategy, incentivizing forest conservation in particular.

Healthy Communication

So how is the discussion surrounding forest policy different today than it was 10-20 years ago? In general, there is recognition that the changes in forest practices over the last 20 to 30 years have reduced individual and cumulative environmental impacts. This has allowed for somewhat calmer, more civilized dialogue over what constitutes acceptable and best management practices. While still much debated, the issues that raised the initial

calls for the direct action so prominent in the Timber Wars have been or are being addressed. Forestry, wildlife, and watershed science continues to evolve and play a significant role in the discussion. Ecological monitoring is now recognized as an important element of management. There is an improved understanding of the cultural benefits of rural communities working a shared landscape in a sustainable way producing needed raw materials as well as taking restorative actions.

While deeper concerns remain over capitalist market forces loose in the forest, safeguards are in place to protect against excessive profiteering. The forest it seems will always hold a place in the heart of humanity, which helps to protect it from being treated solely as a commodity. The Timber Wars stirred an awakening that made us collectively better stewards. Most recognize this. There will continue to be debates over forest science and management, and what is necessary versus excessive or duplicative regulation. However, now there is perhaps more of a shared vision to guide us than before, provided we focus on common ground and common needs, rather than what divides us.

Mike Miles has 30 years of experience working in the field of forestry, timber management, and watershed protection. He is currently employed as a registered professional forester and industrial forest manager and serves on the California State Board of Forestry and Fire Protection. His comments reflect his own personal views on this subject matter.