



# CALIFORNIA NATIVE PLANT SOCIETY BULLETIN

## Protecting Native Plants Through Litigation

BY KEITH G. WAGNER

CNPS uses a variety of strategies to protect California's native plants and habitats, including litigation, when attempts at collaborative approaches fail. CNPS has supported its chapters in legal actions protecting native plants across the state, including: 1) challenges to timber industry attempts to avoid conducting proper rare plant surveys; 2) challenges to the U.S. Forest Service's proposals to treat massive tracts of forest service land with herbicide; 3) protecting sensitive desert plant species on Bureau of Land Management lands from off-road vehicle abuse; and 4) challenging the U.S. Fish and Wildlife Service's elevation of back-room politics over science in designating critical habitat for threatened and endangered vernal pool species, just to name a very few. (A new legal action recently undertaken by the El Dorado chapter is described on page 4 of this issue.)

In 2006, the CNPS Board of Directors approved updated litigation procedures and policies to assist chapters in evaluating potential legal action, and obtaining necessary Board approvals, to protect native plant resources in the courts.

CNPS's litigation procedures and policy, which are posted on the CNPS website ([http://www.cnps.org/cnps/archive/legal\\_actions.pdf](http://www.cnps.org/cnps/archive/legal_actions.pdf)), apply only to formal litigation activities, and are not intended to affect local chapters' ongoing work at the administrative level with local, state, or federal agencies to protect native plants and their habitats. The procedures do advise local chapters that they should provide copies of comment letters to the state office. But this is simply for tracking and informational



Todd Keeler-Wolf

In 2004 CNPS and the Center for Biological Diversity resorted to litigation to protect the San Benito evening primrose and its habitat from off-highway vehicles in the Clear Creek Management Area southeast of Hollister.

purposes so that the Board can stand apprised of, and plan for, future controversies as they develop.

In situations where efforts to protect native plants through collaborative processes are unsuccessful, a chapter may seek to initiate litigation. The first step is for a chapter member (usually the individual that took the lead in the agency's public participation process) to submit a litigation summary to the CNPS Litigation Committee, providing basic information about the proposed

*(continued on page 6)*

## What's Happening With Conservation?

**While horticulture has been in the limelight lately, efforts are underway to strengthen CNPS's conservation capacity.**

BY LORI HUBBART

Both horticulture and conservation have long been important to CNPS, and are complementary. The CNPS Horticulture Program helps us to engage and educate the public, to better understand native plants, as well as to raise money for chapter conservation activities through plant sales. While this program has become more visible, it has not minimized the importance of our plant science or conservation programs or taken resources away from them.

The horticulture program also helps us become more aware of the areas where horticulture intersects with plant conservation. As the forum on horticulture at the March 2007 Chapter Council meeting made clear, however, CNPS members often have different perspectives on some very important related issues.

For instance, what are the impacts of growing rare plants in gardens? How does cultivation alter plant behavior? Can we provide local native plants for highway landscaping and habitat restoration? How local is local? In the future we hope to have more articles in the *CNPS Bulletin* and *Fremontia* to share information on these concerns. For a taste of things to come,

*(continued on page 6)*



## From the Executive Director: New Undertakings

I thought you would enjoy learning about two of our most recent undertakings: creation of a new state website and CNPS's new Education Program. These actions will enhance our ability to conduct outreach and education.

Thanks to the generosity and diligent work of Brad Jenkins, CNPS president, the Society has a brand new website. Working closely with webmaster Mark Naftzger, Brad has transformed the site by making it more attractive and easier to use. Please visit it and let us know what you think.

We are also expanding our education program. During the past five years, CNPS has been providing training workshops on methodologies and protocols to conduct

fine-scale vegetation classification and mapping. While teaching those workshops, we have become aware of the need for more botanical education in California. Surprisingly, we have discovered that many botanists lack the basic taxonomic skills necessary to conduct adequate plant surveys. Many botanists are also unfamiliar with state and federal regulations that help protect rare and endangered plants.

To address these critical needs, CNPS has developed a series of training workshops on plant identification, survey methods, and plant classification. For more information on these new workshops, please visit the education section of the state website.

In residential areas there is also a need

to train private individuals and members of the landscape industry on how to select, plant, and use native plants. By promoting the use of native plants for horticultural purposes, we will also be encouraging water conservation and the creation of additional native wildlife habitat. Through these actions, we likewise hope to reduce or eliminate the use of herbicides. CNPS will initiate these workshops in the fall.

I trust that these exciting developments will not only allow us to communicate better with members, but will also help us to advance the understanding and conservation of California's native flora. Happy summer! 🌿

**Amanda Jorgenson**  
Executive Director

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Amanda Jorgenson, Executive Director

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## Improved Protection for American River

It all began several years ago with the proposal by the Sacramento Municipal Utility District (SMUD) to relicense their hydroelectric facility situated on the South Fork of the American River in the central Sierra Nevada foothills. The El Dorado Chapter saw the relicensing effort—which must go through extensive environmental planning and review by state and federal agencies—as an opportunity to improve protection of riparian areas and the health of the local river.

The chapter joined with Friends of the River to work on the five-year relicensing review. Despite periodic SMUD resistance, the agency eventually agreed to increase protections for the river, thanks to the work of a coalition of nonprofit groups and state and federal resource agencies. Part of the agreement includes increased minimum flows on all river segments. This change will restore ecological functions and enhance conditions for fish and wildlife. 🌿

**Sue Britting**  
El Dorado Chapter



This pristine area along the south fork of the American River will remain so, thanks to the El Dorado Chapter of CNPS and other groups.

Marcus Christian



## From the Capitol

### Lots of environmental bills, some linked to global warming

BY VERN GOEHRING

It is a busy time at the capitol as I write this. There seems to be more environmental legislation this year than in previous years, and somehow many more issues



Katie Koning

**Assemblywoman Lois Wolk, Davis, takes a break from a busy day at the capitol to hear about CNPS's legislative priorities from Amanda Jorgenson (right), Alison Shilling (2nd from left), and Vern Goehring (left).**

seem to have sprouted a critical link to global warming. Even though the election last fall netted a state senate slightly less supportive of environmental protections, the environmental community is still excited about its prospects. This is at least partially due to the good work of the California League of Conservation Voters (CLCV).

CLCV has organized the larger environmental movement for more effective legislative action. It has formed "Green California," a network of some 45 environmental and environmental justice groups organized for the purpose of coordinating legislative agendas and strategies. On behalf of CNPS, I participate in Green California to make sure we are tracking the most important legislation, to ensure native plant issues are addressed, and to extend our influence as far as possible.

With term limits, elections bring a new class of freshmen legislators to the capitol, and getting to know them is a challenge. I participated in nine "Meet and Greet"

meetings with new legislators, sessions scheduled by Green California. Several legislators expressed an interest in partnering with CNPS on school environmental education programs. I hope our local chapters will take advantage of these opportunities. In addition, my assistant Katie Koning and I participated in the Green California lobby day. We not only inserted information introducing CNPS into packets delivered to all legislators, we also participated in meetings with at least 10 individual legislators or staff, giving us a chance to personally introduce CNPS.

I am also working to reenergize the work of the CNPS Legislative Committee. Alison Shilling, a CNPS activist, has volunteered to help. Alison is trying to recruit additional committee members to ensure all geographic areas are represented. If you are interested in helping, please let Alison know ([abshilling@comcast.net](mailto:abshilling@comcast.net)). The committee will review bills and decide on a CNPS position, develop provisions to better protect native plants, and coordinate grassroots lobbying when that becomes necessary. Several natural resource themes are evident in the Legislature this year. In addition to global warming, they include implementing bonds for housing, floods, and transportation, and water issues

It is equally important for chapters to get to know their local legislators and share local concerns about native plants. Developing a relationship before there is a need to round up a vote is always best. There are many things chapters can do to support CNPS's legislative efforts. Check the CNPS website under Conservation for updates on key legislation and suggestions to engage effectively with your local legislator. ♻️

**Vern Goehring** serves as CNPS legislative advocate in the state capitol.

## Planning Underway for Scientific Conference

In September of 2006, the Chapter Council directed the CNPS Board and executive director to plan a scientific conference similar to the well-attended 1986 conference, "Conservation and Management of Rare and Endangered Plants." CNPS will again be teaming up with state and federal agencies and numerous other organizations to produce this solutions-driven statewide conference, which will be held in early spring 2009 in Sacramento.

Presentations will highlight new research and its application to conservation, the uses of existing law for conservation, and new stewardship trends in California. There



Diana Hickson

**The 2009 conference will attempt to develop more effective tools and policies to protect California's sensitive plant populations, vegetation, and ecosystems. Pictured: Baker's manzanita (*Arctostaphylos bakeri*).**

will be many volunteer opportunities, from finding keynote speakers to helping on the days of the conference. Gordon Leppig of the Department of Fish and Game, and a CNPS member, is chairing the executive committee. Please check the CNPS state website ([www.cnps.org](http://www.cnps.org)) or contact Gordon Leppig ([gleppig@dfg.ca.gov](mailto:gleppig@dfg.ca.gov)) if you are interested in helping out. ♻️

**Diana Hickson**  
CNPS Conference  
Planning Committee



# CHAPTER NEWS



## EL DORADO CHAPTER: Chapter Sues to Protect Rare Plants

The El Dorado Chapter of CNPS filed suit this year against the County of El Dorado and the developer of a senior care facility in an effort to protect the pine hill ceanothus (*C. roderickii*) and other rare and endangered plants. The project would eliminate approximately



Joanne Geggatt

**Pine Hill ceanothus (*Ceanothus roderickii*), which is only found in El Dorado County, is one of the plants threatened by a proposed development.**

one-third of the known plants of this ceanothus species, which is found only on gabbro soils in Western El Dorado County, and eradicate 20 acres of rare plant habitat essential for the well-being of seven other rare plants.

The chapter is asserting that the County's approval of the project is inconsistent with the County General Plan and with the U.S. Fish and Wildlife Service's Recovery Plan. Contrary to the General Plan, the County

approved the project without procuring replacement habitat of equal biological value. It also violated CEQA by making significant changes to the project without the required public notice and comment period. ♡

**Rich Wade**, Publicity Chair  
El Dorado County Chapter

## NORTH SAN JOAQUIN VALLEY CHAPTER: Welcome!

I am pleased to announce the new North San Joaquin Valley Chapter. This increases the number of chapters from 32 to 33. The chapter will represent CNPS in Merced, Stanislaus, and South San Joaquin Counties, an area where our presence is sorely needed.

Please join me in welcoming the new chapter's volunteer staff: James Brugger, president; Allen Miller, vice president; Suzanne Guthrie, secretary; and, Kleo Pullin, newsletter editor. No doubt their presence and commitment will greatly help us expand our grassroots base, as well as strengthen our capacity to fulfill our mission. ♡

**Amanda Jorgenson**, Executive Director

## WILLIS LINN JEPSON CHAPTER: A Native Plant Garden in Solano County

The native plant garden at the Benicia State Recreation Area started back in 1998 when the late Forrest Deaner conceived of the idea as the focal point for the newly established Willis Linn Jepson Chapter of CNPS. With a \$60,000 grant from the California State Coastal Conservancy, the development of the garden began in August 2003. It was opened to the public in November 2004.

The Forrest Deaner Native Plant Botanic Garden now contains over 2,000 plants representing 200 species, and is becoming a valuable educational and recreational resource for students of all ages. Students often help with weeding, mulching, and planting, and at the same learn about native plants

and plant communities.

The garden's growth is attributable to volunteers from Benicia, Vallejo, Fairfield, Suisun, and Vacaville, and to the generous support of the DEY Solano Giving Fund, the Solano Community Foundation, California State Parks Foundation, and CNPS members and friends.

The plan for the remaining two-thirds of the undeveloped garden area is currently under CEQA (California Environmental Quality Act) review by the California State Parks. It includes construction of additional garden paths, installation of garden benches,



Norma Deaner

**Chapter Council delegates and other CNPS members visit Forrest Deaner Native Plant Botanic Garden in Benicia.**

a small assembly area, an orientation shelter, and the development of several plant communities native to Solano County. More information about the garden is available at <http://cnpsjepsonchapter.homestead.com/botgard.html>. ♡

**Norma Deaner**  
W.L. Jepson Chapter

## Anne Spencer Steps Down

Anne Spencer, a long-time member and volunteer of CNPS, has resigned from her position in the Sales Program. For 22 years, Anne was in charge of packaging and mailing all of the posters ordered through the state office in Sacramento.



William Spencer

Anne Spencer.

Sadly, Anne has some personal health problems that make it difficult to continue her efforts. Her dedication to the Sales Program greatly benefited the Society, both financially and with its work. Thanks to her generous contribution of time and interest, CNPS was not only able to sell thousands of our beautiful and informative posters, but was also able to help conserve more effectively the plants that she cares for so dearly. If you live in Sacramento and would like to volunteer a couple of hours every week to process poster and book orders, please contact Amanda at the State Office. 🌿

Wilma Follette, CNPS Sales Program  
Amanda Jorgenson, Executive Director

## Research Grants Available

Each year the CNPS Educational Grants program receives funding to help support field research related to California's native plants. Students, CNPS members, or postdoctoral botanists are eligible, in that order, for grants that are generally not more than \$1,000. Proposals should involve taxa or plant communities that are of concern due to direct or indirect potential impacts. The grants need to be relevant to our conservation mission. Certain small endowed funds are available specifically for graduate students planning research involving rare plants or evolutionary botany.

If you are interested in obtaining support from CNPS for your work, request a copy of the guidelines (for drafting and submitting a proposal) from the state CNPS office. Requests for this or other information can be directed to Chair, Educational Grants Committee, 2707 K Street, Suite 1, Sacramento, CA 95816-5113. Completed proposals must be received in the CNPS office no later than September 30, 2007. 🌿

Joan Stewart, Chair  
CNPS Educational Grants Committee

## In Appreciation: Ben Hammett

### Rare Plant Photographer and Native Vegetation Enthusiast

Since joining the Society in 1995, Ben Hammett has become one of our strongest supporters. He is not only an active volunteer, but also a CNPS benefactor and a member of the Donor Circle.

Julie Evens and Don Mayall had the pleasure of working closely with Ben during a two-year vegetation survey at Coyote Ridge. They both appreciated Ben's enthusiasm and his love of native plants. Regardless of the terrain and weather conditions, Ben was always ready to assist, as well as to make his vehicle and field equipment available to the field teams.

Don once wrote about Ben: "A survey stalwart, Ben Hammett is a retired Stanford professor who has taken many photos of survey locations and plants for the project, as a volunteer rare plant photog-

rapher for Cal Academy. He also ferries vegetation survey crews up to the ridge in his Explorer, equipped with enough gear to cross the Gobi desert."

Ben believes that by supporting CNPS he is also promoting native plant conservation, hence conservation of all living things native to California.

To recognize the generosity of our major contributors, the CNPS Board of Directors recently established the *Donor Circle* and the *Legacy Circle*. The *Donor Circle* honors individuals who have contributed \$25,000

or more over the past 12 years, while the *Legacy Circle* honors those individuals who have informed us that they have included CNPS in their estate plans. 🌿

Amanda Jorgenson  
Executive Director



Ben Hammett

Don Mayall

## Litigation (from page 1)

litigation. The litigation summary identifies the agencies and other entities involved, the potential legal theories at play, whether legal counsel has been identified that is willing to take on the case, any potential political or public relations issues that should be taken into consideration, and sources of potential funding. Upon request, members of the CNPS Litigation Committee are available to assist chapter members in their efforts to evaluate their case and fill out the litigation summary.

Once completed, the committee reviews the summary, and then makes a

recommendation to the Board whether litigation should proceed. Based on the summary and the Litigation Committee's recommendation, the Board then decides whether to authorize the lawsuit, and appoints a litigation sponsor and settlement committee, usually comprised of local chapter members. Together they guide the general conduct of the lawsuit and report back to the Board regarding important policy decisions in the case, such as deciding whether to settle the case, or taking any other action that requires signature by the executive director

or president, in order to be legally binding on CNPS.

Members with questions about the new litigation procedures and policy, or how to request authorization for their chapter to proceed with litigation, should contact the state office for more information. 🌿

**Keith G. Wagner** is an associate attorney with the Law Office of J. William Yeates. Keith has represented CNPS as an attorney in several past and ongoing lawsuits, and chairs the CNPS Litigation Committee.

## Conservation (from page 1)

please read Bart O'Brien's article, "The Intersection of Conservation and Gardening: An Overview of the Consequences of Growing California Native Plants" in *Fremontia* 22(1):16–23 (January 2001), under "Publications" on the CNPS website.

Just as the horticulture program was being

formalized, the CNPS Conservation Program lost three key players. Dave Chipping retired as volunteer conservation director, while two staff conservation analysts, Emily Roberson and Ilene Anderson, moved on to other jobs. So the real issue is not that we "suddenly" have a horticulture program, but that we need to strengthen the conservation program.

CNPS needs paid staff to adequately address the urgent conservation issues facing California's flora. Permanent staff can provide the continuity we need to track and influence policy and management decisions, such as grazing on public lands and review of mega-developments. Currently CNPS staff and volunteers are working to fund conservation staff positions through grants and private donations.

Meanwhile, the conservation committee has produced a report, available on the CNPS website under "Conservation" (<http://cnps.org/cnps/conservation/>) that outlines the current state of the program and directions for the future. Conservation advocates are encouraged to read the report, which includes

a description of work on specific habitats such as forests and vernal pools, and places a stronger emphasis on regional conservation planning.

Chapters in southern California are planning to help fund a regional conservation staff position for issues beyond the scope of volunteer capability. This will help them respond to projects like the massive Kern County development planned for Tejon Ranch, to include a 1,500-acre industrial park and 23,000 houses.

Even so, gaps still remain in the conservation program. What needs are not being addressed? What partnerships can we forge to amplify the influence of CNPS? How can we raise more money to make CNPS a stronger voice for conservation? Please be part of the solution by identifying issues that need attention, volunteering your time and expertise, providing financial support, and suggesting ideas to CNPS leadership. Our executive director, Amanda Jorgenson, is eager to hear from you. 🌿

**Lori Hubbart** is president of the Dorothy King Young Chapter, a member of the CNPS Horticulture Committee, a once and future native plant propagator, and a plant conservation activist.



Lori Hubbart

**A conservation-horticulture "intersection:"** The rare shrub Pine Hill flannelbush (*Fremontodendron decumbens*) is coveted by gardeners, but could be in danger of being lost to hybridization.

# Gardening in Season

## Alternatives to Lawns

BY AGI KEHOE

More Californians are becoming interested in replacing their lawns—which are high maintenance and require lots of water and fertilizer—with wiser, water-conserving native plant alternatives ranging from ground covers to meadows.

Our native grasses have a great advantage over conventional lawns. Their root systems improve the soil, they are much more drought tolerant, they provide forage and cover for wildlife, habitat for beneficial insects, and provide a wonderful ornamental aspect in our gardens. Here are some tips for replacing your existing lawn.

If your lawn has no invasive species such as Bermuda or Kikuyu grass, then remove it with a sod cutter and place the grass strips root side up on the ground. Cover the area with a 2" layer of top soil and compost, and you're ready for planting. If more time is available or weeds are excessive, the existing lawn can be smothered by covering it with cardboard and a thick layer of mulch for a few months, allowing the old grass to decompose. After removal, apply a 2" layer of compost on top of the existing soil to help the new plants get a good start. Tilling is not advisable, as it brings up more weed seeds.

What can one plant in lieu of a lawn? For coastal areas, try ground covers like beach strawberry (*Fragaria chiloensis*), sea thrift (*Armeria maritima*), or yerba buena (*Satureja douglasii*). For alternatives to turf grass, try creeping red fescue (*Festuca rubra*) or Pacific dune sedge (*Carex pansa*). These can be mowed with a push mower, or allowed to grow to form a natural, lumpy carpet. Yarrow (*Achillea millefolium*) can be established from seed in one season; it tolerates some foot traffic and it doesn't mind the mower either.



Stephanie Morris

**In place of a lawn, landscape architect Stephanie Morris designed this backyard "meadow" of California fescue and California poppies for a San Jose homeowner.**

If the aim is to create curb appeal in an area that will not have regular foot traffic, a wildflower and bunch grass meadow can be very satisfying. Bunch forming grasses are best for this purpose because they don't outcompete the wildflowers. These include purple needlegrass (*Nassella pulchra*), nodding needlegrass (*N. cernua*), Idaho fescue (*Festuca idahoensis*), junegrass (*Koeleria macrantha*), tufted hairgrass (*Deschampsia cespitosa*), foothill sedge (*Carex tumulicola*), California fescue (*Festuca californica*), and deergrass (*Muhlenbergia rigens*). The meadow can be situated on a mound and dressed with rocks to make it more natural in appearance.

Some suitable perennial wildflowers for a meadow include Checkerbloom (*Sidalcea malviflora*), blue-eyed grass (*Sisyrinchium bellum*), California buttercup (*Ranunculus californicus*), Douglas iris (*Iris douglasiana*), meadow onion (*Allium unifolium*), yarrow, blue flax (*Linum lewisii*), California poppy (*Eschscholzia californica*), seaside

daisy (*Erigeron glaucus*), and the smaller buckwheats (*Eriogonum* spp.). Check with your nearby CNPS chapter for plants best suited to your locale.

To learn more, see the article "Creating a Native California Meadow" by David Amme in *Grasslands* 13:3 (Summer 2003), available from the California Native Grasslands Association. Other helpful reading: *Wild Lilies, Irises, and Grasses: Gardening with California Monocots* by Nora Harlow and Kristin Jakob, editors, University of California Press. 🌿

[Note: Plant California natives wisely. Protect rare and endangered species and prevent gene pool contamination by using locally grown species in the landscape. Avoid using invasive plants, whether native or introduced. <http://www.cnps.org/archives/landscaping.htm>.]

**Agi Kehoe** is a member of the Santa Clara Valley Chapter of CNPS. She is a professional gardener and landscape designer.

## CNPS Press Undergoes Changes

CNPS Press co-director Gail Milliken is stepping down after working with the press for over two years. Together with Holly Forbes, Gail helped to identify a board-approved set of priorities for the press. She also worked with the CNPS Finance Committee to support the sales program. Gail's suggestions improved the design and appearance of the CNPS Publications Catalogue.



Gail Milliken

Gail Milliken

Although she has resigned, Gail will continue to provide periodic support to the program. We value Gail's expertise in the retail book arena, and look forward to working with her more informally in the future. Please join us in thanking Gail for her gift of time, years of service, and commitment to CNPS. If you have experience in the book publishing business and time that you could donate to the Society, we invite you to join the CNPS Press Committee. We are now in the process of setting the future goals and priorities of the Publications Program and need your expertise. 🌿

Holly Forbes, CNPS Press and  
Amanda Jorgenson, Executive Director

## Free Chapter Web Pages

The revitalized, easy to navigate state website went up last December ([www.cnps.org](http://www.cnps.org)). Along with the new format came an offer to chapters for free hosting under the expanded site. This offer is good for a small number of pages that only need occasional updating. The state webmaster will take your information and pictures and format it for you.

Shasta chapter members jumped on the opportunity, and you can see their free page in the Local Chapters section. This arrangement is perfect for chapters watching expenses and having difficulty finding a local webmaster. For more information, contact Brad Jenkins at [bradcjenkins@yahoo.com](mailto:bradcjenkins@yahoo.com). 🌿

## Next Chapter Council Meeting

SEPTEMBER 8, 2007, SANTA CRUZ  
HOST GROUP: BAY SOUTH CHAPTERS  
FOCUS: CONSERVATION 🌿



The California Native Plant Society is a statewide, nonprofit organization of amateurs and professionals with a common interest in learning about and preserving California's native plants and plant communities. Membership is open to all. Visit [cnps.org](http://cnps.org).  
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# Bulletin

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