



# Central Coast Forest Association



Peter Twight on a hike in the Marble Mts.

## Introducing CCFA President Peter Twight

Peter A. Twight has been President of CCFA for the past two years. He is a licensed forester with some 37 years of forestry experience for a variety of clients. Raised in the California State Park system, he began his professional career with the U.S. Forest Service. After an interruption of almost three years in the U.S. Army, he returned to the Forest Service, resigning in 1964 to attend Seminary. He returned to forestry in 1968, receiving his Master of Science degree in forestry from University of California at Berkeley in 1970. Still seeking to "save the world," he moved to Washington DC where he worked as Administrative Assistant for Forestry with the National Parks and Conservation Association, writing four policy booklets on their selection harvest and management programs for Ecological Forestry for Redwood, Ecological Forestry for Douglas Fir, Ecological Forestry for Northern Hardwoods, and Ecological Forestry for Central Hardwoods). Upon his return to California with his wife and 3 children, he worked as a forestry consultant for the Sierra Club, Natural Resources Defense Council and the State Attorney General seeking to improve forest practices. He was Natural Resources Coordinator in the San Mateo County Planning Department from 1976 through 1978, starting his own forestry consulting business in 1979. After more

than 10 years of forestry consulting for small acreage forest landowners, Redwood Empire Sawmills employed him as an RPF (Registered Professional Forester) and AVC (Argumentative Vituperative Curmudgeon), practicing ecology by doing timber harvest planning and supervision. He is active in promoting individual freedom, defending private property rights, and promoting sensible applied science in forestry.

His two families are now grown, some with children (grandkids – what fun!). Peter learned to ride horses in the early 1980's and rode in many 50-mile endurance rides. His crowning achievement was the Swanton-Pacific 100 endurance ride; but his most memorable ride was the 5-day, 250-mile Applegate-Black Rock Desert trail ride across northern Nevada under the leadership of Lud and Barbara McCrary. At age 69, he has given up horses to return to previous loves of fly-fishing and backpacking, and has retirement property in a small town nearly surrounded by Wilderness areas. ■

### INSIDE THIS ISSUE:

Introducing President Peter Twight	1
CCFA's Mission	1
History of CCFA/Big Creek Lawsuit	2
CCFA Coho Listing Petition	2
Notes from the Nuthouse	3
Oregon's Measure 37 Passes	3
CCFA Joins Challenge of ESA Relistings	4
Why "Endangered" Fish Matter	4
What is CCFA Doing Now?	5
RWQCB's Difficult Problem	5
In Memoriam	5

## CCFA's Mission

*The Central Coast Forest Association is a non-profit alliance of small forestland owners, forestry professionals and forest-oriented businesses with close affinity to the woods, mountains, streams and wildlife of the Central Coast. Our purpose is to uphold and preserve our values, our property rights and our way of life. To advance this objective, CCFA will:*

- *Interact with community, political and environmental interests as a voice for forestland owners.*
- *Understand the news, law and technology of forestry and apply this knowledge for the benefit and protection of forestland owners.*
- *Inform members of matters affecting their lands and forests.*
- *Take political and legal action to defend the rights and property of all Central Coast forestland owners.*

## HISTORY OF CCFA / BIG CREEK VS. SANTA CRUZ COUNTY AND COASTAL COMMISSION

As you know, CCFA is engaged in a major lawsuit against Santa Cruz County and the State Coastal Commission to retain our right to use and enjoy private forestlands. The legal process moves so slowly and our suit has gone on so long that it is hard to remember how it started and where it has taken us. These are the key events in the scenario:

- 1997** Santa Cruz County proposes ordinances to regulate and restrict timber growing and harvesting
- 1998-9** Santa Cruz County proposes changes to the Forest Practice Act to achieve their control objectives. Most are rejected.
- 1999** Santa Cruz County enacts timber ordinances effecting the controls rejected by the Forestry Board
- 2000** Big Creek files suit against County and Commission
- 2000** CCFA files suit against County and Commission
- 2000** CCFA and Big Creek cases are combined at request of the court
- 2000** Superior court rules in favor of Big Creek/CCFA on most issues
- 2001** Case goes to Sixth Appellate Court
- 2004** Appellate Court hears the case and decides emphatically for Big Creek/CCFA
- 2004** County takes case to State Supreme Court. Coastal Commission drops out
- 2005** Sometime during 2005, Supreme Court will hear oral argument and render final decision

The State legislature, in passing the Forest Practice Act in 1973, amended in 1982, placed the responsibility for managing all aspects of timber growing and harvesting under the authority of the California State Forestry Board. Only they can regulate where, when and how timber is grown or harvested except for parcels under three acres not zoned TPZ, over which counties retain control.

As shown in the above timetable, the Santa Cruz County Board of Supervisors and the State Coastal Commission, in response to environmentalist pressure, attempted over several years to preempt the State Forestry Board's authority. Restrictions advocated by the County would increase the cost and difficulty of timber management and ultimately drive forest business out of Santa Cruz County. The Big Creek/CCFA lawsuit requests that the Court direct the County and the Coastal Commission to keep their hands off timber management as provided by the Forest Practice Act.

We are now in the final round of our legal confrontation to protect the use and enjoyment of private forestland in Santa Cruz County. CCFA and our attorneys have done everything possible to make our position clear to the Court. The next and final event in the case will be oral arguments before the Supreme Court, probably some time in 2005.

Keep your fingers crossed and know we will do our best to protect your property rights. ■

## STATE FISH AND GAME COMMISSION TO HEAR CCFA COHO LISTING PETITION

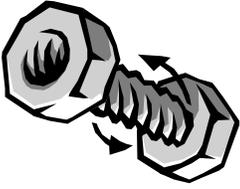
CCFA people have put considerable time and effort toward finding and applying scientific truth as it affects forestland use, and we have received professional recognition and several prestigious awards for our work. We have found a conclusive pattern showing that native Coho salmon never permanently colonized Central Coast streams until they were imported, artificially bred, and planted here by Santa Cruz County's Brookdale Fish Hatchery in 1906. Hatcheries, through extensive efforts, were used to maintain the local Coho populations. After the Brookdale and Big Creek hatcheries ceased operation, the fish populations declined and they were listed under both federal and state Endangered Species Acts. Monterey Bay Salmon & Trout Project currently works to increase the population.

CCFA has taken several formal steps toward removal of Coho from federal and state endangered species lists so that we can use our forestlands to their best advantage. Recent actions in the Central Coast Coho salmon scenario are:

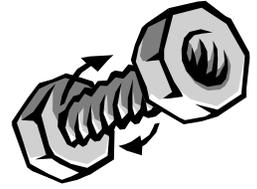
- 1993** Santa Cruz County Planning Dept. submits a second petition to the CA Fish and Game Commission (CFGC) to list Coho salmon *south of San Francisco* under the State ESA.
- 1995** The CFGC accepts the new petition from the Santa Cruz County Planning Dept. and list Coho south of SF as endangered under the State ESA. This petition lacked valid and available scientific opinion and data, substituting instead amateur memory of the success of the hatchery program initiated in 1906.
- 1996** The National Marine Fisheries Service (NMFS) list the Central CA Coast ESU (which includes Coho south of SF) as threatened under the Federal ESA
- 2002** CFGC adopts the concept of an ESU and list Coho in the Central CA Coast ESU as endangered under the State ESA
- 2002** CCFA files petition with NMFS to de-list local Coho on technical (Alsea Case) grounds
- 2002** CCFA files petition with NMFS to de-list local Coho, based on careful and extensive review of scientific literature ignored during the listing process, and tracing the sources cited for listing.
- 2003** Big Creek Lumber files petition with NMFS to de-list local Coho. (CCFA was not a signatory to this petition)
- 2004** CCFA and Big Creek Lumber jointly file a petition with the CFGC to de-list local Coho
- 2/03/05** CFGC will hold a hearing on our petition to de-list Coho south of San Francisco

To date, our petitions have barely been acknowledged by either State or Federal agencies. However, with lots of help from Big Creek Lumber, we have finally bugged Fish and Game to respond to our last petition, and a formal hearing before the Commission is scheduled for Feb. 3, 2005 in San Diego. CCFA and Big Creek will be there to testify and will present our case as

The only way to defend the property rights of our members is to take our case to the courts. We have done this and it is a costly and time-consuming procedure. We need YOUR help; 100% of your donation to the legal fund goes to lawyer fees and court costs. Much time and effort has been, and continues to be, voluntary and costs you nothing. Please donate what you can.



# Notes From the Nut-House



## CCFA'S HELPFUL HINTS FOR CUTTING YOUR OWN FIREWOOD

This is the season that some folks fire up the old pickup and go out into the woods to gather their firewood, so CCFA, based on long experience, has come up with three helpful hints for the amateur woodcutter:

**Hint # 1**....Park your truck some distance away from the tree you are going to fall.

**Hint # 2**....Notch the trunk on the side away from your truck.

**Hint # 3**....Remember that owning a big chainsaw doesn't necessarily make you a logger.



## Capsule Sermon

- Facts do not cease to exist because they are ignored



"There, officer - he's murdered that poor tree and now he's trying to dispose of the body."

We are born with two ends - one to sit on and one to think with. Success depends on which one you use:  
Heads you win, tails you lose.

## OREGON MEASURE 37 SETS A HIGH MARK IN RESTORING PROPERTY RIGHTS

Both the U. S. and the California constitutions mandate that when government "takes" your land it must fully compensate you. However, the actual implementation of this provision does not carry out the intent of this guaranteed right. When government "takes" a portion of your land to say, preserve "viewshed" or riparian corridor, you now have no recourse unless all economic use of the entire property is taken. A group of Oregon property rights advocates has taken corrective action. In the November election, 60% of the voters of the (often, very liberal) state of Oregon passed Measure 37 even though the opposition out-spent the proponents by three to one. This law (effective Dec. 2, 2004) requires that if the government places a restriction on private property such as a "viewshed" setback on your timberland, the responsible agency, state, county or city, must immediately compensate you for your lost property value. If they fail to do so you are **not bound by that government action**. You may go ahead and harvest your timber. Although Measure 37 only does what the U. S. and State Constitutions already mandate, our efforts to preserve Central Coast forestland values would be vastly simplified if a similar were law in place here.

Oregonians in Action, (OIA), the 17,000-member organization responsible for the passage of Measure 37, has spent ten years working on the measure. On December 27, CCFA representatives met with OIA legal and political leaders and learned, as you would expect, that achieving a Measure 37 type law in California would be difficult, but we are investigating the possibility.

For more information on Measure 37, see the OIA website at <http://www.oia.org>.

## CCFA JOINS LAWSUIT CHALLENGING PROPOSED HATCHERY POLICY AND ESA RELISTINGS OF SALMON AND STEELHEAD THROUGHOUT THE WEST

On November 16, 2004, the Central Coast Forest Association, joined a dozen other organizations as clients of the Pacific Legal Foundation to announce they will file a sweeping lawsuit challenging Endangered Species Act listings of salmon and steelhead spanning four western states if federal regulators enact a new policy that would continue to distinguish between hatchery and naturally spawned fish. PLF has notified NOAA Fisheries that the policy, proposed by the agency in June, violates the ESA and PLF's 2001 federal court victory in *Alsea Valley Alliance v. Evans*. PLF is bringing the lawsuit on behalf of this broad coalition of property owners, farmers, and business groups representing tens of thousands of citizens in Washington, Idaho, Oregon, and California. The plaintiffs are: Washington Farm Bureau, Washington Realtors' Association, Washington State Grange, Building Industry Association of Washington, Coalition for Idaho Water, Idaho Farm Bureau, Idaho Water Users' Association, California State Grange, **Central Coast Forest Association**, Oregon State Grange, and Alsea Valley Alliance.

"Three years ago, federal officials promised western citizens they would issue a new policy on salmon and steelhead listings that would comply with the court's decision in *Alsea*," said Russ Brooks, the managing attorney for PLF's Pacific Northwest office who successfully litigated the *Alsea Valley Alliance* case. "Instead, they've proposed a policy that is in total contradiction of the court decision and the plain language of the ESA."

"That federal regulators are thumbing their noses at federal court decisions is a slap in the face to the countless western citizens whose livelihoods are being held hostage by these illegal listings," said Brooks. "Needless regulations to protect fish are crippling the economies of western states, driving prices up and killing jobs in almost every major economic sector from farming and agriculture to new home construction and transportation."

"Under this new policy, property owners will continue to live under the threat of civil and criminal penalties for felling a tree, putting fertilizer on their lawns, using water, and a whole host of other common and otherwise legal activities, all to benefit fish that are not endangered," added Brooks.

In 2001, PLF won a landmark victory in *Alsea Valley Alliance* when a federal court ruled the government had violated the ESA when it ignored the prolific numbers of hatchery salmon in listing the Oregon coast Coho as threatened. Federal officials agreed to comply with the ruling by developing a new hatchery policy to govern its listing practices. In June, 2004, NOAA Fisheries proposed a new policy purporting to comply with the *Alsea* decision, while simultaneously stating that the new policy would result in the re-listing—not delisting—of west coast salmon and steelhead populations.

PLF argues that NOAA's distorted policy amounts to an end run around the *Alsea* decision, and continues to ignore the legal and scientific reality that salmon and steelhead are not threatened with extinction. "Federal regulators are playing a shell game. Clearly, NOAA Fisheries is replacing sound science with science fiction."

In July, House Resources Committee Chairman Richard Pombo sent a letter to Commerce Secretary Don Evans express-

ing similar concern over NOAA Fisheries' ongoing failure to comply with court directions in managing salmon and steelhead populations throughout the western states.

A copy of PLF's 60-day notice of intent to sue is available at [www.pacificlegal.org](http://www.pacificlegal.org) ■

Good science and political advocacy cannot coexist. Effective public policy demands understanding and high regard of what science does and doesn't tell us.  
R.T. Adequate, 1985

## WHY "ENDANGERED" FISH MATTER TO CENTRAL COAST FORESTLAND OWNERS

Peter Twight, CCFA president

The Federal Endangered Species Act of 1973 (ESA) was intended to deter the extinction of a few, actually endangered species. For political or ideological reasons, advocates for the listing of species often use "junk science" to justify government land use limitations to protect many plants and animals that have been unnecessarily listed. These limitations have taken our most productive forestlands away from us for no reason, by making regulations of canopy so severe that we cannot effectively manage our streamside zones. These regulations are unreasonable because we have protected our streamside zones effectively for more than 30 years; we have local steelhead populations that are in robust health and were either stable or increasing before the listing. Central Coast Coho are a non-native species, artificially planted as a new recreational resource in local streams in 1906 and since maintained by fish hatcheries. (See CCFA website.) No amount of government intrusion can *restore* this exotic species, and no amount of land use control can create a stable, self-sustaining colony of Coho in Central Coast streams. However, listing provides the justification and authority for curtailing timber harvests, depriving farmers of water and ranchers of grazing land.

The regulations foisted on us by this junk science is costing us tens of thousands of dollars in lost forest growth and income. One example will demonstrate this cost: 1000 feet of Class II watercourse was changed to Class I, because a fish was discovered in it. That change in designation and the additional unnecessary canopy restriction cost the landowner approximately \$50,000 in lost timber income for that one harvest alone. Most of us agree that if a species truly needs protection, we would do what is necessary. However, we rebel at paying the senseless price of protecting fraudulently-listed species such as local Coho and steelhead.

We need to eliminate these unnecessary burdens on those who want to enjoy, manage and use their lands. To regain full use of our timberlands, we have joined Pacific Legal Foundation in their continued attack on self-serving bureaucrats, who still refuse to count hatchery-spawned fish along with naturally-spawned ones in their listing of Coho all along the Pacific Coast. In addition, CCFA members Fabian Alvarado and Bob Briggs have joined Big Creek Lumber's Bud McCrary to carry the de-listing fight through all the administrative remedies available. If we have courage, resources and perseverance, we can expect to reclaim hundreds of thousands of dollars worth of

**"Endangered"** (Continued from page 4)

can expect to reclaim hundreds of thousands of dollars worth of our most productive streamside areas for our members, with no loss of water quality of fish production. ■

**WHAT IS CCFA DOING NOW?**

Peter Twight, CCFA president

CCFA was founded in response to County confiscation of our properties. Members have shown great support in the fight against this. We have branched out somewhat in order to roll back unnecessary restrictions on the most productive lands we own. Your Board of Directors is staff for the CCFA, which is an all-volunteer organization. Hundreds of hours are spent fighting the battles and keeping you informed. We started out with a part-time executive officer to carry the brunt of the administrative duties and carry out policies of the Board. We could not afford even that one staff member and have since managed with the Board assuming all duties. We have managed well, and your support has grown as you saw the effectiveness of your organization.

We are beginning a new year. This issue summarizes our major endeavors on your behalf and the reasons we have continued to grapple with our government. How are we doing?

1. **The Lawsuit: The Board of Forestry has recently joined us in defending its authority over forestry in Santa Cruz County.** Until now, we've had to carry that fight alone. We cannot rely on the Legislature or the Governor to protect our private forests against take-over attempts by either the County or the radical and powerful environmental groups. What are we doing? Our first line of defense has been to fight back. We joined Big Creek Lumber in suing the County for their illegal taking of our timber through zoning. Your financial support has kept us in the battle. We expect to win by the end of next summer.
2. **Fish Fight:** Our second line of attack has been to fight to take back our streamside zones. CCFA is participating in the petition to de-list Coho salmon as a non-native fish illegally maintained by ESA regulation. This listing has taken our most productive forest resources away from us by making regulations so severe that we cannot effectively manage our streamside zones.
3. We have joined Pacific Legal Foundation in their continued attack on those agencies who still refuse to count hatchery-spawned fish along with the naturally-spawned fish in their census of salmon along the Pacific Coast.
4. We've spent two years fighting the Regional Water Quality Control Board (RWQCB) over waivers of waste discharge requirements. Our 2% of watershed use is governed by rigid detailed management practices (Forest Practice Rules) primarily oriented toward protection of water, but somehow the Water Board has the idea that we needed more agency regulation. Members of CCFA and California Licensed Foresters Assn. (CLFA) have been at various Water Board meetings demanding our 3 minutes each to address the very expensive monitoring regulations and restrictions being demanded by the environmentalists and supported by a Water Board that behaves as if it is politically vulnerable. CCFA action in this effort has been very important. ■

**Coho Listing Petition** (Continued from page 2)

Big Creek will be there to testify and will present our case as thoroughly as the commission permits us to do. The Commission has not been terribly interested in facts, but when the ball is in our court, we hit it as hard as we can. ■

**REGIONAL WATER BOARD SEEKS EASY SOLUTION TO A DIFFICULT PROBLEM**

The Central Coast Regional Water Quality Control Board (whew, what a name!) is overloaded with individual Timber Harvest Plan Waivers of Waste Discharge reporting requirements, and is trying diligently to prepare a General Waiver similar to the one that was used until 2002. They need to pacify their critics and do their duty in fulfilling their regulations. They are working on monitoring activities and specification for THPs that range from less expensive to very expensive monitoring activities such as 1) visual monitoring (low cost, high return, low verifiability, no numbers); 2) turbidity monitoring (high cost, no return, no verifiability, numbers); 3) temperature monitoring (medium cost, little return, verifiable, numbers); 4) photo-point monitoring (medium cost, little return, verifiable, number equivalent); 5) reporting on monitoring (medium cost, problem identification, the appearance of validity, number equivalency.)

They are also trying to develop a water quality risk rating system for GWs (General Waivers) through individual THP waivers, depending on the threat to water quality, based on a cumulative effects ratio, a drainage density index and a soil disturbance factor. ■

**IN MEMORIAM****David Smelt**

David Smelt, our late vice-president, passed away at his Corralitos tree farm home on Oct. 29. He was 60.



Born in Surrey, England, he lived in Tennessee and in Northern and Southern California before settling in Corralitos with his wife Cheryl.

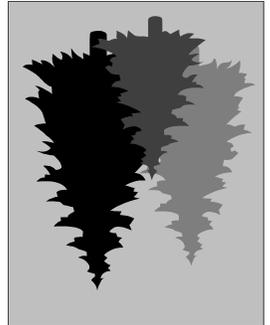
He served in the U.S. Navy, worked in a variety of positions that focused on forestry and landscaping, and was an exceptional musician. He was known for his encyclopedic knowledge of world music and the people who created it.

He was involved with the CCFA and served as vice president of the board of directors. He was a member of the Santa Cruz County Farm Bureau. He was adamant about constitutional rights, property rights and the Second Amendment in particular. He was a member of the National Rifle Association.

His passions were his wife of 36 years, music, trees, family and friends, and his dog Smoot.

David was successful in restoring steelhead habitat on this property. For two years, he hosted a blues radio program on KAZU in Pacific Grove. He was a member of several bands, starting on the guitar and later developing a love for the bass.

We're on the web!  
www.ccfassociation.org



Central Coast Forest Association  
P.O. Box 1670  
Capitola, CA 95010  
Phone: 831-469-6016



### Central Coast Forest Association

Membership / Renewal / Contribution

Name \_\_\_\_\_ Date \_\_\_\_\_

Enclosed is \$ \_\_\_\_\_ for:  New Membership  Membership Renewal  Legal Fund

Home phone \_\_\_\_\_ Work phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ ST \_\_\_\_\_ Zip \_\_\_\_\_

Signature \_\_\_\_\_ E-mail \_\_\_\_\_

Please make checks payable to:

Central Coast Forest Association    P.O. Box 1670    Capitola, CA 95010

**Membership Category**                      **Dues**

Individual - - - - - \$ 50

Business - - - - - \$500

***CCFA needs your support,  
so we can fight for YOUR property rights.***

*CCFA is a 401-(A) non-profit organization.  
Donations may be deductible as a business expense. Please check with your tax professional.*