



Church of the Woods A Hard Fought Victory

by Kevin Bundy

The Save Our Forest Association, Sierra Club, and San Bernardino Valley Audubon Society recently won a hard-fought court victory in their decades-long effort to protect rare and valuable wildlife habitat near the community of Rimforest in the San Bernardino Mountains.

Nestled along the Rim of the World Scenic Highway, astride the headwaters of Little Bear Creek above Lake Arrowhead, the parcel's old-growth trees and steep, landslide-prone hillsides provide a home for imperiled creatures like the southern rubber boa, California spotted owl, and San Bernardino flying squirrel. The site also provides a critical, undeveloped link in a wildlife corridor connecting wild areas in the San Bernardino Mountains and Mojave Desert to the valleys of San Bernardino County.

The property is owned by the Church of the Woods, a local congregation which has long sought to develop a new worship center and recreational facilities on the site. As proposed in 2019, the Church's plans would eradicate half the remaining habitat, scraping the site's steep hilltop flat and burying the headwaters of Little Bear Creek under nearly 40 feet of rock and fill. Parking lots, access roads, ball fields, and buildings would take the place of ancient trees, a seasonal streambed, rock outcroppings and riparian vegetation. Fencing and other development would further impede wildlife passage through the mountains.

With the law firm SMW's assistance, the team fought this destructive proposal at the San Bernardino County Planning Commission and Board of Supervisors. Noted experts, including a Forest Service biologist with decades of mountain experience and a local water quality expert who documented pollutant loads in Little Bear Creek, and numerous community members also joined the effort. Together, they pointed out the numerous fatal flaws in the County's environmental review of the project. And when the



-Hugh Bialecki at Church of the Woods Site Photo Desert Sun

County approved the project anyway; our clients took it to court.

After a multi-day hearing in January 2022, the San Bernardino Superior Court issued a 102-page written ruling finding the County's environmental review and mitigation deficient in a myriad of ways. For example, the County's review incorrectly claimed riparian areas in the Little Bear Creek headwaters would be permanently destroyed by a different County-sponsored drainage project before the Church's project could commence. But the County's drainage project actually required avoiding and restoring damage to the same riparian vegetation that the Church's project would bury forever.

The court also found the County's wildlife analysis and mitigation inadequate. The County's mitigation plan for remaining habitat for the boa, owl, and flying squirrel left important details undefined. Its environmental review also failed to address impacts to the wildlife corridor and a wide range of other sensitive species.

The County's errors didn't stop there. The court also found the project's landslide and geotechnical impacts inadequately mitigated and its water quality impacts on Little Bear Creek improperly analyzed. The County also failed to adequately address whether

concentrating a large number of people on the site could cause serious problems during a wildfire evacuation. Finally, the court found the project's traffic impacts conflicted with the County's General Plan.

The County Board of Supervisors rescinded project approval on July 26, 2022. Although neither the Church nor the County appealed the court's ruling, it is not yet known whether the Church will try to bring the project back in some form. In the meantime, Save Our Forest Association, Sierra Club, and San Bernardino Valley Audubon Society will continue to defend the forests, streams, and wild creatures of the San Bernardino Mountains.



-Entrance to Arrowhead Ridge

Arrowhead Ridge – A Success Story

A thirty-year effort by local mountain grassroots activists and environmental groups has successfully resulted in Lake Arrowhead's last remaining and most outstanding forest and wildlife habitat being rescued from the clutches of private developers aiming to convert the site into a 210-unit housing subdivision.

The US Forest Service's Blue Jay Parcel of 160 acres was a National Forest "island" of public land surrounded by private housing tracts, when it got traded away to The Nature Conservancy in 1989. Then one year later, it was sold to a development company, which ultimately cancelled its development plans in the face of major community opposition. The opposition arose in 1988 from Mountain News articles by investigative reporter, Rebecca Hanson, who chronicled the impending land exchange and aroused the public's shock and concern.

Several leaders like Rebecca, Carol Pedder, Shirley Munch, Larry Brown and Maureen Mann all rallied the community and mobilized to form the Save Our Forest Association as a way to rescue the 160 acres from being privatized and lost. Over 2,000 members joined the new organization.

The land was next sold to the Ted Roy Family Trust which formulated plans to build a 210-unit housing subdivision on the site, which is located across Grass Valley Road from the southern end of the Lake Arrowhead Country Club.

The County of San Bernardino approved the controversial project in 1999 despite strong and fervent opposition organized on many fronts by the local activists and supported by the Save Our Forest Association, Sierra Club, and Audubon Society. The Board of Supervisors ignored serious impacts to a major wildlife corridor, endangered species, scenic integrity and wildfire hazards. A Superior Court lawsuit was filed by the Sierra Club in an effort to overturn the county's misguided approval of the flawed and incompatible project. The lawsuit was unsuccessful, but the prolonged legal skirmish took more than three years to reach its final verdict, and the hefty attorney fees of the developers' high-priced law firm largely drained their financial resources.

Another three years would elapse before construction permits were obtained. Despite those delays, it seemed at the time that the horrible development project was inevitable. The entire mountain community (except the real estate and construction sector) was thoroughly demoralized by the dismal outcome.

The project (known as Eagle Ridge) soon got its grading permits in 2007 and began cutting down magnificent trees, bulldozing roadways, excavating for sewer lines and storm drains and building two large retaining walls. There was a big push to complete the main infrastructure for this first phase (of an 8-phase project) as soon as possible so that lots could promptly be sold to help pay off the construction loan.

Hoping to save time and money, the developer ignored all erosion control measures required by the county. But a small rainstorm inconveniently occurred in mid-September, sending floods of silt and runoff from the deep road cuts down steep slopes across the public road into Grass Valley Creek and the adjoining country club. The state Water Quality Control Board was alerted, and the project was shut down and served with an onerous Cleanup and Abatement Order. All construction ceased, while all

efforts and expense now got diverted into the mandatory erosion control modifications. Meanwhile harsher weather of fall and winter further compounded the erosion problems.

An economic downturn in 2008 caused the developers to stop making payments on their construction loan, which brought about foreclosure proceedings by the bank the following year. The bank repossessed the collateralized part of the property in 2010, but the bank itself soon collapsed from making too many bad loans, and this repossessed land asset (80 acres) was turned over to four affiliated banks.



Carved boulder on the property

When no speculator or other developer could be found to buy this partial segment of a larger development project, and thereby become a partner with the disreputable Eagle Ridge team, the banks reached out to alternative buyers. Out of the blue, the San Bernardino Mountains Land Trust (SBMLT) was approached to make an offer on the initial 80 acres in foreclosure. Until this point, the Land Trust had only bought land which could be re-sold to the US Forest Service. The organization was not structured or equipped to actually own and manage land.

However, after much analysis, the purchase was successfully completed in April 2011. Renamed Arrowhead Ridge, the newly preserved acreage was reopened to the public. Just four years ago, the remaining 94 acres (still held by the Ted Roy Family Trust) finally came on the real estate market and was ultimately also acquired by the SBMLT in June 2021, reestablishing the original boundaries of the US Forest Service –plus an extra 20 acres.

Thirty-two years have passed since the presumed loss of this parcel, often called the Central Park of the Lake Arrowhead Community, and its preservation

for public use. The unpaved section of Old Toll Road crosses much of the property providing a tranquil easy access for those desiring to enjoy this beautiful forest, part of a designated County wildlife corridor. Persistence, karma, and the vital existence of a San Bernardino Mountains Land Trust all made this amazing success story possible!

Mountain Developments Update

A 41-homes subdivision on North Bay Road is in the planning stages. Representatives from SOFA and the Sierra Club have met with developer, Jesse Wright, on multiple occasions, including a site visit, to discuss the project and specific concerns. The developer recently indicated he may only be developing the infrastructure and selling lots, leaving lot owners to develop single family homes on their own time frame.

A Synagogue/Multi-Purpose Center in Running Springs is planned. The 3-acre site is contained within an existing camp/retreat facility referred to as the Dovid Oved Retreat Center on School/CEDU Road. Located at the end of the road means an enhanced risk for wildfire impact. Ingress and egress are compromised due to limited road access and capacity. This property is exposed to a steep and rugged southern aspect terrain that is primarily chaparral brush with intermittent trees. Any conditions placed on this project prior to approval should include measures that mitigate wildfire impact. Public comment is being accepted. Contact Anthony.DeLuca@lus.sbcounty.gov. 909-665-4663.

The Upper Little Bear Mountain Club in Blue Jay consists of about older 35 homes and a 40-acre open space. In May 2021 the HOA and CalFire signed an agreement for a fuel reduction project to remove 85% of the brush ground cover and trees 12” and under. Despite the fact that the open space is in a County recognized wildlife corridor and is Southern Rubber Boa habitat.

Letters from residents and multiple environmental groups to CalFire and the HOA fell on deaf ears and the fuel reduction project continued aggressively. A lawsuit was filed by SOFA, CA Chaparral Institute, and Friends of Little Bear on July 11, 2022. On July 26, CalFire abandoned the project area declaring the project completed. The lawsuit was subsequently withdrawn, but piles of cut wood were left which required County Code Enforcement to notify CalFire for removal.

This has been an unfortunate example of “we do this type of fuel reduction project routinely” without site specific knowledge or any willingness for dialogue with residents, neighbors, or environmental groups.



The Nestlé Fight: The Long and Winding Road

Nestlé Waters of North America (now Blue Triton Brands) has been diverting water from Strawberry Canyon, immediately west of Rimforest, on the San Bernardino National Forest for a very long time. Average annual diversions have been 62,463,000 gallons since 1947. Not only is this water being diverted from public lands, but the price for this water has been under \$1000/year until recently.

The Special Use Permit (SUP) granted to Nestlé Waters by the US Forest Service expired in 1978 and for 30 years the water diversions continued with no legal SUP.



-Nestlé Protest near Lake Arrowhead

Several USFS employees knew this was wrong and attempted to change the situation internally but were shut down and ostracized. USFS Wildlife Biologist Steve Loe reached out for help from the public and environmental organizations. SOFA first wrote to the USFS Regional Forester in March 2015 concerned that a previous meeting attempt with our SBNF Forest Supervisor, Nestlé, Sierra Club and Audubon Society was ignored. No response was received.

The CA State Water Resources Control Board (SWRCB), Division of Water Rights, received several water rights complaints against Nestlé Waters NA starting on April 20, 2015. The complaints contained many allegations, including diversion of water without a valid basis of right, unreasonable use of



-Left, SWRCB Officer Alan Lilly, Right: Larry Lawrence, Nestlé Natural Resource Manager

water, injury to public trust resources and incorrect or missing reporting.

Due to increasing public outcry, the SBNF Forest Supervisor held a public scoping meeting on April 14, 2016, inviting all interested to speak with USFS specialists and make comments on renewal of the expired Special Use Permit (SUP). Thousands of public comments were submitted overwhelmingly objecting to the Nestlé Waters diversions and calling for an immediate stop to further water removal.

The SBNF Forest Supervisor revealed their plan for a 5-year SUP project proposal in which Nestlé could continue their operations of the current system with an adaptive management plan to study environmental impacts. BUT, Nestlé would conduct the studies and report findings to the SBNF while not reducing their water diversions during the study period

This new 5-year SUP was issued on June 27, 2018.

In March 2018, SOFA, Sierra Club and Story of Stuff supporters delivered 60,000 individually signed petitions to the SBNF Forest Supervisor's office protesting the ongoing water diversions and the 5-year extension of the Special Use Permit. Meanwhile, the CA State Water Board continued its investigation of the complaints and on April 23, 2021, issued a DRAFT CEASE AND DESIST ORDER (CDO) requiring Nestlé Waters to cease and/or abate an ongoing violation against Water Code section 1052. This Water Code section prohibits the unauthorized diversion or use of water.

On May 11, 2021, Nestlé Waters/BTB requested a hearing to contest the draft CDO and a pre-hearing conference and public hearing was scheduled for August, 2021, to determine whether to prepare the proposed CDO! A second pre-hearing conference and public hearing was scheduled for January, 2022, with witnesses and evidence being presented by Nestlé/BTB, the Enforcement Division of the SWCRB, and several environmental organizations, including SOFA.



-L to R, Rob Taylor, USFS Hydrologist; Amanda Frye; Karla Kellums, Sierra Club; Lee Stewart, Acting SBNF Supervisor.

On February 16, 2022, a site visit took place with representatives from the Administrative Hearing Office including Presiding Officer Alan Lilly, SOFA, Sierra Club, Story of Stuff, an Enforcement Team from the State Water Board; about 20 people total.

Multiple tunnels and boreholes were opened and inspected by all present with questions for the Nestlé/BTB Manager Larry Lawrence. A freak storm the day before dropped about six inches of snow that threatened the hike. The following day the site visit

continued by helicopter to a less accessible area with multiple well borings for review.

On August 5, 2022, all closing briefs were filed with the SWRCB Administrative Hearing Office and the Hearing Officer, Alan Lilly, stated on November 4, 2022, "I determine this to be a complex proceeding because of the novel and difficult legal or factual issues, the large number of parties, the numerous witnesses and the large amount of documentary evidence. I will proceed to prepare a proposed order."



-Steve Loe, retired USFS Wildlife Biologist

We are now awaiting Mr. Lilly's decision which will be a recommendation to the actual State Water Resources Control Board for their determination of a final action, which could include the cease-and-desist order that we have been asking for since 2015.

Special thanks and recognition is due to USFS Wildlife Biologist Steve Loe (ret.) and water researcher/archivist Amanda Frye, who have been invaluable in making this multi-year effort possible. Amanda presented over 300 documents into evidence, some dating back to the early 1900's. Steve Loe's testimony was compelling and his on-the-ground knowledge has been critical to this proceeding. Thank you both for never giving up and continuing this just cause for our San Bernardino National Forest and the implications that this case has nationally

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Please take the time right now to renew your SOFA Membership and mail your contribution to **Save Our Forest Association, Inc. P.O. Box 126, Rim Forest, CA 92378.**

You can also make a donation online at: www.saveourforestassoc.org

New Board Members

Like all organizations, the Save Our Forest Association (SOFA) has experienced a change in its Board as a result of members moving, passing on, and life events. We are currently seeking new Board members to become engaged with environmental activities in the San Bernardino Mountains that include interactions with the US Forest Service, State of CA, County of San Bernardino, local agencies and developers. SOFA acts as a "thin green line" preserving the mountain quality of life and seeking a balance of sustainable development and land conservation. We have strong relationships with the Mtns Group of the Sierra Club, the San Bernardino Valley Audubon Society, San Bernardino Mountains Land Trust and other regional and national environmental organizations. If interested, check out www.saveourforestassoc.org and reply on the contact form.

Holiday Party

Saturday, December 10th, 6:00 pm. At the Mountains Community Senior Center
675 Grandview Road, Twin Peaks

Annual Meeting and Updates, Potluck Dinner: Bring a favorite dish to share, SOFA will provide beverages. Our white elephant silent auction will recycle your treasures! Be creative with your auction gift!

Live Christmas Music by "Grits & Grady" & Friends

This is a wonderful opportunity to share holiday cheer and do some last-minute holiday shopping.

For more information call Hugh Bialecki at 909-953-0299

Save Our Forest Association
PO Box 126
Rim Forest, CA 92378

