

January 22, 2007

Michael Chrisman
Secretary of Resources
Resources Agency
11416 Ninth Street
Sacramento, CA 95814

Subject: Affect of Pacific Lumber Bankruptcy on 1998 Headwaters Agreement

Dear Mr. Chrisman:

I am writing to you in connection with the Pacific Lumber Company (PL) declaration of bankruptcy last week, and the potential risks posed to California taxpayers and the north coast environment by these bankruptcy proceedings and their eventual resolution.

Depending upon the resolution of the PL bankruptcy, it could have serious implications on taxpayer expenditures spent to complete the Headwaters transaction and the habitat protections PL accepted for payment of California's share of the \$480 million paid in 1999 as part of that transaction.

As you know, in 1998 the California Legislature passed AB 1986 (Migden-Chapter 615 Statutes of 1998) which was signed into law by Gov. Pete Wilson. That legislation made the state's \$230 million contribution toward the purchase contingent on a number of old growth logging restrictions being incorporated into the state and federal conservation plans and incidental take permit issued to PL as part of the sale.

These special logging restrictions were subsequently incorporated into the state purchase agreement that the Wildlife Conservation Board (WCB) entered into with PL as a condition of payment of the \$230 million for the Headwaters Forest.

The purchase agreement required that Maxxam record deed restrictions on PL land that secure an absolute 50-year prohibition on any logging within 12 residual groves of old-growth redwood forest known as the "lesser cathedrals" and entailing 6700 acres.

In addition, the company was required to record similar real estate covenants on PL land

to secure 100-foot wide “buffers” on each side of all fish-bearing streams where logging would be prohibited to protect habitat for the coho salmon, a federally-listed species.

I am concerned that parties may--as part of the current bankruptcy proceedings – see to extinguish the logging restrictions on PL forestland required under law and the purchase agreement. Therefore, I would appreciate any information you can provide on the following questions:

1. Does your office, or your counsel at the state Attorney General’s Office, intend to intervene in and/or monitor the PL bankruptcy to ensure the state’s interests are protected? If so, please describe those activities.
2. Will the old growth and habitat protections adopted on behalf of the state as part of the Headwaters Agreement remain in effect during the bankruptcy proceedings? Are actions needed by state agencies and/or the Legislature to ensure these protections remain in effect?
3. Has PL recently requested any changes to the habitat agreements or incidental take permit under “adaptive management” provisions of those agreements/permits? Have any changes been requested as a result of the recent bankruptcy filing?

I would also appreciate any additional information you can provide regarding the state interest in protecting its investment in PL lands and your assurance that the Administration will make every effort to maintain these requirements during the bankruptcy proceedings and afterward, even if ownership on the affected lands transfers to creditors or other third parties.

Thank you in advance for your assistance. I look forward to your early response.

Sincerely,

DON PERATA
Senate President pro Tempore