

Finding Solutions through Politics: One View from Inside the Timber Wars

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There are many perspectives of the timber wars, and one perspective that is not frequently documented is that of government bureaucrats – policy makers, regulators, and others who were often caught in the crossfire of opposing sides. This oral history with Dr. Andrea Tuttle is one attempt to describe the Timber Wars from this perspective. On February 25, 2017, I invited Dr. Tuttle to sit down and discuss her history with forest regulation. I asked very few questions and instead listened as she told the history; I ended up with two hours of audio, which I transcribed to over fifteen pages. The following oral history is edited for brevity and flow.

Starting Out: Redwoods Become a National Priority

I moved to the North Coast around 1970, and at the time, many activists were protesting the extensive clearcutting of old-growth redwood by various timber companies. The Sierra Club was distributing a poster of a beat-up clear-cut rimmed with virgin old growth, which sparked a public outcry from coast to coast to save the beautiful giants. On campus, the Emerald Creek Committee was formed by students protesting the imminent logging of a tributary to Redwood Creek, just upstream of the 1968 boundaries of Redwood National Park. At the time, the park consisted of a narrow ribbon of land along lower Redwood Creek. Helped by faculty advisor and Forestry professor Dr. Rudy Becking, the students fought for park expansion essentially to include the entire watersheds of all the old-growth groves.

This was during Jerry Brown's first term as Governor, and I had just finished a master's degree from University of Washington. I'd specialized in marine biology, but the

program was actually ecosystem theory. I became involved with HSU students when I was asked to help teach a course for Dr. Becking who had been accidentally injured and couldn't get to campus. Around that time, I was also asked to put my name in for appointment to the North Coast Regional Water Quality Control Board. Suddenly I was sitting on a regulatory board as a fairly young member appointed by the Governor, and on a steep learning curve. This was my first experience serving in a public capacity, where you learn to cast a vote that matters. You ask questions of staff, you discuss in public with fellow board members, you listen to the testimony, and then you have to take the responsibility for a vote. I got to know many individuals in the timber industry simply because they testified long hours at contentious board meetings. Most of those people are now retired or have passed, and many of those who were junior employees at the time are now senior managers, so we've known each now for over 40 years.

I did not have any background in logging or the timber industry, but this was real-life learning. Through testimony and field trips I got to know the forest industry, how

managers presented a case on proposed regulation, what foresters do, and how they think about their lands. Even though I came from the environmental side, I tried to be reasonable, ask questions that were fair, and provide an opportunity for them to further explain their positions. So they got to know me, and although they knew I was on the green side of things, I think they generally respected me, and I respected them.

In 1978 Redwood National Park was expanded by Congress (Figure 1). Timber issues on the North Coast had achieved a national profile, but now the focus was shifting to the impact of forest practices on sediment and salmon, and compliance with the California Environmental Quality Act.

Lumber [PALCO] had been generally regarded as a likeable, family-owned company that managed its old growth stands under selective management, rather than even-aged clear cuts.

When the land was unexpectedly sold to an outsider from Texas using junk bonds, all the worst of the corporate raider imagery was suddenly right here in our own back yard. Hurwitz's famous quotes were "He who has the gold, rules" and "I'm going to take the company bankrupt in ten years." He did it in eight. He stripped the employee retirement plan, sold off the tool and die shop and ancillary businesses, and tripled the cut. He converted forest harvest to the maximum clear-

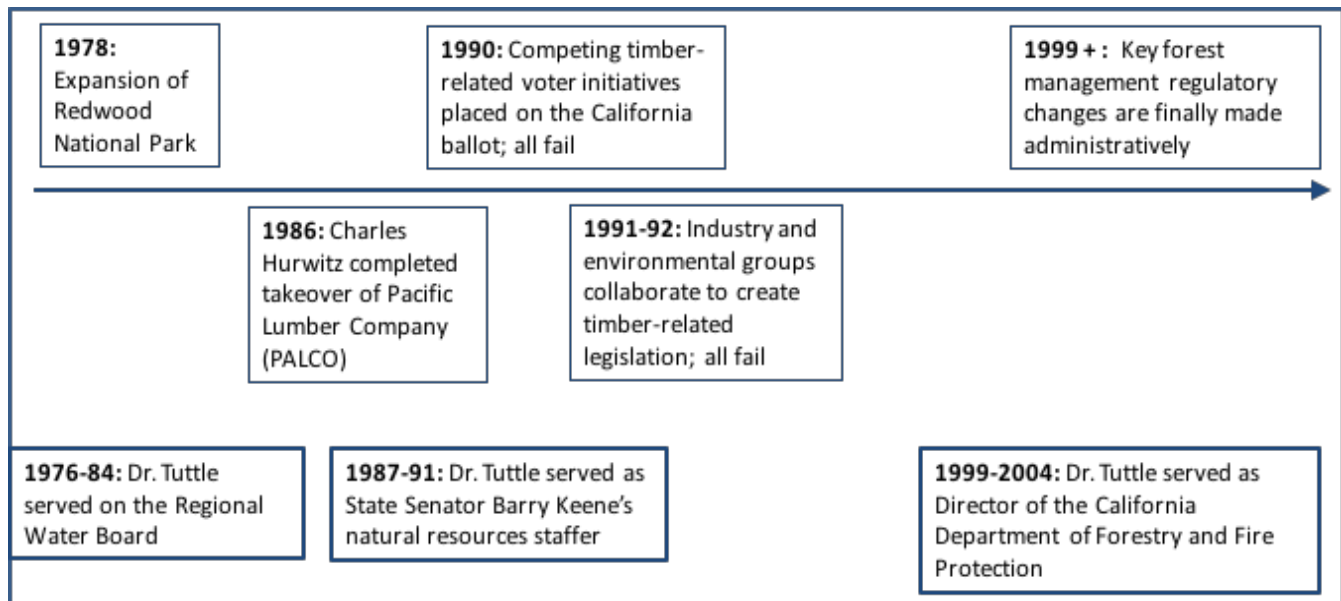


Figure 1. Timeline of several important events in forest regulation in California since 1978, and Dr. Tuttle's involvement with forest regulation during that time

As soon as I finished my Ph.D. at Berkeley, I headed to Sacramento job-hunting in the Capitol to work on environmental policy. Senator Barry Keene from the North Coast had just become Chairman of a new Senate Select Committee on Forest Resources, formed to investigate the dramatic takeover of Pacific Lumber Company by Charles Hurwitz. Before the takeover, Pacific

cut size and rate that the rules allowed, and there was little regulatory authority to prevent it. The public was outraged and the outcry was huge. And here it was, happening in the district of the state Senate majority leader.

So the Senate Rules Committee approved creation of the Select Committee and I was hired as the staff consultant, originally to organize a fact-finding hearing in San

Francisco on the takeover. I was thrown into the political deep end, scheduling key legislators, core stakeholders, Charles Hurwitz and his cadre of bankers, junk bond dealers, lobbyists and lawyers.

We shouldn't forget that labor was a key stakeholder as well. Although increased harvest meant more jobs in the short term, Hurwitz's accelerated rate of cut meant the stands would soon be exhausted and jobs would be gone. So the labor element was important and Barry Keene was very concerned.

Competing Priorities: Ballot Initiatives

As an initial attempt at resolving the conflict around unsustainable logging, four ballot initiatives were placed on the California ballot in 1990. These all attempted to change components of forestry regulation through direct citizen initiative.

1990 became a tipping point when four initiatives dealing with the timber industry ended up getting enough signatures to be put on the ballot (Figure 1).

Proposition 128 would have provided \$340 million for acquisition of ancient redwoods, along with an assortment of other provisions banning pesticides, reducing greenhouse gas emissions, increasing water quality standards, and boosting funds for environmental research. This was promoted by Assemblyman Tom Hayden and dubbed 'Big Green.'

Proposition 130, named *Forests Forever*, was a bigger bond measure, providing \$742 million to acquire ancient forests, impose a logging moratorium, restructure the Board of Forestry, ban clearcutting, and change forest practice rules on sustained yield, and other operations. The initiative was funded by the investor Hal Arbit and promoted by Frank Wells, president of the Disney Company. It was even endorsed by Clint Eastwood, then mayor of Carmel.

In defense, the timber industry and a coalition of chemical businesses sponsored their own signature drive to put two other measures on the ballot, largely as a strategy to confuse the voter. The timber-related measure was named *The Global Warming and Clear-cutting Reduction, Wildlife Protection and Reforestation Act*, and quickly labelled 'Big Stump' by the environmental side. The second focused on pesticide regulation and was dubbed 'Big Brown.'

The outcome of all this was a frenzy of crazy campaigning and contradictory claims. Until about 2 am of election night Forests Forever was headed to win. But by morning all had lost.

This triggered a whole new round of forest practice debate, first within the Legislature and then the administration, which I'll get back to shortly.

But there's a point I want to make here, and the punchline is that if you now go through the forest provisions of every one of those initiatives – including the measures suggested by the timber industry – we have addressed every single one. We may not have come to exactly the same prescriptions, but in terms of old-growth acquisition, clear-cut size, stream rules, road rules, old growth/late seral recruitment, endangered species, cumulative effects, sustained yield plans, fish protection, restructuring membership on the Board of Forestry, and even greenhouse gas emissions – all the topics in those initiatives have now been addressed in some way. The wheel keeps turning and slowly, slowly, public advocacy and science puts pressure on government and administrative boards. The constant pressure from wildlife agencies, the water board and the concerned public has moved the ball forward in spite of recalcitrance from a regulation-averse industry. Politicians often use the metaphor, "Well, we didn't get it all, but we moved the ball forward." So now if you look at how far the ball has been moved down the

field, compared to the 1990s, it's quite remarkable.

Of course, I don't mean to imply that there's nothing more to do. Both the industry and environmental interests have valid arguments regarding the costs and effectiveness of today's regulatory process, and especially now, the need to deal with climate change impacts on entire forest ecosystems. But I do want to take a moment to acknowledge that there have been big changes in forest management, timber operations and environmental protections since the 90s.

Let me pick up on the day these measures failed. It's election day, there are these timber initiatives on the ballot. The timber industry is very worried. The polling showed the environmental measures were going to pass.

Then about 2 am, they all started to fail. By morning when all ballots were in, all had been defeated. I'd been up late watching election returns but showed up early at the Eureka office of Senator Keene. I happened to be sitting at the desk and answered the phone, and here is Sierra Pacific Industries [SPI] President Red Emerson: "Andrea, I never want to go through that again. What can we do?" And so we had a conversation, and Red moved forward discussing with others. All these pressures were just hammering the industry. It was piling on them from every direction. They were losing their social license to practice forestry in California.

Legislative Attempts: Resolution through Negotiation?

After the failure of all four ballot initiatives, several key players in the timber wars dispute – both environmentalists and industry – tried to resolve the conflict through the California Legislature. Eventually several 'Accords' were introduced to the legislature.

What ensued was that a core of about four or five people on the environmental side teamed up with SPI foresters and began meeting secretly behind closed doors. They met for a long period and tackled each of the issues. One of the key drivers was Gail Lucas, representing the Sierra Club. She had testified before the Board of Forestry for years protesting bad outcomes of bad logging, and had worked behind the scenes on the Forest Forever initiative.

So, the Sierra Accord (Figure 1) emerged basically as a negotiated document between SPI and a group of timber-savvy environmental advocates who had worked long hours, gotten to know each other, fought battles internally and arrived at a list of hard-negotiated give-and-take agreements. They had started from absolutely opposing sides but finally had consensus among themselves, and were ready to daylight a unified document.

But how to make it public and take forward with legislation? They quietly brought the package to Senator Keene and others for suggestions, and a plan emerged to divide the topics into four bills, each sponsored by one of the four most relevant Democratic legislators: Senator Keene and Assemblyman Dan Hauser representing North Coast timber-producing districts, and Senators Byron Sher and Dan McCorquodale, the respective chairmen of the Senate Natural Resources and Agriculture and Water Committees – through which the bills had to pass. The topics were generally aggregated into bills addressing old-growth, clear-cutting, streams/roads/riparian buffers, and sustained yield.

The bills were double-joined, meaning the authors all had to agree to any amendments on each bill, and that none would pass without the other. The original intent was to stay loyal to the compromises made by the Sierra Accord parties, but it's predictable how difficult that became. Just because a

deal had been cut between SPI and a self-designated group of environmentalists didn't mean the outside world would agree. The rest of the timber industry didn't necessarily buy into concessions SPI had made, and other environmental groups didn't necessarily agree with the choices made by the Gail Lucas group. As the bills entered the legislative arena, the authors were pressed hard to ratchet up or down the various provisions.

What followed was an epic saga of several legislative seasons of victory and defeat. As a Senate staffer, I lived through every torrent and eddy, and hung on every committee vote, detailed amendment, and internal staff strategy meeting. It was great legislative drama with too many details to relate here. But in short, the first version made it through the Legislature only to be vetoed by a Republican governor. The most dramatic version came back on the last night of session, in the second year of a two-year session after a bruising fight to get an amended package to the Assembly floor. This was the last chance. Another legislator was serving as stand-in Speaker while the Assembly ground through the floor votes, bill after bill.

The timber bill was coming up soon on the list. Suddenly the back doors of the Assembly chambers blew open and Speaker Willie Brown started down the aisle. Dan Hauser and I looked at each other and realized it was over. The Speaker took the gavel, called the vote and the very fact of his presence was the signal to the rest of the members. If Willie shows up and votes no, that's the deal. (Maybe over a nice bottle of wine I'll tell you who I think actually got to the Speaker at the end, but I can't say that I absolutely know...).

Tackling the Conflict through the Administrative Branch

After the failure to find legislative solutions, the Governor and the California Board of

Forestry decided to try and tackle the conflict administratively, through revisions to the California Forest Practice Rules.

So after all the attempts, at the end of the day, the legislative process failed. All the energy, advocacy, constituency building, hearings, marches around the state Capitol, various iterations of the Sierra Accord, California Accord and Grand Accord...the legislative path had failed.

One of the arguments against legislation is that technical regulations such as these should not be embedded in legislation. Legislation is notoriously inflexible and hard to change as new information, equipment, and practices develop. Much better is to leave the specifics of regulation to an administrative rule-making body that operates under a broad legislative mandate – which was already in place in the form of the State Board of Forestry.

But still, after the final Assembly defeat, the issues hadn't gone away. The new Republican Governor Pete Wilson became convinced to take up the challenge administratively. He appointed a new Board of Forestry Chairman, Terry Gorton and others, including forester Tom Nelson from SPI, who had been one of the behind-the-scenes negotiators on the original Sierra Accord.

So this started another long trek, this time by the Board of Forestry, addressing the same topics as the ballot initiatives and legislation. The labels for proposed new rules packages were familiar: Old growth/late seral; clear-cuts; sustained yield; stream and watercourse protection; roads; sensitive watersheds and cumulative effects – but the starting points were notably less stringent than prior versions. Each issue was variously assigned to Board sub-committees and took on lives of their own, involving consultants, state-of-the science reports, expert panels,

lengthy bibliographies – but very slow in producing clear prescriptive language for new regulation.

Meanwhile the state and federal fish and wildlife agencies were submitting alarming new data on declines of northern spotted owl [*Strix occidentalis caurina*], marbled murrelet [*Brachyramphus marmoratus*] and salmon populations. The State and regional water boards pressed their case for an independent regulatory process on timber operations, separate from the existing Timber Harvest Plan review team in which the California Department of Forestry and Fire Protection [CDF] could override other agency recommendations. Various legal cases were also being filed and making their way through the courts.

Several competing dynamics prevail in an administrative process. On one side, are the proponents who drive for outcome and the adoption of regulations to solve the problem as they diagnose it. On the other side, are tactics to postpone regulation – such as shunting issues to endless committee review. Delay is a win.

During the process it seemed excruciatingly slow and frustrating. But by now, in 2018, we can see all the changes that have made it through the gauntlet.

Angry Forest Politics

All of us elders in California forest politics have lived through an extremely acute, angry and divisive period. The activism of ‘Redwood Summer’ in 1990 was intended to stave off old-growth logging until the Forest Forever initiative passed. Julia Butterfly sitting in a redwood for two years, and activists chained to file cabinets in CDF offices with their arms in ‘lockbox’ pipes were one thing. But the tragic events of the death of David ‘Gypsy’ Chain from a falling redwood, the still-unanswered source of the bomb in Judi Bari and Darryl Cherney’s car, the death of

the well-liked timber association representative Gil Murray from a Unabomber package – this was horrifying.

When I was first appointed in 1999 as Director of CDF, the Hurwitz-PALCO issue was back in the headlines. The terms of a Habitat Conservation Plan [HCP] had finally been agreed to by the U.S. Fish and Wildlife Service and Charles Hurwitz. In exchange for signing the HCP, Hurwitz was paid \$380 million federal and state money for about 7500 acres of the Headwaters Reserve. And CDF was the designated lead agency.

As I walked in the door on the first day of my appointment, my friend and predecessor, Richard Wilson, greeted me with a big grin and an enormous stack of HCP documents in his arms with the ink still wet, saying “Here honey, you implement it!”

And that launched a new saga of figuring out how to interpret the language in the HCP. The terminology rarely conformed to standard regulatory language and many phrases had different interpretations, so we had countless hours of meetings between PALCO representatives, CDF, the Department of Fish and Game, and the regional and state water boards. I finally told an equally-frustrated John Campbell, the PALCO president, “There are only so many words in this thing. Eventually there’s an end.”

The activist anger came personally to me too. Almost within the first month of my appointment to CDF a group of Earth First! and others came into the front yard of my house in Arcata. They climbed onto the eaves above the kitchen and hung one banner, tied another in the spruce, chanted with signs in the yard, and splashed buckets of mud and silt on our redwood shingles and front door – today we can still see the stains.

That was totally inappropriate to take protest to a personal residence. But more fun was the good street theater they brought to the plaza outside the Resources Agency in Sacramento, where I could watch from the 15th

floor. The demonstrators carried big stuffed figures of politicians, timber executives and loggers – I remember a great likeness of Senator Dianne Feinstein. A group of delegates asked to meet me in my office, so, escorted by CDF Peace Officers, I greeted them graciously in the Director's conference room, and found myself shaking hands with myself. A hilarious likeness of me in my straight skirt, nylons, heels, a jacket or something, and pearl necklace. I totally laughed – they'd nailed it! And we had a good conversation.

The job of CDF in enforcing forest policy is often misunderstood. The Department is often vilified for approving a THP (Timber Harvest Plan) that a neighbor or group opposes. But if the plan conforms to the Forest Practices Rules, has gone through the full multi-agency review and public comment process – which usually results in additional mitigations – then CDF has little authority to deny it. We're sued by opponents for approving plans, and sued for denying them. CDF's authority is to enforce the rules adopted by the Board of Forestry through the designated process. Appeals can be taken to the Board and ultimately to court.

Peace in the Woods

Compared to the turbulent years of the 1980s through the early 2000s, we now have relative peace in the woods. Yes, there are still issues, but compared to how it used to be, the change in the atmosphere is obvious, and a relief.

Probably the single largest factor was the sale of PALCO to Mendocino Redwoods Company [MRC] in 2008, which removed Charles Hurwitz as the primary target of outrage. MRC had a reputation of bringing a new stewardship philosophy to forestry, eliminating clear-cutting, doing watershed analysis, making management plans public, and adhering to FSC certification standards. They're running a timber company, but they're also

restoring degraded land and bringing hammered redwood stands back into productivity.

But other factors have contributed too. The original activists have gotten older along with us; there's attrition in their ranks, and new controversies have captured their attention. Most of their court cases have worked their way through the system with wins and losses, and the outcomes have been incorporated into the regulatory process.

Harvest practices on the land have improved, not just through rule changes but also through newer logging equipment, upgrade of road systems, upsizing and replacement of failed culverts for fish passage, variable retention patterns of trees left for wildlife, and so on. We now see rubber-tired skidders, shovel loaders and feller-bunchers doing far less damage than the huge old WWII tractors – which you still see being used in Southeast Asia.

The structure of the timber industry has undergone its own major change as well, with taxes and corporation law driving the separation of land-ownership from mill ownership. In California, the heavy regulatory environment has driven out all the publicly-traded companies, meaning the remaining companies are family-owned, and many smaller ownerships have been consolidated.

The explosion of cannabis has not only contorted land values, but now far surpasses logging as the dominant impact to streams, fish, wildlife and toxic pollution. The hyperinflated price bubble of remote cannabis parcels deep in the woods is already collapsing with legalization. What is to become of those abandoned, polluted sites that once supported thriving timber? Can conifers naturally reforest? Who wants to own the land now, and at what purchase price?

And importantly, the rallying cry of 'saving the last redwood' is now mostly off the table. Most all of the remaining magnificent virgin stands have been bought and are

in some sort of protected status. The Save the Redwoods League, formed in 1918, accomplished its original mission, and now adjusts its goals to restore degraded stands, and purchase strategic young stands to recruit into future ‘new’ old growth, serving as habitat connectivity links between older stands.

Closing thoughts

There’s far more detail and stories than I can tell here. I hope though, this paints at least the outline of an important and intense period in California’s forest policy history.

The pull and tug of setting forest policy and regulation involves a constellation of legislative, administrative and legal powers. Each is pressured and responds to changing public attitudes, emergence of new science, political will, market forces and the powers of constituencies.

Almost all the foresters and landowners I have met conduct themselves with high professional standards and ethics. It is a pleasure to work with them. They are proud of their lands and are conscientious of the regulations. But the fact that there are regulations, which serve as sidebars constraining natural temptations to ‘take more,’ is what gives them their social license to practice forestry in a complex state like California. They need the confidence of the public, and of their governmental regulators that they are stewarding the land well.

But the public also has a responsibility to understand the importance of keeping private forest landowners – both industrial and non-industrial – economically healthy and on their land. This means understanding the economics of forestry, and that too much regulation will have the unwanted outcome of owners abandoning or converting their lands out of forestry, with all the social and environmental consequences that would follow. It’s difficult for California to manage its park lands now; how could it take on another

13 million acres of abandoned private forests?

Which brings me to the final forest issue that ranks the very highest in my mind – that of keeping forests as forests. Unless we can keep the basic fabric of California’s forest land intact we will lose all that we revere, and derive, from forests.

We take them for granted, but especially with climate change, forests are exponentially more vulnerable to drought, insect outbreaks, and fire. The species composition of forest communities as we know them is changing even faster than predicted.

Fortunately, I think the importance of protecting privately-owned, working forest land is starting to gain traction among decision makers in Sacramento. Some revenue from the sale of allowances in the California Cap-and-Trade system is finding its way into forest health programs and working forest conservation easements, recognizing the links between healthy forests, helping landowners to retain and manage their lands, and the carbon sequestration that trees provide. We see enthusiasm too, in new wood products for the construction of buildings, and high-tech cellulose uses, both supporting the demand for wood.

I choose to remain optimistic. There are people who care deeply about forests in all their forms and ownerships, who will take up the banner. We need to bring urban kids into the woods and build new, diverse communities of forest advocates.

And I keep reminding myself: trees grow. Some of the most beat-up lands I saw in Humboldt and Mendocino counties when I arrived in 1970 are now in vibrant, closed-canopy stands. Being a biologist and having an ecosystem background, you know about nature and succession, and nature fights pretty darn hard to repair itself.

NOTE: Dr. Tuttle and Dr. Kelly would like to remind readers that these reminiscences

are based on events over 15 years ago, so some details may have been mis-stated. Readers can verify fine points if necessary, but the essay offers a slice of a contentious period in California's timber history through the lens of one woman's experience. Notes from our discussion are in Figure 2.

Erin Clover Kelly, Ph.D., is an Associate Professor at Humboldt State University in Arcata, California. Dr. Kelly has conducted research on the impacts of regulatory policies on forest landowners, landowner attitudes toward conservation and forest management, governance on public lands, and community well-being. She teaches courses at HSU in forest policy, economics, and administration, and leads an annual graduate student field course on the shifting economics of rural communities in Northern California. Dr. Kelly is a California Registered Professional Forester (#3001).

Andrea Tuttle moved to Humboldt County in 1970 with a BA in biology from UC Berkeley and an MS in zoology from the University of Washington. For several years she taught natural resources at HSU as a lecturer, then returned to UC Berkeley for a Ph.D. in Environmental Planning, a program that recruited students with a science background to move into environmental policy. In the meantime, she was appointed to the North Coast Regional Water Board and later served on the California Coastal Commission. In 1987 she became a legislative staff consultant in the California State Senate, working for Senator Barry Keene. In 1999 she was appointed by Governor Gray Davis as the first female Director of the California Department of Forestry and Fire Protection. More recently she has served on the boards of the Pacific Forest Trust and the U.S. Endowment for Forestry and Communities, consulted in Southeast Asia and China on forest and climate policy, and has attended the United Nations (UNFCCC) climate negotiations as an Observer for the past 12 years.

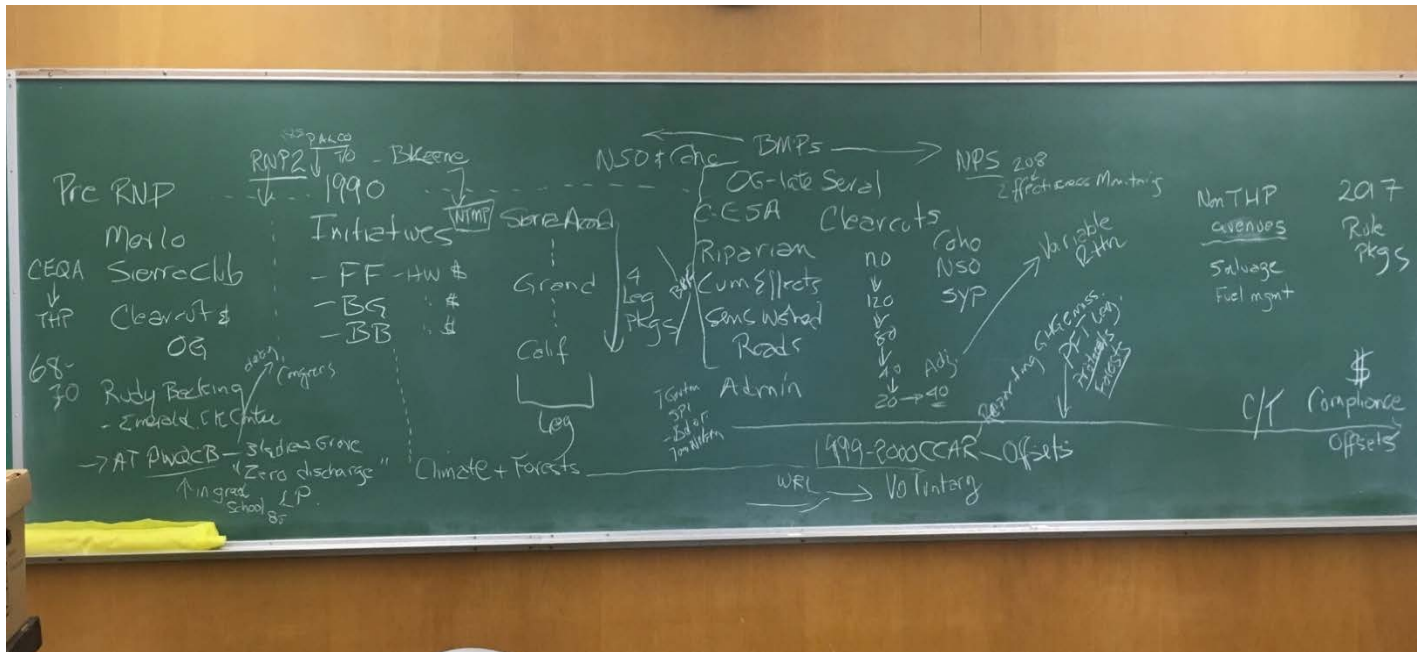


Figure 2. As we spoke, Dr. Tuttle completed a timeline that on a chalkboard to track our conversation; this figure is clarified and simplified in Figure 1