

Date of Hearing: April 24, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

AB 566 (Pellerin) – As Amended April 17, 2023

**SUBJECT:** Department of Parks and Recreation: Big Basin Redwoods, Año Nuevo, and Butano State Parks and the Santa Cruz Mountains region

**SUMMARY:** Authorizes the Department of Parks and Recreation (State Parks) to enter into an agreement with an “eligible entity” that would state the intent of State Parks to work with the eligible entity to permanently protect lands in perpetuity, or engage in needed efforts of stewardship, within the Santa Cruz State Parks District. Specifically, **this bill:**

- 1) Allows State Parks to enter into an agreement with an eligible entity stating the intent of State Parks to work with the eligible entity to permanently protect lands in perpetuity, or engage in needed stewardship efforts, within the Santa Cruz State Parks District for the purpose of achieving enhanced visitor services or other benefits to park operations, strengthened land connectivity, improved forest health, and enhanced climate resiliency and land stewardship within the specified region.
- 2) Allows State Parks to coordinate with other relevant agencies, including the Wildlife Conservation Board (WCB), the Department of Fish and Wildlife (DFW), and the Department of Water Resources (DWR), to identify priority properties for permanent protection within the Santa Cruz State Parks District to fulfill the objectives.
- 3) Specifies the criteria that will be used to prioritize property acquisitions.
- 4) Requires State Parks to take all reasonable actions to protect in perpetuity priority properties identified in an agreement within 24 months following the execution of an acquisition agreement, or as quickly as reasonable, upon appropriation.
- 5) Requires State Parks to take all reasonable actions to accept, as a donation, properties identified in an agreement within 24 months following the execution of an acquisition agreement, or as quickly as reasonable, if funds are not available.
- 6) Defines “eligible entity,” “nonprofit organization,” “permanently protect,” “property,” “specified region,” and “stewardship” for the purposes of this bill.
- 7) Exempts land and real property acquisitions by State Parks for Big Basin Redwoods, Año Nuevo, and Butano State Parks from the requirement to be purchased by the State Public Works Board (SPWB).
- 8) Makes findings and declarations regarding the history of the CZU Lightning Complex Wildfire and the need for partnerships to support State Parks land acquisitions.
- 9) Declares that a special statute is necessary because of the unique need to acquire properties for Big Basin Redwoods, Año Nuevo, and Butano State Parks after the CZU Lightning Complex Wildfire.

**EXISTING LAW:**

- 1) Establishes the California state park system and vests State Parks with control of the state park system and responsibility for administering, protecting, developing, and interpreting state parks for the use and enjoyment of the public [Public Resource Code (PRC) § 5001 *et seq.*].
- 2) Allows State Parks to receive and accept any gift, dedication, devise, grant, or other conveyance of title to or any interest in real property, including water rights, roads, trails, rights-of-way, buildings, facilities, and other improvements, to be added to or used in connection with the state park system (PRC § 5005).
- 3) Allows State Parks to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as agreed to by the director (PRC § 5080.42).
- 4) Declares that it is vital to ensure public confidence in amounts paid, and procedures used, for the acquisition of property by state agencies that spend taxpayer or bond funds and that it is important to ensure that an acquisition agency act expeditiously to purchase critically needed conservation lands for their preservation and protection (PRC § 5096.500)
- 5) Requires, among other things, that the Director of the Department of General Services (DGS) must approve every contract for the acquisition of real property of the State, unless exempted by the Legislature (Government Code § 11005).
- 6) Provides that State Parks, with the consent of the Department of Finance, may acquire the title to or any interest in real property that State Parks deems necessary or proper for the extension, improvement, or development of the state park system. All real and personal property acquired by State Parks for the state park system shall be under the jurisdiction of State Parks immediately upon transfer of title to the state (PRC § 5006).
  - a) Allows State Parks to perform their own property appraisals, use the Real Estate Services Division (RESD) of DGS, or contract with an independent appraiser to assist in property appraisals.
  - b) Allows State Parks to select real property it has appraised and submit purchase offers and negotiate a purchase agreement with the owners(s) of the property and implement and process the purchase agreement and conveyance of title to the state. State Parks may use the RESD of DGS or contract with other state agencies to assist in negotiating purchase agreements and conveyance of title.
  - c) Provides that, regardless of all other law, all appraisals conducted by State Parks shall be reviewed and approved by DGS or, at the discretion of DGS, a competent professional appraiser approved by DGS. Real property shall be appraised and appraisal review completed before commencement of purchasing negotiations.
- 7) Establishes the role of SPWB to select and acquire, on behalf of the state and with the consent of the relevant state agency, the fee or any lesser right or interest in any real property necessary for any state purpose or function (Government Code § 15853).

- a) Requires that all land and other real property be acquired by SPWB on behalf of or for any state agency, except for the Department of Transportation, the High-Speed Rail Authority, DWR, the Central Valley Flood Protection Board, DFW, WCB, and several others.
- b) Requires that SPWB shall acquire, on behalf of State Parks, any interests in real property, including options to purchase, which have been appraised, selected, and settled through purchase negotiations by State Parks.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal.

**COMMENTS:**

- 1) **Purpose of this bill.** This bill allows State Parks to enter into agreements with listed entities to work to permanently protect lands in perpetuity, or engage in needed efforts of stewardship, in the Santa Cruz State Parks District. According to the author this bill is needed because, “over the past several years, [State Parks] has partnered with various conservation organizations in the Santa Cruz Mountains region to evaluate land parcels near Big Basin Redwoods, Butano, and Año Nuevo State Parks for acquisition. However, as it stands, these partners often lack certainty that the lands they acquire will be purchased or accepted as a donation by [State Parks] in a timely manner, leaving the partner entities in a vulnerable position, as they must continue to own and manage the lands in the meantime.”
- 2) **Background.** There are 280 park units (beaches, historic sites, museums, off-highway vehicle recreation areas, parks, etc.) in the state park system. State Parks fully operates 189 of those park units. The remaining 91 park units are either fully operated or co-managed by park partners; of these, public agencies operate 44 park units, concessionaires operate one park unit, and 45 units are either fully operated or co-managed by nonprofit entities.

*Santa Cruz State Parks District.* The Santa Cruz State Parks District contains numerous State Parks and State Beaches, including Big Basin Redwoods, Butano, and Año Nuevo State Parks (Figure 1). Big Basin Redwoods State Park (Big Basin) is the oldest state park in California. The lands known today as Big Basin were originally the homelands of the Quiroste and Cotoni tribes, ancestral relatives of today’s Amah Mutsun Tribal Band and the Muwekma Ohlone Tribe.

*2020 CZU Lightning Complex Fire (CZU fire).* Wildfires have always occurred in Santa Cruz County. Every few years, a wildfire burns from hundreds to a few thousand acres, and a few structures are destroyed. However the CZU Fire was unusually extreme. The fire burned more land in Santa Cruz County than had been burned by all wildfires in the county in the previous 70 years combined. The CZU Fire began with a lightning event in the early morning of August 16, 2020 that ignited multiple fires in Santa Cruz and San Mateo counties. The separate fires quickly merged and rapidly spread across the North Coast and Bonny Doon areas and into the San Lorenzo Valley causing the evacuation of over 70,000 people. The fire was fully contained on September 22, 2020 after burning a total of 86,509 acres. Over 1,400 structures were destroyed—900 of the destroyed structures were residences. One life was

lost. Monetary damages have been estimated at \$340 million including approximately \$30 million of damage to public infrastructure.<sup>1</sup> 97% of Big Basin was lost including the park visitors' center, lodge, staff homes, and other buildings (Figure 1). Within two years, with the help of many partners, the iconic park partially reopened to the public on July 21, 2022.

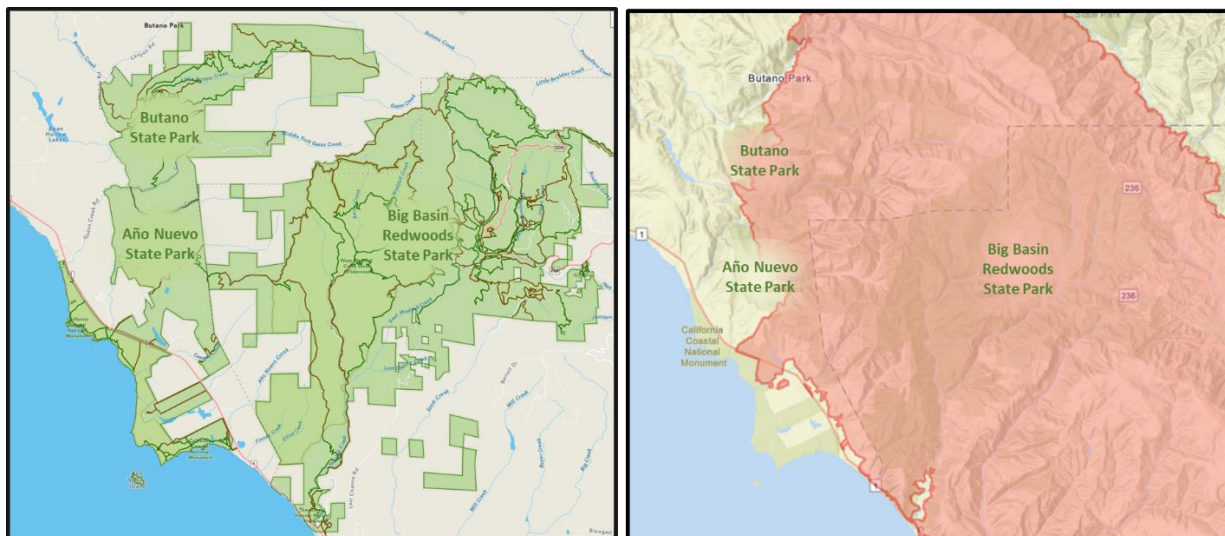


Figure 1: (left) Boundaries of State Parks for Big Basin Redwoods, Año Nuevo, and Butano State Parks and (right) the footprint of the CZU Lightning Complex Fire over the area of the parks. Note: this image does not represent the entire area of the CZU Lightning Complex Fire.

*State Parks partnerships.* Partnership is not new to State Parks. From their inception, California's state parks were forged in partnership with community leaders and organizations. Among a collection of concession businesses, volunteers, and others supporting State Parks, nonprofits are invaluable partners that amplify the reach of State Parks' own community engagement efforts, foster ongoing connection to parks with added programming and events, leverage public investments with additional sources of funding, and build onramps that increase park access to ever more Californians. When mission-furthering opportunities arise, nonprofits can act quickly with the buy-in of park leadership to secure resources, develop proposals, and make commitments. Land transactions are a typical example, where the nonprofit secures a critical piece of wildlife corridor, watershed, or cultural resource to be later incorporated into the park system. There is excitement among park staff and partners alike about the rising number of partnerships with California Native American tribes to co-manage and support the access and use of ancestral lands and resources. A small number of State Parks' tribal partnerships fall into the category of "nonprofit" because of their incorporation as land trusts, but these partnerships have more in common with governmental partnerships with California Native American tribes.

According to *A study of nonprofit partnerships in California State Parks*, the reopening of Big Basin was made possible by an extensive collaboration between State Parks, nonprofit organizations (Friends of Santa Cruz State Parks, Save the Redwoods League, Parks California, Sempervirens Fund, and Mountain Parks Foundation), a "reimagining project" advisory committee, and a volunteer trail crew. Friends of Santa Cruz State Parks, a

<sup>1</sup> County of Santa Cruz. July 2021. "[Local Hazard Mitigation Plan 2021–2026](#),"

nonprofit cooperating association that supports operations in 32 parks and beaches throughout the county, is operating visitor services such as the reservation system and interpretive programs at Big Basin during the recovery period.

*Reimagining Big Basin.* State Parks initiated the Reimagining Big Basin project in summer 2021 to begin the planning process for permanent park facilities in response to the CZU fire. This process has included public events and activities to hear from partners, stakeholders and the community to assess the priorities for rebuilding. The Reimagining Big Basin Vision (Vision) highlights themes that emerged from the public process, including forest resiliency and how to be inclusive to California's diverse population as park facilities are reestablished. The Vision outlines a reimagined park that will be different from the Big Basin the public remembers, with facilities and services established outside of the old growth redwoods and areas with sensitive resources. Access will be improved for alternative modes of transportation, including a shuttle to reduce congestion and increase non-automotive access to the park. According to the Vision, "The CZU Lightning Complex Fire demonstrated the importance of planning at the landscape scale. ... Coordination with adjacent landowners and managers and strategic acquisitions will strengthen wildlife corridors and habitat connectivity, trail connectivity, and the diversity of recreational experiences in the region."

*Land Acquisitions by the state.* For direct acquisitions of real property by most state agencies, statute provides an approval role for both DGS and the SPWB. First, with few exceptions, every contract for the acquisition of real property entered into by or on behalf of the state must be approved by the Director of DGS. Practically speaking, this approval role involves DGS reviewing and approving the appraisal as part of its exercise of due diligence, although statute does not explicitly require this. Second, as a general rule, real property acquisitions made directly by state agencies must also be approved by SPWB (which is staffed by DGS for this purpose), unless the acquiring agency is exempt from the SPWB process. (For example, agencies exempt from the PWB process are WCB, DFW, DWR, and the Central Valley Flood Protection Board; the Department of Transportation and the High-Speed Rail Authority; in addition, certain categories of property acquisitions of the State Lands Commission and SCC are also exempt.) Before such acquisitions are approved by SPWB, the appraisals are reviewed and approved by DGS, again as a matter of practice, rather than because of an explicit statutory requirement. For land acquiring agencies outside of the SPWB process, statute sometimes explicitly requires DGS to review and approve an appraisal, such as in the case of acquisitions made by WCB (Fish and Game Code § 1348.2). In cases where DGS is charged with reviewing an appraisal, it is generally the land-acquiring agency that selects the appraisal to be reviewed by DGS.

*Challenge of this process.* In October 2007, the Legislative Analyst's Office (LAO) released its report, "Improving the Appraisal Function in Resources Land Acquisitions," which focused specifically on the appraisals the state relies upon when making resource conservation land acquisitions by all agencies. The LAO report identified the challenges of determining the appropriate price to be paid by governmental entities acquiring land for conservation purposes. A significant issue is that a principle of appraisal is to assess a property's value based on its highest and best economic uses (fair market value) over the noneconomic value of the uses of the property for which conservation acquisitions are typically made (public interest value).

The LAO report identified various other external challenges that face state agencies when conducting appraisals for purposes of making land acquisitions for resource conservation, including the lack of recent sales of comparable property, resolution of land use and environmental permitting issues, and the “one of a kind” resource values that are integrally related to the public interest in the property. The report also reviewed internal challenges that affect the appraisal process, including lack of comprehensive standards for obtaining appraisals, qualified appraisal review staff in state agencies, and lack of appraisal information for legislative oversight.

*The relevance of SPWB.* The SPWB’s expertise was called into question in 2004 when Governor Schwarzenegger’s California Performance Review (CPR) asserted that significant problems existed in the way the SPWB reviews and approves resource land acquisitions. The CPR described SPWB's land acquisition process as "cumbersome and time consuming, with acquisitions requiring an average of 12 months to complete." The SPWB reviews each acquisition twice. According to the CPR, this dual review results in a delay in one out of every three acquisitions. Additionally, the first review essentially notifies the property owner of the state's intent to purchase the property, which can ultimately damage the state's negotiating position. The CPR found that SPWB's problems are further exacerbated by the lack of expertise in resource acquisitions and land management at the executive level.

Further SPWB concerns were recognized when the Legislature passed, and the Governor signed, AB 2497 (Laird), Chapter 462, Statutes of 2006, which requires the Secretary of the Resources Agency and the Department of Finance to jointly convene a workgroup consisting of representatives from specified state agencies and natural resource organizations to develop options for improving the efficiency of state resource land acquisition transactions for those departments and conservancies subject to the jurisdiction of the SPWB.

According to a previous committee analysis, the AB 2497 report notes that many state agencies and conservancies are required to go through a two-step approval process, first through WCB and then through the SPWB. Although State Parks does not go through two boards for approval, it is required to go through the PWB twice: once for site selection and once for acquisition. This has contributed to delays and increased costs to State Parks, who appears before SPWB the most out of all resource agencies. The report discusses several options requiring legislative action, including expanding SPWB membership, establishing a new parks acquisition board, and creating a new resources conservation board where all state resources land acquisitions would be considered and statewide acquisition priorities set. The report notes that the workgroup did not reach consensus on this or other options requiring legislative action. The option of creating a separate parks acquisition board, similar to the WCB, was the option presented in AB 2455 (Laird) of 2008; AB 2455 was vetoed.

- 3) **Policy considerations.** This bill seeks to address a complicated challenge: how to promote expeditious acquisition of land for the public benefit *and* ensure appropriate oversight of these purchases (PRC § 5096.500). The current version of this bill streamlines the acquisition process by allowing State Parks to make property acquisitions towards Big Basin Redwoods, Año Nuevo, and Butano State Parks without going through SPWB. A key question is whether SPWB’s acquisition process is the main barrier to new parks acquisitions.

Sufficient funding for new acquisitions has long been a challenge. Typically, funding for new state parks comes from the General Fund or bond funds. Generating sufficient, long-term

sources of funding for operations, maintenance, and management (O&M) of properties and facilities already within the state parks system has also been an ongoing challenge. According to the 2022-23 California Five-Year Infrastructure Plan, State Park's backlog of deferred maintenance is estimated at over \$1 billion. This raises the question of how much the state should invest in new acquisitions when existing units have unmet O&M needs.

Finally, with State Parks interested in acquiring numerous properties around the state, it may be prudent to consider how streamlining efforts might benefit all parks.

- 4) **Proposed committee amendments.** The goal of this bill is commendable and many park districts may benefit from this process. As such, an expansion of the provisions of this bill so that it applies statewide may be warranted. In addition, as a State Parks exemption from the SPWB has not been previously granted, a sunset of this provision would provide a safe guard and allow the Legislature to understand the utility of providing this exemption as a case study. Additionally, some language in the bill is redundant and may cause confusion. To address this, the Committee may wish to ask the author to amend this bill as follows:

**Amendment 1** – Strike Section 1 and Section 4.

**Amendment 2** – Amend Government Code Section 15853 (c) as follows:

(c) Notwithstanding any other law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the High-Speed Rail Authority, the Department of Water Resources, the Central Valley Flood Protection Board, the Department of Fish and Wildlife, the Wildlife Conservation Board, ~~the Department of Parks and Recreation with respect to property acquired for Big Basin Redwoods, Año Nuevo, and Butano State Parks;~~ the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Housing and Community Development, the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, and the State Coastal Conservancy with respect to acceptance of offers to dedicate public accessways made pursuant to the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) of, and for the purposes of Chapter 10 (commencing with Section 31411) of Division 21 of, the Public Resources Code, shall be acquired by the State Public Works Board in accordance with this part.

**Amendment 3** – Add Government Code Section 15853 (g) as follows:

*(g) (1) Notwithstanding subdivisions (a) and (d), at the discretion of the Director of the Department of Parks and Recreation, the Department of Parks and Recreation may acquire land and other real property on its own behalf. The purchase price for the land and other real property acquired under this subdivision shall not exceed the fair market value of the property, as defined in Section 1263.320 of the Code of Civil Procedure. The fair market value shall be set forth in an appraisal that is prepared by a licensed real estate appraiser and approved by the Department of General Services.*

*(2) This subdivision shall sunset on January 1, 2029.*

**Amendment 4** – Amend PRC Section 5009.5 as follows:

(a) For purposes of this section, the following definitions apply:

(1) “Eligible entity” means any of the following:

(A) A nonprofit organization.

(B) A federally recognized Native American tribe.

(C) A California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

(2) “Nonprofit organization” means any nonprofit public benefit corporation formed pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, qualified to do business in California, and qualified under Section 501(c)(3) of Title 26 of the Internal Revenue Code as a tax-exempt corporation that has as a principal purpose the conservation of land and water resources.

(3) “Permanently protect” means ~~either of the following:~~

(A) Establishing permanent protection of property ~~in the specified region~~ through fee title acquisition.

(B) Providing ongoing management, stewardship, restoration, enhancement, and monitoring of the land in perpetuity.

(4) “Property” means any real property, and any perpetual interest therein, including land, conservation easements, and land containing water rights.

~~(5) “Specified region” means the Santa Cruz State Parks District covering portions of the Counties of San Mateo, Santa Clara, and Santa Cruz.~~

~~(6) “Stewardship” means management activities that enhance the natural resource values within Big Basin Redwoods, Butano, and Año Nuevo State Parks.~~

(b) Notwithstanding any other law, the department may enter into an agreement with an eligible entity stating the intent of the department to work with the eligible entity to permanently protect lands ~~in perpetuity, or engage in needed stewardship efforts, within the specified region for the purpose of achieving enhanced visitor services or other benefits to park operations, strengthened land connectivity, improved forest health, and enhanced climate resiliency and land stewardship within the specified region.~~

(c) The department may coordinate with other relevant agencies, including the Wildlife Conservation Board, the Department of Fish and Wildlife, and the State Coastal Conservancy, to identify priority properties for permanent protection ~~within the specified region~~ to fulfill the objectives of each park region ~~of achieving enhanced visitor services or other benefits to park operations, strengthened land connectivity, improved forest health, and enhanced climate resiliency in the specified region.~~ Priority shall be given to properties that do any of the following:

(1) Contain important natural, cultural, or recreational values, or provide a significant buffer for an existing state park unit.



(2) Link, or contribute to linking, existing state parks to other protected areas or protective easements. Functionality, total reserve size, significance of overall reserve area, and improving resilience to climate change shall be considered.

(3) Accommodate needed facilities, visitor services, or trails that cannot be constructed on existing parklands.

(4) Improve operations of an existing state park unit and eliminate potential or existing management problems associated with the inholding or adjacent properties.

(5) Would provide the most benefit to disadvantaged communities as defined by Section 80002.

(d) Upon appropriation by the Legislature, the department shall take all reasonable actions to permanently protect ~~in perpetuity~~ priority properties identified in an agreement developed pursuant to this section within 24 months following the execution of an acquisition agreement, or as quickly as reasonable.

- 5) **Arguments in support.** The sponsors write in support of this bill saying, “[this bill] will address this problem by streamlining the acquisition process and therefore enabling conservation partners to transfer properties to State Parks efficiently and continue to protect more high-conservation-value lands that support and protect our unique ecosystems in a time of extreme climate change. These tools will allow State Parks to more easily work with conservation organizations to fulfill the reimagining of Big Basin and neighboring parks, as well as work toward the state’s 30x30 goals in this critical moment for conservation of redwood forests, watersheds, and recreation lands in the region.”
- 6) **Related legislation.** SB 1167 (Allen) of 2022 would have exempted transactions for the purpose of the state parks system from the SPWB if the transaction met both conditions: (1) State Parks determined that it would not require additional state resource to manage the land or other real property and (2) a Phase I Environmental Site Assessment had been completed on the land and had no recognized environmental conditions identified. SB 1167 was held in Assembly Water, Parks, and Wildlife Committee.

AB 727 (Maze) of 2007 would have removed DWR’s and WCB’s authority to acquire real property outside of the SPWB and removed DWR’s ability to use the power of eminent domain. AB 727 died in Assembly Business and Professions Committee.

AB 2455 (Laird) of 2008 would have removed the SPWB as the entity designated to acquire property for State Parks, and instead created the State Parks Preservation Board (“board”), and would have required the board to review the State Parks recommendations, and, subject to authorization by the board, would have authorized State Parks to acquire real property or rights in real property, subject to certain additional requirements. AB 2455 was vetoed by the Governor.

AB 2497 (Laird) Chapter 462, Statutes of 2006, required the Secretary of the Resources Agency and the Director of Finance to jointly convene a workgroup consisting of representatives from specified state agencies and natural resource organizations to evaluate and develop options for improving the efficiency of state resource land acquisition

transactions for those departments and conservancies subject to the jurisdiction of the SPWB and report findings to the Governor and Legislature. AB 2497 required the workgroup to address, at a minimum, issues raised by the California Performance Review in 2004 regarding the SPWB review and approval process for resource land acquisition.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Sempervirens Fund (Sponsor)  
Land Trust of Santa Cruz County  
Save the Redwoods League

**Opposition**

None on file

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