



## Seeing the forest for the trees

For 150 years, California redwoods were plundered, martyred, horse-traded, and legislated to the point of near destruction. But now, implausibly, an epic convergence of whistle-blowers, tree huggers, loggers, and a family of billionaire merchants is rewriting the story of some of the world's oldest living beings.

By Jaimal Yogis, Photograph by J. Perlman and R. Lutge Photography, Published on *San Francisco online* (<http://www.sanfranmag.com>), October 2010

**Up highway 101 north**, past the winding Russian River and Ukiah, past the Avenue of the Giants and their rocket-size trunks, about 15 miles from the Pacific Ocean, there's a tiny redwood-mill town called Scotia (population 800). You often hear that there are two types of people in this part of California—hippies and loggers—and that never the twain do meet on friendly terms. That's why my visit today with Amy Arcuri defies so many preconceptions that it makes my head spin.

The dreadlocked environmental activist picks me up by the Eel River in her dusty white Oldsmobile Bravada, with her children, River and Irie, giggling in the backseat. Arcuri is all smiles and chatter as we bump along a dirt road and into the hills, where she unlocks a chain-link fence to the redwood forest surrounding Scotia. Arcuri knows this private logging land like her own backyard. She has walked tens of thousands of its acres; only a few years ago, she spent days at a time as a tree sitter, camping more than 300 feet up a 2,000-year-old redwood called Spooner, trying to save it and the rest of the grove from the company saw. "We had to sneak in after midnight and climb the fences," Arcuri recalls during our hike in the shade of the canopy to find Spooner. "Security was always after us."

These aren't just any woods. Arcuri is letting me into the largest private redwood holdings in the world, the same forest where the famous Julia Butterfly Hill perched in an old-growth redwood for 738 days, where David "Gypsy" Chain was killed by a falling redwood while he was trying to stop the cutting, and which Judi Bari and Darryl Cherney were fighting to preserve when a bomb mysteriously exploded under their car. Some have compared the 23-year battle for this land to the conflict in the Middle East. Here, though, the battle involved thousands of activists and longtime timber workers, Bay Area power brokers and infamous Wall Street tycoons, backroom deals hammered out at the top levels of state and federal government, and charges of fraud that led to multimillion-dollar lawsuits.

So if it seems strange that a woman who used to break into these woods now has her own keys to the kingdom, it is. These days, Arcuri spends the time she used to dedicate to tree sits walking the land with company foresters, whom she now considers friends, to identify old growth, the awe-inspiring trees that are the tallest and some of the oldest living things on Earth. "To let you know just how cool these people are," she says, "when they did mess up a couple of times and accidentally cut some old growth, they called to tell me so I could come see with my own eyes." Perhaps even stranger than this latter-day rapprochement is what made it possible: In 2008, the San Francisco-based Fisher family, the billionaire founders of Gap and owners of Banana Republic, acquired these 209,000 acres in the bankruptcy proceeding of the Pacific Lumber Company, which was owned by Texan and Wall Street mogul Charles Hurwitz. At the time, Hurwitz was coming off of 20 years of overlogging this land, which had nearly decimated the redwoods and the local habitat.

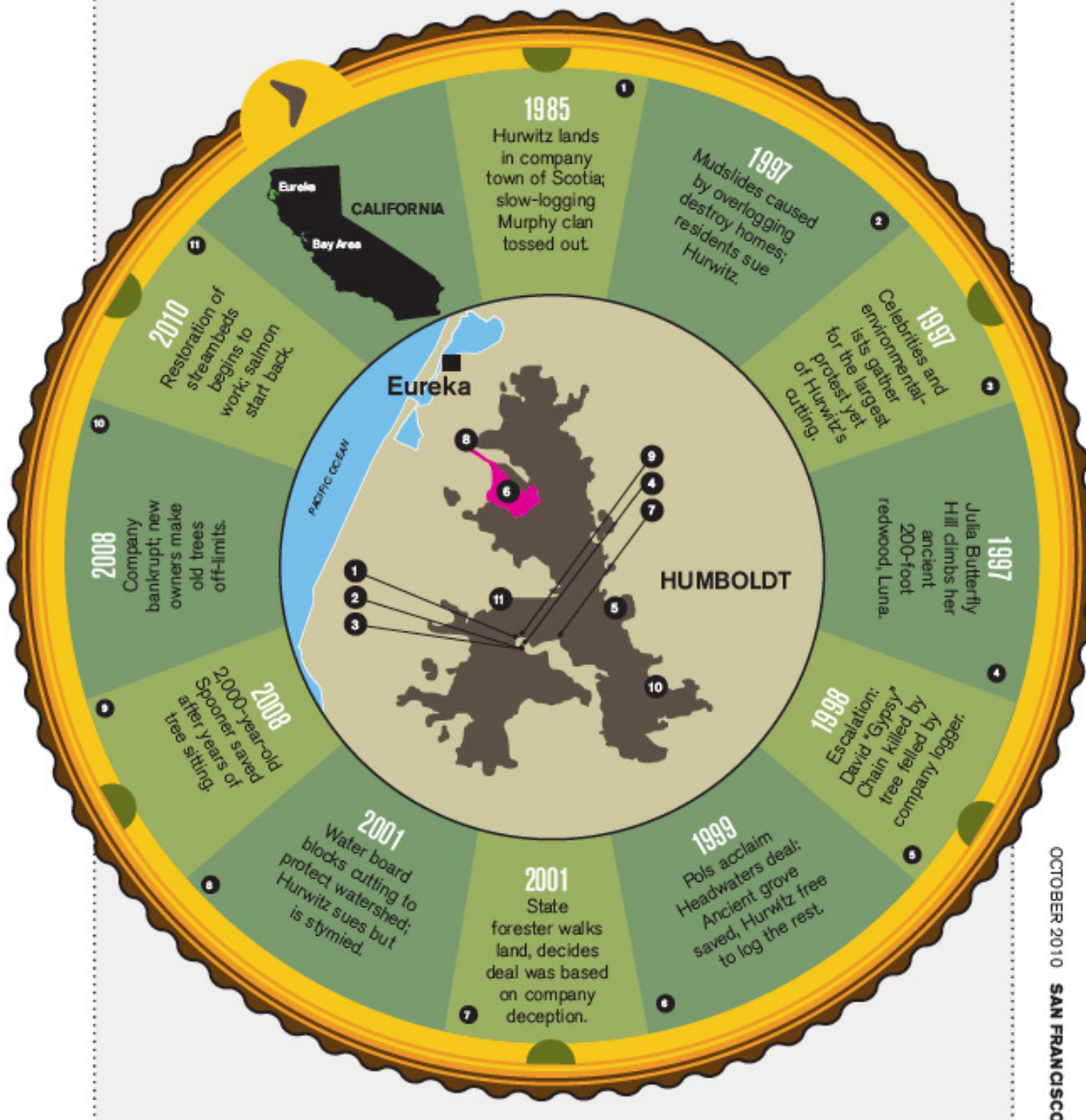
Over the past two years, the Fishers have been quietly shaking up the redwood world in Humboldt with an audacious pair of goals: to let the forest recover and to make money. Indeed, the Fishers and the team they've assembled to run their operation, now called the Humboldt Redwood Company (HRC), have become symbols of a California sustainable-forestry movement that could go as viral as any West Coast game changer, from stem cells to silicon chips. Mike Fay, a botanist with the National Geographic Society and a

leading redwood expert, puts it like this: “The technology that foresters are using here is a complete reversal of the past 150 years. And what if California could say, ‘Hey, world, look at what we’re doing. We’re actually going to rebuild our forests. We’re going to get the creeks back in good shape, we’re going to get the erosion down to zero, we’re going to get the fish back, and we’re going to be harvesting more and higher-quality lumber.’ That would be amazing.”

How the rest of the California timber industry will proceed remains uncertain. But the largely untold story of the fate of Pacific Lumber is a compelling parable about a century-old quest to find a way to live by, and with, the land. It’s also the unlikely tale of how government-driven solutions to environmental problems aren’t always as good as those devised by private parties who have their heads screwed on right. And, with luck, it will become the story of how the California redwoods were finally saved for real. >>

## THE FOREST COMES FULL CIRCLE

UNTIL THE STARTLING EVENTS OF THE PAST THREE YEARS, THE REDWOOD WARS HAD TURNED THE MASSIVE PACIFIC LUMBER FOREST OWNED BY CLEAR-CUTTER CHARLES HURWITZ INTO A WAR ZONE. **BY TIMOTHY KIM**



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**To tell this tale, you have to start** with Richard A. Wilson, the man who headed the California Department of Forestry and Fire Protection from 1991 through 1999, the decade during which the Humboldt timber wars burned the hottest. A Republican appointed by then governor Pete Wilson, Richard Wilson was known as both a rogue environmental leader (he helped craft the forest practice rules of 1973, still the backbone of California forest law) and a timber- and cattleman who could speak to activists and industry heads alike. He's a legendary battler—in the late '60s, he succeeded in blocking the construction of a dam that would have flooded Round Valley, where his own ranch was located—and he ultimately became a whistle-blower who helped bring Hurwitz's Pacific Lumber down. He is still considered one of the department's best leaders ever.

It is January 2010, and I'm hiking through the Headwaters Forest Preserve with Wilson, a tall 76-year-old with a grandfatherly air, a stubborn streak, and an old bluetick coonhound named Sophie. It's a Sunday morning, and residents and tourists are already out picnicking, hiking, and admiring the trees. "Look at these fellows," Wilson says, pointing to a cluster of redwood stumps so thick, they might have sprouted not long after the fall of Rome. He has been telling me about why these stumps are so extraordinary, which is basically his way of reminding me that we now have our lowest redwood inventory in 150 years: The old-growth redwoods, generally thought of as anything that's more than 150 years old and has never been cut, are 95 percent gone and have been replaced by lesser-quality second- and third-growth trees (and a fair amount of Northern California 20th-century development). The reason, Wilson explains, goes back to the very founding of the state.

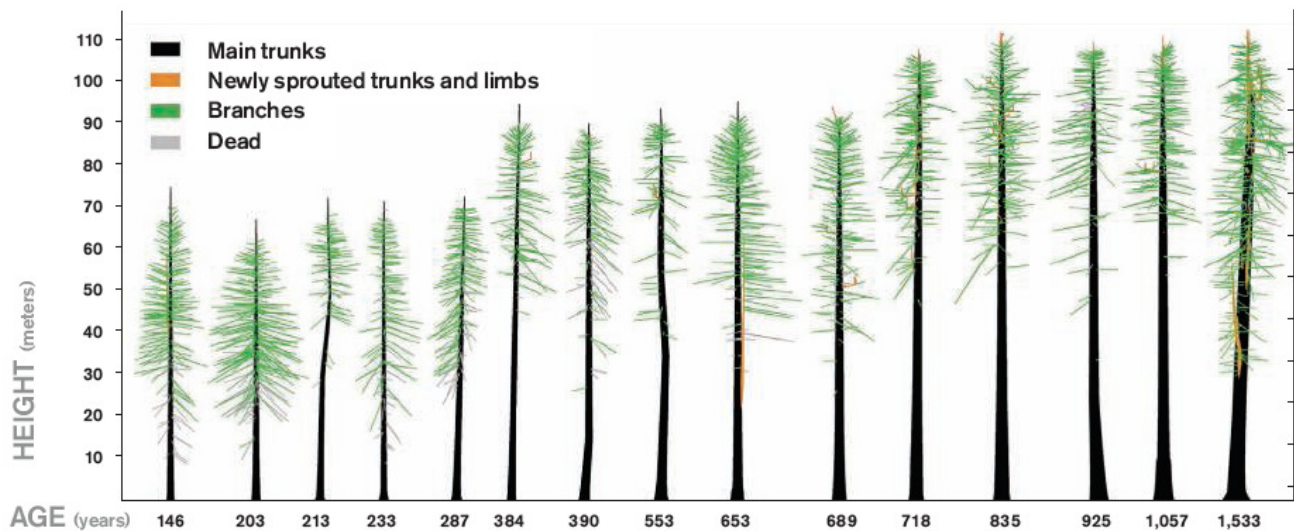
From the Gold Rush through the early 1920s, Western settlers hacked half of the original redwood population, with a big chunk of that wood going to rebuild San Francisco after the 1906 earthquake. Even then, groups such as the Save the Redwoods League began springing up, and eventually Congress was spurred to create the Redwood National Park, about 50 miles north of Eureka. But throughout the '60s and '70s, liquidation forestry was the method of choice—and still is, at some companies, for second- and third-growth redwoods. There are several versions, including clear-cutting, which means leveling all the trees in a stand, like a barber giving a buzz cut, and high-grading, which means removing the oldest wood and leaving the junk. But the principle is the same in both scenarios: You cut faster than the forest can naturally rejuvenate. These methods allow big timber companies to get their money out of the forest as quickly as possible—but they lead to the gradual degradation of the forest and less revenue down the line.

Mike Fay recently spent nearly a year with his hiking partner, naturalist Lindsey Holm, walking and studying the world's only coast-redwood range, from Big Sur to just past the Oregon border—the first known journey of its kind. After talking with sawmillers, timber CEOs, and everyone in between, Fay may know more about the current state of redwoods than even Wilson does. He breaks down the liquidation model into four steps.

"First, you cut the old-growth stands," Fay says. That's where you get those gorgeous, rot-resistant slabs that made those decks in *Sunset* magazine glimmer. Step two is to start hacking at the second-growth stands, generally after 50 years, which is too soon to get the highest-grade wood (that takes at least 100 years) but still yields a decent product. Now you're flush with cash and have clients who trust your timber, Fay explains, but you've been cutting faster than the forest can grow. Plus you've had to build massive logging roads to accommodate timber-hauling tractors, which causes sediment runoff that sullies local waterways and slams the population of coho salmon.

On to step three: Liquidate the brand. After a clear-cut, faster-growing trees such as tan oaks will pop up like weeds. To keep them from overtaking the new redwoods that are trying to sprout, you'll likely have to use herbicides on them, which gradually weakens the soil. Also, because you've depleted the forest, this third round of trees is growing in direct sunshine instead of in more natural partial shade, so the wood is a lower grade that has little of the redwood's famed resistance to decay. Liquidating the brand means selling this inferior wood at the same high price until your clients finally get wise—which, if you've timed it right and you're that kind of company, is when you get to step four: You walk away from the business, leaving acres of crappy forests to sell to whomever.

In the late '60s, Wilson watched this downward spiral on his own acreage on Buck Mountain, in Mendocino County, where he'd signed a contract to sell timber to the midsize Crawford family sawmill. "I knew they would harvest my timber in a way that respected my land," he says. However, timber behemoth Georgia Pacific acquired the Crawford Lumber Company mill, and with it, the rights to log on Wilson's land. Under the direction of CEO Harry Merlo—famous for the motto "We log to infinity"—the company took a turn for the worse, says Wilson. "Merlo would fly over my land in a helicopter and make sure they got every last merchantable tree," he describes, recalling a key event that sparked his interest in sustainable forestry. It was a miniature version of what would soon happen with Pacific Lumber and Hurwitz. >>



## THE OLDER, THE BETTER FOR BUSINESS

NEW EVIDENCE SHOWS THAT WAITING LONGER THAN 80 YEARS TO CUT A REDWOOD—WELL BEYOND THE INDUSTRY AVERAGE OF 50—IS A SOLID INVESTMENT.

The majority of timber companies say they can't afford to be so patient, but most loggers believe that the ideal time to harvest a redwood is when the tree turns 80: At that point, they say, its growth slows considerably—you get the highest return for your time investment, and you can profitably plant replacement trees. But the research team of forest scientist Stephen Sillett, at Humboldt State University, climbed 15 redwoods in Humboldt Redwoods State Park (see above) and concluded that **redwoods continue to produce more and better-quality wood as they get bigger and older—for up to 1,500 years, or possibly more—which means that companies willing to take the long view can potentially still make good money.** It turns out the common practice of measuring redwoods at chest height misses a wealth of activity—including newly sprouted trunks and branches—in a huge portion of the tree. These findings parallel the marketplace analysis of Chris Maranto, of the California Department of Forestry. By his accounting, logging a 100-year-old, 160-foot tree in 1985 would have gotten you \$195; the same tree, allowed to grow until this year, would be worth about \$750; and if you wait until 2035 for the tree to grow to 190 feet high and twice as large in volume as it was in 1985, you'll gamer \$1,900 (assuming that redwood prices stay at 2007 levels).—TIMOTHY KIM

**The acquisition of Pacific Lumber** by Hurwitz's company, Maxxam, was a classic saga of 1980s Wall Street mania. In 1985, leveraged to the hilt with almost \$800 million in junk bonds underwritten by securities genius Michael Milken, Hurwitz engineered a hostile takeover. The deal made the smooth-talking Texan the owner of an estimated 70 percent of California's old-growth redwoods remaining in private hands. But with a massive debt to pay back, Hurwitz set out to reverse decades of good forestry and the excellent employee relations that had been instituted by the Murphy family, who had run the company for almost 50 years.

The Murphys were an anomaly in big timber. They practiced sustainable forestry before there was a name for it, and every Murphy intended for his descendants to work this same land for hundreds of years, as did the family's hundreds of employees. The Murphys were famous for throwing huge company parties and for providing college scholarships for the children of full-timers. Pacific Lumber workers say that watching them get forced out was like losing their own parents. Though Hurwitz tried for a while to maintain a façade of the Murphy tradition, it soon became clear that he would stop at nothing to satisfy his deep debt. One of his first acts was to drain \$55 million from the employee pension plan, replacing it with a shoddy life annuity that eventually landed the employees a mere \$7 million (and even that they had to fight for with a lawsuit). He also made clear-cutting and high-grading the norm. "He was taking every salable thing he could get his hands on and going until the roof fell in," says Wilson. Anybody with eyes could see the new mudslides and the bald spots growing like a disease over the green Humboldt hills.

The sad thing was, it didn't have to be that way. "In 1985, when Hurwitz showed up, there was enough old-growth timber out there that if the Murphys had kept going at their regular rate, they could have harvested old growth until the year 2045," says William Bertain, a lawyer in Eureka who won a \$162 million settlement from Hurwitz and his financiers after suing them over the details of

the hostile takeover. But Hurwitz continued clear-cutting the land, and when Wilson took over California's forestry department in 1991, he cooked up an idea to require timber harvesters to submit a Sustained Yield Plan, which would analyze the 100-year impact of their harvesting on the local wildlife, soil, and watersheds.

Wilson got the forestry board to sign off on the new rules three years later, and though they came with a number of concessions to the timber industry, Hurwitz felt the threat. In the late '80s and early '90s, he'd been logging double the amount that the Murphy family had, getting up to 300 million board feet of wood per year (a board foot is the equivalent of a one-square-foot wood slab, one inch thick), yet still not enough to pay off his debt. So he decided to build a road into the Headwaters Forest—including five square miles of old growth so pristine that many activists considered it sacred—and start salvage logging, which means taking away any trees that are dead or dying or have fallen naturally. This set off alarm bells for the activists, who were afraid that his next move would be to cut standing trees, so that's when they started showing up en masse. Multiple lawsuits were filed against Hurwitz and Pacific Lumber by everyone from the Sierra Club to longtime residents who had lost their homes in mudslides.

That's also when Wilson began hearing talk of a deal going on way over his head—all the way up to then president Bill Clinton—that was supposed to accomplish two things Wilson desperately wanted: to save the Headwaters old growth and to get Hurwitz to comply with Wilson's new sustained-yield rules on the other 97 percent of his land. The Clinton administration had appointed senator Dianne Feinstein as chief negotiator of the deal. Over the next five years, the deal became a plan for the state and federal governments to pony up \$300 million to Hurwitz for 7,500 acres of land, including the 3,088 acres of Headwaters old growth. Hurwitz would also get an additional \$106 million for two other parcels adjoining the Headwaters.

At first, Wilson was open to the plan. But as the details began to emerge, it started to seem more like “a load of crap,” he says. For one thing, Hurwitz had paid only about \$800 million for the entire 211,000 acres, and here was the government offering more than half of that for less than 5 percent of that land. There were also big questions about how much Hurwitz would actually dial back his logging on the land he would still own. He insisted that harvesting upward of 210 million board feet per year was a sustainable yield, but Wilson didn't want to go above the rate at which the Murphy family had been cutting, given that Hurwitz had already been depleting the forest at double that rate for at least a decade. “I hadn't seen any hard science to back up anything close to 200 million board feet per year,” he says. Meanwhile, protesters were going ballistic in the hills—Hill perched in Luna in 1997, and Chain died in 1998—and Hurwitz, ever the Machiavelli behind this mess, kept threatening to walk away from the deal and keep clear-cutting if he didn't get his way.

The cut rate that Hurwitz and the federal politicians eventually agreed on was 179 million board feet per year for the first decade after the signing. Pacific Lumber lawyers told Wilson that the number was based on a computer model created by a private company named Vestra Resources, but oddly enough, Wilson couldn't get his hands on the report, even though he directed the most important timber-regulating body involved in the deal. Pacific Lumber claimed that the report was proprietary. Still, Wilson was getting leaned on to sign. “The politicians' view of this was, ‘Let's close; let's get the Headwaters deal in our legacy and go do something else,’” Wilson says. “If I had had something to hang my hat on to stop it, I would have, but I just didn't.” So on March 1, 1999, the very last day before a midnight deadline, he reluctantly signed off on the Headwaters Forest Agreement, joining President Clinton, Vice President Gore, Senator Feinstein, Governor Davis, Interior Secretary Babbitt, and representatives from almost every environmental regulatory body in the state.

From the way the other signatories hailed the Headwaters deal, you'd have thought it was the best thing ever to happen to the redwoods. “This historic agreement will ensure the protection of one of the world's most precious resources,” said Governor Davis. “The final agreement is truly a compromise,” said Pacific Lumber president and CEO John Campbell, who got into the timber business after he married a friend of the Murphys', then decided to stick with Hurwitz after the takeover. Feinstein added that she was very proud of forging ahead against all odds: “Getting to this point has not been easy,” she said. “It has taken over five years of negotiations...and literally thousands of hours...[but] the end result is a strong plan.”

Wilson, however, resigned shortly after and continued to feel bad about the deal. He remembers the day it was celebrated in the brand-new Headwaters Forest Reserve. “It wasn't a very good day,” he says. “It was cold and rainy, with mud sloshing around.” It wasn't just the weather that got him down, though; he shakes his head as if he wants to say more but doesn't. When I ask him if he resigned out of guilt, he shrugs. He chalks it up to not wanting to work with the Gray Davis administration, or he says that he'd been with the department long enough. But his actions in ultimately exposing the deal as a sham suggest a different story.

**The initial revelations about the deal** weren't encouraging. Within a month of the signing, the Environmental Protection Information Center (EPIC) teamed up with the Sierra Club to sue the government for failing to obtain an adequate Sustained Yield Plan from Hurwitz. As the lawsuit unfolded, it came out that there had never been such a plan, either before or after the deal was signed. The case went all the way to the California Supreme Court, where EPIC and the Sierra Club finally won in 2008. In Feinstein's “five years of negotiations,” the court found, the government had never bothered to require backing for the linchpin of its deal.

“Here you have half a billion dollars in taxpayer money,” says Sharron Duggan, one of the lead attorneys for EPIC and the Sierra Club in the case. “It's supposed to be buying us peace in the valley, and to not have the singular document you need to enforce the new rules—it's like building a house without any blueprint. Pacific Lumber and Hurwitz were only as terrible as the government let them

be.”

Even after getting the \$406 million in taxpayer money, meanwhile, Hurwitz still owed more than \$700 million to the bondholders. By 2001, two mills had been shut down; Pacific Lumber would soon slim down to 363 workers from its high of about 1,600. Wilson had a hunch that the company might go bankrupt, but in 2006, he got a phone call from a friend that would help him push Pacific Lumber to the brink.

The friend told him that Wilson’s old department had hired a new “sustained-yield forester” whose job it was to implement Wilson’s 1994 rules: Chris Maranto, a rising star in the complicated world of forest computer models. Bingo, Wilson thought—here’s a guy who might actually know something about the Vestra report’s key assumptions. (Remember, Pacific Lumber used computer modeling to come up with its cut rate of 179 million.) So he decided to give Maranto a call. “I said straightaway, ‘I now think the Headwaters deal was flimflam and politics, a scam,’” Wilson says. To his surprise, Maranto completely agreed. What’s more, he had something concrete to go on. After walking around an additional 8,000 acres that Pacific Lumber had purchased since the deal, Maranto had come to the conclusion that the company had padded its numbers in trying to persuade the government to let it log at a higher rate.

Here’s how Maranto and Wilson thought the book-cooking worked. The cut rate that Hurwitz had requested in the government negotiations—210 million—was based on a particular number of trees. But on the acreage he surveyed, Maranto says that he didn’t find anything close to the number of redwoods the company had told the government it had. He soon learned that Pacific Lumber had included a second tree in its computer modeling for all of its holdings: tan oaks, which are almost never used to show merchantable inventory because they’re more like weeds. So he concluded that the company had deliberately inflated its inventory with tan oaks—there was no other way to explain what he had witnessed on the ground. “When I saw the model, I couldn’t believe it,” says Maranto, who still works at the department as its sole sustained-yield forester. “It was just so blatantly wrong.”

Wilson instantly realized that he could have a fraud case on his hands. Maranto was reluctant to get involved, out of fear of losing his job, but he had such respect for Wilson’s work that he figured he could get behind it if Wilson were with him. After much discussion, Wilson and Maranto contacted San Francisco plaintiff lawyer Joseph Cotchett, known as one of the best in the country. Cotchett’s firm—Cotchett, Pitre & McCarthy—had already been approached by numerous groups, including some Native American tribes, who wanted to sue Hurwitz over alleged environmental and financial violations. Maranto’s evidence finally gave the firm the case it needed in order to nail Hurwitz with huge damages.

The case wound up as a *qui tam* trial, or a whistle-blower case: Wilson and Maranto suing on behalf of the people of the United States and California, who, they argued, had been defrauded out of nearly half a billion dollars in taxpayer funds. It was filed in a federal court in Oakland, but Hurwitz and Maxxam, using their own high-powered Bay Area law firm, Morrison Foerster, led by trial-court celebrity James J. Brosnahan (defender of John Walker Lindh), did everything possible to delay the case. Hurwitz spent more than \$10 million in legal fees to keep the case out of court, all along denying any wrongdoing and arguing that the government had gotten exactly what it asked for: the Headwaters Forest Reserve and a promise that he’d log his remaining land at 179 million board feet or less. “That makes it a very strange sort of federal fraud case,” Brosnahan told the *San Francisco Chronicle* before the trial.

The case wouldn’t be heard in the Oakland court until 2009, but in the meantime, in Corpus Christi, Texas, Pacific Lumber had indeed filed for Chapter 11. And, surprisingly early in the proceeding, the judge made the bankruptcy trial nonexclusive, opening up Pacific Lumber to purchase and reorganization. Almost simultaneously, in two separate courtrooms, the truth about the Headwaters horse-trade—and the future of the California redwoods—would be revealed.

**In Corpus Christi, the three parties** who were vying for the company came down to Hurwitz, the bondholders who had underwritten Hurwitz’s loan and desperately wanted their money back, and a family of clothing merchants whose massive investment in redwoods would have surprised their neighbors in San Francisco.

Like their parents, Gap founders Doris and the late Don Fisher, the Fisher boys are Presidio Heights originals: hard-headed businessmen with singular passions that can take a philanthropic turn. All three grew up on Washington Street; played serious boyhood tennis; attended Princeton and the Stanford Graduate School of Business; worked for their dad; and are now well-liked billionaires, raising families near where they grew up. They meet regularly to discuss their shared philanthropy and investments, which are managed by John, the youngest son and the only one of the three who didn’t spend a chunk of his career working for Gap. Presumably to shield the family from the frenetic ups-and-downs in the value of Gap stock, where much of their wealth is still held, John looks for the longest of long-term investments: “businesses where being a family as opposed to a publicly traded company allows us to do things differently,” as he told this magazine in one of his rare interviews.

Robert Fisher, the oldest son, helped push the family into trees. He currently chairs Gap’s board and serves on the boards of the Natural Resources Defense Council and Conservation International, which works to keep the Amazon rain forest from disappearing. It was fly-fishing that made him a naturalist, and he now helicopters regularly to the family’s fishing ranch in the ponderosa forest south of Mount Shasta, next to Nature Conservancy land. “Being connected to the outdoors was something very important to us as a family,” John says. “But Bob’s connection is what attracted us to this investment area. He’s been very instrumental in helping us learn.”

The Fishers embarked on their first redwood venture in 1998, when they paid a reported \$200 million to Louisiana Pacific for a massive Mendocino Coast redwood forest that had been devastated by clear-cuts and erosion—and learn they did. The family’s longtime friend Sandy Dean, chairman of the Mendocino concern (now the Mendocino Redwood Company, or MRC) and the former Pacific Lumber, served as their guide as they sought to make a buck and improve the land. “We can’t just go into the community and tell everyone that we’re fabulous,” John told the *San Francisco Business Times* in 1998. “We have to convince them that we’re part of the solution.” That didn’t happen right away, and the family’s operation drew a barrage of negative press from forest activists when it continued to cut some old growth. But soon enough, the company’s slow-cut practices earned respect from forestry scientists.

“Because we are a family, and because we’re local, we could allow the trees to grow over a long period of time and end up with a healthier forest,” John says. And it doesn’t hurt that the family has deep pockets, so they’ve been willing to invest cash in such projects as expensive bridges, rather than cheaper, environment-damaging culverts. “When you put in a bridge,” John says, “all of a sudden fish can move upstream, which means they can survive. It’s a funny thing, though: That also means you can’t harvest as many trees.” (To preserve the fish’s habitat, more trees bordering the river will be protected by law.) A philosophical free-marketer who has contributed to Republicans, John wryly acknowledges that such environmentalism costs him a lot of money, yet he remains committed to it anyway.

As the Pacific Lumber bankruptcy court date approached, the Fishers’ bid took on a life of its own: To many involved in the proceedings, it sometimes felt as if the Murphys themselves were returning on white horses. The Mendocino Board of Supervisors and eight environmental groups, including the Sierra Club and EPIC, endorsed the Fishers as owners—as did local congressman Mike Thompson and Governor Schwarzenegger. “People could look at what we’d done in Mendocino,” says Dean, “and that was a tangible track record. We could say, ‘Hey, we want to eliminate traditional clear-cutting, bring the old-growth policies here, use our transparent mode of operation, and maintain jobs at the sawmill in Scotia.’ That was a pretty compelling set of things to imagine after 21 years of conflict.” After the bidders submitted their plans, the bankruptcy judge awarded Pacific Lumber’s remaining 209,000 acres to the Fishers for half a billion dollars.

It was a momentous decision. It also confirmed for Wilson, who was waiting for his trial to begin, just how royally Hurwitz had screwed the government on both ends of the Headwaters deal. On the front end, the dollar amount was close to what taxpayers had paid Hurwitz for a section of the forest 30 times smaller. And when the Fishers brought in their timber appraisers to come up with a sustainable cut rate for the Hurwitz lands, they gave a figure of 55 million board feet a year. Hurwitz’s people had initially asked for 210 million, then settled for 179 million.

Now, in Oakland, Maranto and Wilson were ready to blow the whistle. On the stand, Maranto described how he had discovered the deception during his tour of the land. The plaintiffs also brought in independent forestry experts, including Paul Harper and Greg Bloomstrom, both of whom testified that Pacific Lumber’s inventory reports appeared manipulated, especially in regard to the tan-oak stocking. On Hurwitz’s part, Brosnahan’s team never denied that the company had used tan oaks in the stocking reports; they simply argued that doing so was perfectly legal. The jury would have to decide whether the company had knowingly defrauded the state and federal governments.

A final verdict was never reached—partly because the judge wouldn’t allow past cases regarding Pacific Lumber and Hurwitz into evidence, including anything from the bankruptcy proceeding. “I still don’t understand why,” Wilson says. Such restrictions made for intense days of testimony, with Brosnahan and Cotchett blustering at each other throughout; at one point, they nearly went nose-to-nose when Brosnahan thought Cotchett might be trying to slip in evidence that the judge had blocked. But after five days, Cotchett advised Wilson that with so many limits on what he could enter into evidence, the odds weren’t good that he could convince all 9 jurors (federal civil cases don’t require 12) beyond a reasonable doubt that the tan-oak situation was a scam and that it came from the top. Consoling himself that he’d forced Hurwitz to spend \$20 million on the case, pushing him toward bankruptcy and the land toward the Fishers, Wilson and Maranto settled the case for \$4 million from Pacific Lumber, which was distributed among Cotchett’s law firm and the state and federal governments.

The settlement was a big disappointment for Wilson—and for the Humboldt residents who had hoped to see Hurwitz pay hundreds of millions. One Humboldt blogger joked that “Chris Maranto and Richard Wilson, who had sought damages totaling more than \$1 billion in the case, settled for two McDonald’s hamburger Happy Meals, one with no mustard and extra pickle, the other with apple slices instead of fries and a supersize beverage selection.” But though the case didn’t crush Hurwitz financially, it did reveal the travesty at the core of the Headwaters deal. It also helped usher in new owners who knew exactly whom to hire to run their revamped company.

**If anyone in the redwood world** garners more respect than Wilson or more buzz than National Geographic’s Fay, it’s Mike Jani, a gregarious Santa Cruz native who managed a small, family-owned timber company, Big Creek Lumber, in the area for decades. In 1999, Jani parted with that much beloved job to manage the Fishers’ Mendocino Redwood Company; eight years later, he left MRC to join their new operation, now known as Humboldt Redwood Company (HRC). That makes Jani, a low-key family man who likes to surf in his hometown as much as possible, the policymaker for more private redwood land than anyone in the world—and he’s shaking things up. He’s taking a process called selection management, or uneven-age management—until now generally practiced only by

smallish landowners, such as Big Creek, and by individual conservation-minded foresters—to the biggest redwood plots in the world, many of which had been savaged for years.

Using a very careful model that removes less wood than the forest can grow every year, both HRC and MRC have been certified by the Forest Stewardship Council (FSC), a lengthy and rigorous process similar to LEED certification for architecture or USDA Organic for farming. It sounds childishly simple to add more wood than you take out. But if foresters had done that for the past 150 years, the notion that only 5 percent of the original redwood forest remains standing today would be a tragic plot point in a dystopian novel rather than reality. Since the formation of MRC, Jani has also managed the effort to restore the forests' waterways, spending \$14 million to keep sediment from entering the rivers. He sees signs that the salmon are coming back.

This "restoration forestry" was the topic of the day at a recent gathering in Redway, a tiny town next to Garberville, where about 40 redwood experts—foresters, old hippies, bearded sawmillers—had assembled for a conference called Redwood Futures, an exercise in consensus and trust building that felt like necessary therapy after years of battle. Jani, shaking hands and cracking jokes, was the only manager of a big timber company to attend. The very fact of his presence seemed to bring hope. "You got a guy responsible for 400,000 acres spending his Saturday in Redway," said Art Harwood, a former sawmill executive and a Redwood Futures organizer. "What does that tell you?"

"The world is changing," agreed Fay, also in town for the meet-up. "A lot of other people are definitely tipping toward restoration forestry"—a group that likely includes Jim Able, Ed Tunheim, Jim Greig, and Craig Blencowe, foresters who manage small (20- to 2,000-acre), private redwood timberlands in California. Their plan, like Jani's, is to grow bigger trees and cut them out one by one, maintaining groves with every age of tree, and never taking more wood than the forest grows naturally. It's a slower process, profitwise, but in theory, it will earn them more money over time. Indeed, recent research by rockstar forest scientist Stephen Sillett (he was made famous by Richard Preston's 2007 bestseller, *The Wild Trees*), of Humboldt State University, shows that redwoods actually produce more and higher-quality wood each year for up to at least 1,500 years (that's the oldest tree he measured). According to Chris Maranto's calculations, a 100-year-old tree that was worth \$195 in 1985 could bring in nearly 10 times that if you waited another 50 years to harvest it. Even taking inflation into account, the potential reward is huge.

But what about the rest of big timber, especially the Green Diamond Resource Company, which is nearly as large as MRC and HRC combined? Neither John Fisher nor Jani will pick on their competitors publicly. Says Fisher, "It's not to say that if someone harvests their trees with a shorter rotation than we do, that's wrong. It's just different." Green Diamond tries to market itself as eco-friendly, but Fay doesn't buy it. The company has given more than 70 percent of its redwood acreage to clear-cutting, but by law, the cut areas have to be replanted with trees instead of left to grow back naturally—a method that the company claims is better for forest regeneration than Jani's because the trees grow back faster in direct sunlight. But according to Fay, "The forest composition there is nothing like a redwood forest would have been." When you clear-cut, he explains, you destroy so much of the habitat that the next generation of growth is more like a plantation forest than a real forest. EPIC agrees—and has made Green Diamond the new target of its protest campaign.

How to inspire the transition to sustainable forestry was a burning topic at the conference. The nation's timber industry is in decline. Plunging home construction, fast-falling prices, the bad economy, and the high cost of meeting government regulations have all done damage, and much of our wood now comes from places with more lax regulatory environments, such as Indonesia, South America, and Canada. In this dark environment, where desperate companies might be inclined to cut faster, it seems that much more important to push all of big timber to adopt the Fisher business model rather than the liquidation model.

Jani says one big step will be getting hard data on different harvesting methods, since many industry folks aren't convinced that selection management will be as lucrative down the line as he and others believe it will be—and, unfortunately, that type of research is in its infancy. Encouraging consumers to look for FSC-certified wood, installing a carbon-trading market to profit landowners who don't cut their forests, and freeing up sustainable foresters from costly paperwork also have tremendous promise (see "Three Shifts That Will Rebuild the Redwoods," below). Notably, though, after the debacle of the Headwaters deal, the idea of waiting around for the government—whether it's Congress, the Department of Forestry, the regional water-quality boards, or the Air Resources Board—to regulate big timber into doing better is widely viewed as a nonstarter.

**For her part, Amy Arcuri would prefer** that none of the redwoods be cut down. "If it were up to me," she says as we finish a picnic under Spooner, "I would just let the forest rest. But we have to find ways to compromise."

For the first time in a long time in Humboldt County, that seems possible. As we wrap up our interview, we hear "cooooooie," the traditional sound someone makes when she's in the woods and wants to warn other people of her presence. A few years ago, that would have meant it was time for Arcuri to hide. This time, the sound comes from Adam Farland, a longtime logger for Hurwitz's Pacific Lumber who has graduated to forester and now works for the state parks department. A strong man in a flannel shirt and jeans who looks like he has hauled some serious timber in his day, Farland walks over to us with a big smile. He and Arcuri embrace.

During the Hurwitz years, says Farland, it was routine for loggers like him to receive orders to fell trees like Spooner—partly, he says, to intimidate the tree sitters into coming down. But today, Farland has come to meet Arcuri because he's giving her one of his cats in



order to deal with a mouse problem in her home. The two are good friends and hang out together outside of work, but Farland says he also enjoys walking the land with Arcuri because she's so good at identifying old growth—and that makes his job easier.

Talking with both of them in the shade of these giants, I can almost hear the echoes of old ghosts. Farland was on the scene the day David “Gypsy” Chain was killed by the falling tree; he tried to warn Chain to stop taunting the loggers by coming so close to the trees as they came down. That day still haunts Farland, and talking about his friendship with Arcuri seems to get him choked up. “When I was a logger, I was always the one who wanted to try to find a way to work with the activists, to find common ground,” he says. “But it was just so hard. Everything was so divided.”

I ask Arcuri if it's weird to be friends with the people who seemed like her enemies five years ago. “Not really,” she says. “These guys love the forest as much as we do. It makes you realize that what kept us from being friends was that the men they worked for didn't share our vision of preserving the forest. But now they do.”

**Jaimal Yogis** is a San Francisco contributing writer. Additional reporting by **Timothy Kim**.

### **Three shifts that will rebuild the redwoods**

By Jaimal Yogis

#### **More consumers buy sustainable.**

Look for “FSC-certified” on redwood you buy at the lumberyard—it means that the timber company that grew it manages its forests sustainably. “If people vote with their dollars for certain kinds of ecological forest practices,” says Peter Tittmann, a PhD candidate studying forest carbon management at UC Davis, “that will send a clear message to timber companies.” The Home Depot, for example, is now the largest retailer of FSC-certified wood in the country. (Influencers, take note: President Obama had his inauguration invitations printed on FSC-certified recycled paper, and his annual Easter-egg hunts have used FSC-certified wooden eggs.)

#### **Sustainable foresters are rewarded with lighter regulations.**

Given the lessons of the past 150 years, deregulating the forests doesn't sound like a good idea—but it is, at least for landowners who can show a record of sustainability. Cumbersome regulations keep outfits such as the Humboldt Redwood Company from having the time and resources to conduct crucial research into sustainable forestry, says the HRC's top forester, Mike Jani. These days, timber companies must meet bureaucratic requirements for eight regulatory bodies. “We spend so much energy just going through the permitting process and compliance that we don't have time to study what we're doing,” Jani says. Even former state forestry leader Richard Wilson, who played a pivotal role in creating many of the regulations, now says that the state “really needs to just start over.” Of course, no one suggests that we unfetter the timber market completely—only that we reward good behavior. “It's a balance,” says John Rogers, of the Institute for Sustainable Forestry. “Obviously, there will be companies out there that will take advantage of looser regulations, but it's a problem when people of goodwill can't achieve positive results.”

#### **Carbon trading takes off.**

Because of their age and resistance to disease, redwoods are the best trees for removing and storing greenhouse gases from the atmosphere, so timberland owners are licking their chops at the deals awaiting them on the incipient carbon-trading market—deals that could potentially make them serious bucks and save the trees. Already, big timber company Sierra Pacific Industries is in the preliminary stages of the largest carbon-offset deal in U.S. history, involving giant sequoias. Some environmentalists are excited, too, albeit with caveats. On the plus side, the nonprofit Conservation Fund bought 24,000 acres of redwoods and Douglas firs in Mendocino that a series of large logging companies had raked over. Had the Fund not stepped in, reps say, the land might have been turned into a vineyard or subdivisions. The deal was made possible by the ability to sell millions of dollars in carbon credits to investment firms and to PG&E under the advance carbon-trading market, which officially kicks off in California in 2012. However, in an irony that drives environmentalists crazy, there's some evidence that clear-cutting actually sequesters more carbon than leaving the trees alone does. That's because redwoods grow back faster after a clear-cut, and some experts believe that the faster a tree grows, the more greenhouse gases it sucks up. So carbon trading could wind up as a classic rob-Peter-to-pay-Paul dilemma, encouraging the exact wrong approach to the forest.

# RECOVERY ZONE

HOW WELL ARE SOME OF THE BIGGEST TIMBER STEWARDS JUGGLING THE NEED TO LOG WITH THE GOAL OF PROTECTING ANCIENT TREES, FOREST STREAMS AND SPECIES, AND REDWOOD CANOPIES? HERE'S AN APPRAISAL. **BY TIMOTHY KIM**



**[+]**  
**IMPROVING ITS FORESTS**

**Humboldt Redwood Company (Fisher Family)**  
Fisher family foresters cut selectively, grow more redwoods each year than they cut, and try to let the land rest from decades of clear-cutting. Trees older than 200 are completely spared.

**[+]**  
**IMPROVING ITS FORESTS**

**Mendocino Redwood Company (Fisher family)**  
The Fishers bought this land 12 years ago, made mistakes, and got hammered. But MRC has become the leader in sustainable forestry, with good ties to eco-leaders and its neighbors alike.

**[+]**  
**SETTING A COMPELLING EXAMPLE**

**Conservation Fund's Garcia River Forest**  
By harvesting trees that hamper growth of an overcrowded grove while selling more than \$4 million in carbon credits, the company has shown that a timber concern can profit by practicing sustainability.

**[-]**  
**LOGGING YOUNG TREES**

**Green Diamond Resource Company**  
Most of Green Diamond's 308,000 redwood acres are slated for plantation-style forestry, in which clear-cuts are replanted with trees that are cut again after 50 years or so.

**[+]**  
**STUDYING SOLUTIONS**

**Jackson Demonstration State Forest**  
Mandated to lead and study, foresters at this state agency have discovered that execution is everything. Even cutting selectively and leaving lots of different-age trees in a forest can fail if harvesters return too frequently.

**[+/-]**  
**A MIXED BAG**

**Gualala Redwoods**  
One of the smallest of the big guns, this company does a combination of clear-cutting and single-tree selection, which leaves the forest diverse, age-wise. Environmentalists are keeping a watchful eye.

## What happens if a tree falls in the forest...and everyone with money, power, or ego hears it?

*A now-to-then guide to the moguls, pols, barristers, and believers who have been drawn like butterflies to the nation's most fiery forest controversy.*

### The son in charge

“Other natural resources are depleted when they’re exploited—but timber doesn’t have to be.... In theory, it can last forever.”—**JOHN FISHER**, third son of Gap founder Don Fisher, who has made the Fisher family the largest private owner of redwood forests in the world.

### **The enviro**

“The business begins with substantial capital, so it can operate to a higher environmental standard.”—**ROBERT FISHER**, Gap chairman and the eldest Fisher son, explaining to a redwoods activist how he and his family justified becoming loggers.

### **The don**

“I don’t have a lot to say about that; you’re better off talking to John.”—**DON FISHER**, the patriarch of the family, who passed away last year, referring a journalist to his son to talk about the family’s bid for control of Pacific Lumber’s redwoods.

### **The cheerleader**

“Today’s decision in the Pacific Lumber bankruptcy case is good news for the people of California.” —Governor **ARNOLD SCHWARZENEGGER**, celebrating the 2008 decision to turn over the reins of Charles Hurwitz’s company to friend Don Fisher.

### **The jilted bidder**

“I will serve as chairman of the company, with the authority to manage these 209,000 acres of timberlands.”—Former governor **PETE WILSON** in 2008, boldly proposing himself as “plan agent” when noteholders tried (and failed) to win Pacific Lumber over the Fishers.

### **The dealmaker**

“This agreement was truly the last, best chance to save Headwaters.” —Senator **DIANNE FEINSTEIN**, whose private five-year negotiation with Hurwitz led the government to pay him \$406 million for a fraction of his forest. Feinstein was dogged by claims that she drove a soft bargain due to her Wall Street ties.

### **The seal of approval**

“Redwoods are a natural treasure, as much a part of our legacy as the world’s great libraries and cathedrals.”—**BILL CLINTON**, who had made saving the Headwaters an election pitch in 1996, attempting to share in the glory of Feinstein’s Headwaters deal.

### **The convert**

“Until you come here yourself, and this is my first time, you cannot understand how awe-inspiring this is.”—Democratic governor **GRAY DAVIS**, after signing the Headwaters deal, even though it was questioned by his own forestry chief and negotiated by his Republican predecessor, Pete Wilson.

### **The avenger**

“We will produce experts who will talk about how these models were manipulated.”—Nationally famous Bay Area plaintiff’s attorney **JOE COTCHETT**, in the opening statement of his case charging Hurwitz with fleecing the government in the Headwaters deal by misleading them about how many redwoods were left on his land.

### **The defender**

“Excuse me, I’m here, too. And I can be just as loud as you, if the court please.”—Equally famous Bay Area defense attorney **JAMES J. BROSNAHAN**, going toe-to-toe with Cotchett as he defended Hurwitz against the charges in an Oakland court.

### **The raider**

“There is the story of the golden rule: He who has the gold rules.”—**CHARLES HURWITZ**, CEO of Maxxam and infamous 20th-century corporate raider, to his new Pacific Lumber employees in 1985, kicking off the mighty battle and 23 years of clear-cutting.

### **The financier**

“[I] never made a penny dishonestly.”—**MICHAEL MILKEN**, who ultimately pleaded guilty and served 22 months in jail for securities violations, helped Hurwitz take over Pacific Lumber with about \$800 million in junk bonds.

### **The talk-show host**

“No one from Texas can own the trees, birds, and all the other species!”—**JERRY BROWN**, shouting to a crowd of thousands of anti-Hurwitz protesters, including Bonnie Raitt and Woody Harrelson, in 1997. Brown was lost in the political wilderness and hosting a show on KPFA at the time.

### **The wild card**

“The swap for Treasure Island has great promise.”—A 1996 *San Francisco Chronicle* editorial, parroting then mayor **WILLIE BROWN**’s thumbs-up on offering Treasure Island to Hurwitz in exchange for the Headwaters.

### **The symbol**

“I had to laugh, because I was so thankful that I didn’t have to sit through another winter.”—**JULIA BUTTERFLY HILL**, on the cold, damp morning when she descended (after 738 days) from her famous perch in the 1,000-plus-year-old tree she named Luna, after Hurwitz cut his deal with the government.