

Printable version: Thursday, November 16, 2006

7. **ENDANGERED SPECIES: Wash. Audubon groups take on state, Weyerhaeuser over spotted owl**

Arthur O'Donnell, *Land Letter* editor

The Seattle and Kittitas County chapters of the Audubon Society have filed a lawsuit against Washington state resource agencies and the Weyerhaeuser Corp., seeking to halt logging on about 100,000 acres of timberlands where they say northern spotted owls have been identified.

Represented by the Washington Forest Law Center, the groups contend that despite recent protections enacted by the state Department of Natural Resources and the Forest Practices Board, populations of threatened spotted owls will continue to erode unless logging is halted on the public and private lands in question. Weyerhaeuser, an international timber products firm, was named in the suit to illustrate the harm to the owls the Audubon groups allege under the federal Endangered Species Act.

On Nov. 13, the bird protection groups also asked federal Judge Marsha Pechman to issue an injunction against state issuance of permits for logging on 50,000 acres of state lands and about 50,000 acres of properties owned by Weyerhaeuser in southwestern Washington [*Seattle Audubon v. Sutherland, et al., U.S. District Court, Western District Washington*; No. C-06-1608].

A preliminary hearing is set for Dec. 8 in Seattle.

Peter Goldman, director of the law center, said the suit was filed after three years of trying to reach agreement for stronger protections for the owls. Even though the state in August formalized emergency rules that had been enacted a year ago to freeze "buffer zones" from logging, Goldman called it a "token" effort. "They were not enough to make a difference," he told *Land Letter*.

"Under Washington law, only a quarter of state forest is protected, about 2 million acres out of 8 million acres," Goldman said. "This suit is directed at logging on those 8 million acres."

The groups in April served a 60-day notice of their intent to sue, claiming Weyerhaeuser broke a 1993 promise to be "good stewards" of their lands (*Land Letter*, April 20). Although company officials pledged to complete a habitat conservation plan, the groups allege they subsequently "lobbied their way out of the state protection system" for spotted owls.

Company spokesman Frank Mendizabel disputed the groups' claims, saying that Weyerhaeuser had prepared a multi-species conservation plan for Washington state in the mid-1990s, but it was not accepted by the U.S. Fish and Wildlife Service and "just faded away."

"We follow and in some cases exceed legally required protections for spotted owls and all protected species," Mendizabel said. He cited participation in a FWS research project on the declining owl population in which the company has agreed to limit harvesting on two of the properties named in the Audubon suit through about 2010.

With regard to its commitment to protect the northern spotted owl, Weyerhaeuser cited its "dispersal habitat" on the 208,000-acre Millicoma Tree Farm near Coos Bay, Ore., that it says enables owls to move from one location to another, complementing conservation programs on adjacent public forests.

In Washington, however, Seattle Audubon Society conservation manager Alex Morgan claimed the company "is not held to the same standard as other land owners because of its lobbying power," with regard to protecting the spotted owl.



Protections for the northern spotted owl once again are a matter of litigation in the Northwest. Photo courtesy of USFWS.

A species in decline

The northern spotted owl was listed as a threatened species under the federal Endangered Species Act in June 1990. That action caused a halt to logging in Northwest old-growth forests, with some estimates saying that 80 percent of commercial timber activities have been eliminated as a result.

Still, bird numbers appear to be declining by a rate of about 7 percent per year. Adverse factors other than logging appear to include wildfires and competition from other owl species, particularly the barred owl from Canada.

In a settlement with forestry and environmental groups last year, the U.S. Fish and Wildlife Service agreed to complete a recovery plan for the northern spotted owl that had been started in 1992. Earlier this year, FWS identified a 12-member panel to develop the recovery plan by the end of this year. A final plan is expected by November 2007.

The recovery team includes officials from state and federal agencies, Green Diamond Resource Co., Sierra Pacific Industries, National Audubon Society and Defenders of Wildlife.

Patty Henson, spokeswoman for the Department of Natural Resources, countered the environmental groups' claims that the state's forest practices rules are inadequate. "We already provide protections for spotted owls," she said. "Most of the habitat and most of the birds are located on federal lands," she said.

The state is a participant in the federal planning process for a spotted owl restoration plan, which she expects to deliver a draft before the end of the year. "We've declared our intent to actively engage in the federal plan effort, and to look to the federal agencies for guidance for additional protections."

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