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March 24, 2006

State of California
The Resources Agency
Department of Forestry and Fire Protection
Southern Region
Tuolumne-Calaveras Unit
1234 East Shaw Avenue
Fresno, CA 93701

VIA: Email to fresnopubliccomment@fire.ca.gov and Certified Mail Return Receipt Requested

SUBJECT: TIMBER HARVEST PLAN, SUMMIT, THP NO. 4-05-58/CAL 9, COMMENTS

Dear Sir or Madam:

Ebbetts Pass Forest Watch (EPFW) submits comments regarding the subject Timber Harvest Plan (THP) pursuant to Public Resources Code (PRC) § 4582.6(a) and 21080.5(d)(3)(B), and Title 14 of the California Code of Regulations (CCR), §§ 1037.3, 1090.17 and 1092.18. While EPFW supports the selection silviculture method chosen by the applicant, we are concerned about this method being used as an intermediate step to be followed by clearcutting or other even-age prescription in the near term (2008). Our careful review of the THP leads us to conclude that the plan is inadequate, in that it fails to adequately consider and/or adequately mitigate potentially significant impacts of the proposed action on:

- plant and animal species,
- cumulative impacts on California's public trust resources.

Furthermore, we find the analysis of alternatives does not conform to the intent of the requirements of CEQA. Our comments are detailed below.

Plant and Animal Species

Both the California Environmental Quality Act (CEQA) and the Forest Practice Rules (FPRs) require that all potentially significant adverse impact on the environment of activities proposed under the THP be identified and analyzed¹. This requires identification and analysis of impacts to all animal and plant species, including threatened, endangered and special status (listed) species and the species' habitat in general. Significant impact is "a substantial, or potentially substantial, adverse change in any of the

¹ 14 CCR 896(a), 897 (a), PRC 21002, 21002.1(a), 21080.5(d)(2)(A), (B) and 21080.5(d)(3)(A)

physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance".² Sufficiently clean and detailed information must be provided to permit adequate and effective review to assure that significant adverse individual and cumulative impacts are avoided or reduced to insignificance.³ CDF must disapprove a plan that is incomplete.⁴

The subject THP does not adequately identify or analyze the impacts to species or their habitat.

Plant Species

The THP does not provide information regarding the presence or absence of plant species identified as potentially occurring in the project area and fails to consider plant species known to occur in the vicinity of the THP and in habitat types likely to be present within the plan area. The following species listed in Natural Diversity Database (NDDDB) should have been considered in the plan but have been omitted:

- CNPS Inventory's List 1B:

Chlorogalum grandiflorum	Clarkia australis	Erythronium tuolumnense
Hreklia parryi	Red Hills soaproot	Small's southern clarkia
Tuolumne fawn lily	Parry's horkelia	Whipple's monkeyflower

- CNPS List 1A

Mimulus whipplei⁵

Several of these species are threatened by logging practices⁶ (CNPS 2001).

The evaluation of potential impacts on the species identified in the plan is inadequate. On page 59 of the THP, the applicant lists a number of plants species that were identified during an initial scoping. These species are listed in the NDDDB and include rare, threatened, and endangered plants, not necessarily limited to those species that have been "listed" by state and federal agencies.⁷ For example the THP states that the species *Allium tribracteatum* and *Lomatium stebbinsii*, may occur in the THP area. These plants, the three bracted onion and the Stebbins's lomatium, are on the California Native Plant Society's List 1B: Plants Rare, Threatened, or Endangered in California and Elsewhere. These plants are "judged to be vulnerable under present circumstances or to have a high potential for becoming so because of their limited or vulnerable habitat, their low numbers of individuals per population (even though they may be wide ranging), or their limited number of populations."⁸

There is no analysis either in this section or elsewhere in the plan, of the impact of the proposed activities on any of these plant species. Surveys of the area to determine the presence or absence of these plant species are proposed for later dates, after the presumed approval of the THP. In order to

² FPR 895.1

³ 14 CCR 897(b)(3)

⁴ 14 CCR 898.1(c)(3)

⁵ Information provided by California Native Plant Society

⁶ CNPS 2001

⁷ A species, subspecies, or variety of plant is "endangered" when the prospects of its survival and reproduction are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, over-exploitation, predation, competition, or disease. A plant is "threatened" when it is likely to become endangered in the foreseeable future in the absence of protection measures. A plant is "rare" when, although not presently threatened with extinction, the species, subspecies, or variety is found in such small numbers throughout its range that it may be endangered if its environment worsens. Rare natural communities are those communities that are of highly limited distribution. These communities may or may not contain rare, threatened, or endangered species. The most current version of the California Natural Diversity Database's List of California Terrestrial Natural Communities may be used as a guide to the names and status of communities.

⁸ California Department of Fish and Game, Natural Diversity Database. January 2006. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication, Mimeo. 97 pp.

provide full disclosure and allow for meaningful review, the impact of the proposed operations on plant species must be evaluated in the THP; it cannot be deferred to a later date. Without an appropriate field inventory, a meaningful analysis cannot be provided.

According to the California Department of Fish and Game (DFG) botanical surveys are conducted in order to determine the environmental effects of proposed projects on all rare, threatened, and endangered plants and plant communities, when:

- Natural vegetation occurs on the site, it is unknown if rare, threatened, or endangered plants or habitats occur on the site, and the project has the potential for direct or indirect effects on vegetation; or
- Rare plants have historically been identified on the project site, but adequate information for impact assessment is lacking.

The proposed THP activities will clearly occur in an area with natural vegetation and the THP clearly points to the potential for rare, threatened, and endangered plants included in the NDDDB to occur in the area. A field survey is appropriate in this instance and should have been included in the THP. As recommended by the DFG, the report of the botanical field survey(s) containing, among other items:

- the results of field survey including detailed maps and specific location data for each plant population found,
- a list of all plants observed on the project area. Plants should be identified to the taxonomic level necessary to determine whether or not they are rare, threatened or endangered; and
- description of reference site(s) visited and phenological development of rare, threatened, or endangered plant(s)⁹

should have been included in the THP. The THP is lacking this information. This lack of data contravenes the CEQA requirement to identify, analyze and mitigate all significant impacts of the proposed activities before a decision to approve a THP is made.¹⁰ and to support with substantial evidence any conclusions of no significant adverse impacts. THPs that do not include adequate information regarding the presence of sensitive species (including those on the DFG's Special Plans List or included in the California Native Plant Society Inventory) in the area that may be significantly affected, directly or indirectly, by the proposed timber operations necessarily contain insufficient information for evaluation of the plan's potential significant impacts and for development of adequate mitigation measures and alternatives. Such plans must be denied.¹¹

It should be noted, that the content and format of the "analysis" included in the plant discussion section of the THP is not conducive to public or agency review. It is not clear what SPI Group 1,2,3 species are or what the SPI Group 4 "Watch List" contains. The THP must specify which species may potentially be impacted by the proposed plan and identify those which are listed under state or federal Endangered Species Acts or otherwise formally or officially protected. The SPI Group designations, without any explanation of their meaning, rather than assisting the reviewer, serve to confuse.

Animal Species

The applicant fails to meet the standard of review required under CEQA and the FPRs in its analysis of potential impacts of its activities on animal species in the proposed project area. CEQA requires full

⁹ California Department of Fish and Game, Natural Diversity Database. January 2006. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication, Mimeo. 97 pp.

¹⁰ See *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564 (the purpose of an EIR is to inform the public and agency officials "of the environmental consequences of their decisions *before* they are made") emphasis in original.

¹¹ See *Sierra Club v. Board of Forestry*, 7 Cal. 4th 1215

disclosure of potential impacts. Additionally, the applicant relies on a record search for its species (NDDDB ,SPI records and Big Trees State Parks's records) and has not conducted a site review (according the THPs) to identify the current site condition relative to species present in the area and vicinity.

California Spotted Owl

It is noted that the California Spotted Owl¹² was sighted in the area and within ¼ mile of the watershed boundary. The applicant provides information that indicates that a portion of the project area (Area No. 5) is in an "Area of Concern" characterized by habitat fragmentation where the concern is that the density of owl pairs may be decreased and dispersal between territories may be more difficult (THP, p. 105). The applicant goes on to state that the THP provides protection to the species by site-specific mitigation. However, the applicant fails to identify this mitigation beyond the requirement for an RPF to stop operations when a raptor or a nest is discovered. The applicant relies on a study of Northern Spotted Owls in the analysis of the potential impacts of the proposed THP on the California Spotted Owl by suggesting that there are genetic similarities between the two species. This approach is not supported by any evidence that the genetic similarity will result in the same response to environmental stressors in both species.

The THP must provide a review of the species that is of concern, not a related species that may or may not exhibit the same behaviours under stress, especially if the species is considered to be threatened by logging according to the California Department of Fish and Game and has been deemed by the USFWS as subject to cumulative impacts, *a major one of which is timber harvesting on private land* (THP p.98 quoting USDI on the Sierra Nevada Framework).

Northern Goshawk

A northern goshawk has been sighted in the project area and within ¼ mile outside of the watershed boundary. As with the spotted owl, the applicant relies on a database search and visit by an RPF. No data from a site specific survey by a biologist is available in the THP.

Pacific Fisher

The Pacific Fisher is discussed in the cumulative impacts section. Unlike the spotted owl, it is not identified in other sections of the THP, although both are sensitive species and the Pacific Fisher is a candidate species under the federal ESA¹³. The implication seems to be that the pacific fisher is not identified as present at the site, yet there is no biological survey to support this implication. The discussion, in the THP, of impacts of the proposed activity on the Pacific Fisher is general and fails to evaluate the site-specific impacts of the proposed operation at the THP site. The assertion that the Pacific Fisher avoids snow is contravened by occurrence of the species in the Kern Plateau in the High Sierra, where snow is present. The historic distribution of the Pacific Fisher includes habitat of the northern Sierra (Grinnell's 937 distribution).

During the past three field seasons, the USFS has conducted inventories of the Pacific Fisher and Marten on 554 primary sample units (with more than 3,500 individual survey stations and over 35,000 survey nights). In the southern Sierra Nevada, Pacific Fishers were detected at 95 sample units. Fisher were generally detected at average elevations of 6,083 feet (95 percent Confidence Interval ranging from 5,845 feet to 6,320 feet). Pacific Fishers were detected as low as 3,110 feet and as high as 8,291 feet. While preliminary results indicate that fisher are well-distributed in portions of the Sequoia and Sierra National Forests and comparisons to survey data from the 1990s suggest that the extent of occurrence for fisher may have expanded in the southern Sierra during the past ten years, the

¹² California spotted owl is a species considered as California Species of Concern, a US Forest Service and BLM sensitive species and US Fish and Wildlife Birds of Conservation Concern.

¹³ This species is a candidate species under the federal ESA and is considered sensitive by US Forest Service and BLM and DFG (CSC).

USFS has determined that continued monitoring will be critical to document fisher population expansion into the central and northern Sierra Nevada. The USFS intends to conduct sampling for fisher in the central and northern Sierra Nevada with emphasis on the Stanislaus and Lassen National Forests and additional sampling on southern Stanislaus NF, northern Sierra NF, and Yosemite National Park to establish with greater precision the northern extent of the fisher population. The USFS monitoring suggest that there is still insufficient information to conclude no presence of the Pacific Fisher in the THP area.¹⁴

Cumulative Impacts

The area subject to the Summit THP is within the boundaries of the Upper San Antonio watershed.¹⁵ It is contiguous with the area logged under the Upper San Antonio (USA) Creek THP, approved by CDF in 1999. The USA Creek THP, comprised mostly clear-cutting prescription (884 out of 918 acres). [Figure 1](#) shows the area of the USA Creek timber harvest within Upper San Antonio watershed boundary. The units proposed for harvesting under the Summit THP are contiguous with, and surround, the USA Creek timber harvest units.

[Figure 2](#) illustrates the combined Summit and USA Creek units. With the exception of limited parcels, most of the upper will have been subjected to timber harvesting, with a substantial proportion comprising clear-cutting.

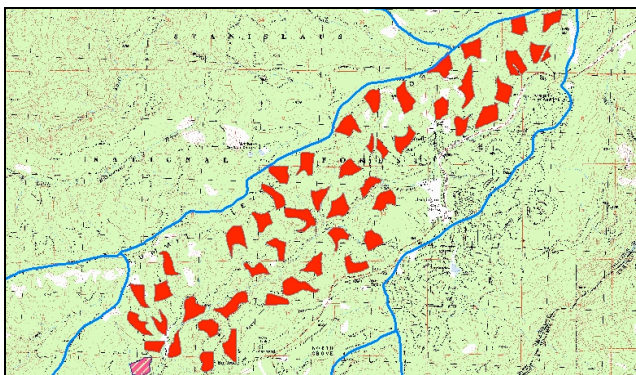


Figure 1. USA Creek THP

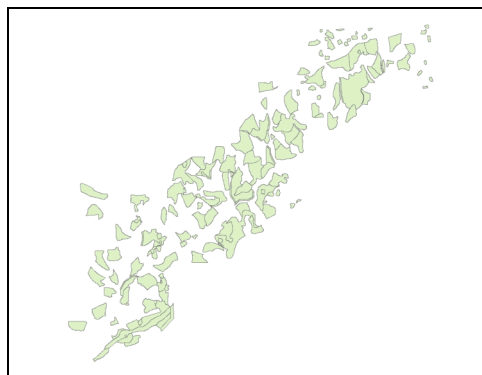


Figure 2. Summit and USA Creek THPs

[Figure 3](#) shows the condition of the area after the USA Creek timber harvest. Any harvesting that will occur as a result of implementation of the Summit THP will add further modifications to this already heavily modified landscape. The cumulative impacts of the prior, proposed and future plans are not adequately addressed in the THP. Additional harvesting is tentatively planned for 2009, essentially at the completion of the activities proposed in the Summit THP. The prescription is described as mostly “visual retention”¹⁶ (79%) and Seed Tree Seed Step (Even-aged Management) (11%). The USFS is also planning to thin about 305 acres in the same watershed. No meaningful analysis of the effects of continued landscape and habitat modification is provided in the THP.

¹⁴ Sierra Nevada Forest Plan Accomplishment Monitoring Report For 2004

¹⁵ CALWATER Planning Watershed: Upper San Antonio Creek, 6533 300101

¹⁶ “Visual Retention” is not a listed silvicultural practice in the Forest Practice Rules.



Figure 3. Pre-harvest condition of one unit within USA Creek timber harvest location

Cumulative Impacts on Plant Species

The exact same information on plant species contained in Section III, General Description of the Physical Conditions (pages 59-61) discussed above is copied and presented as an assessment of impacts in the Cumulative Impacts Analysis (pages 99-101) (as well as in Section II, Plan of Timber Operations, 16-19). This recycling of text further underlies the lack of analysis presented in either section. The text in both sections provides “boilerplate” language regarding mitigation measures to be taken in case plant species are found. It fails to identify the plant species actually present and evaluate how the plant species may actually be affected by the activities such as felling trees, yarding, road building, etc. conducted on this parcel and adjacent parcels that have been logged in the past

The applicant uses a Watershed Assessment Area defined as the Upper San Antonio Creek Planning Watershed as the physical extent of the area where cumulative impacts on plant species may result from its activities. According to DFG, when plant species are known to occur in the type(s) of habitat present in the project area, nearby accessible occurrences of the plants (reference sites) should be observed to determine that the species are identifiable at the time of the survey.¹⁷ It is quite likely that nearby areas are located outside the watershed boundary. The limitation of the cumulative impact analysis to the watershed in which the project is occurring is not justified in the plan and is possibly too narrow.

Cumulative Impacts on Animal Species

The applicant asserts that the next 100 years of continued harvesting will provide improved habitat for the bird species by growing larger trees. This assertion fails to recognize that the habitat the applicant intends to create is constantly being modified by clear cutting which instead of improving the species' habitat, destroys it, at least for the near term. The proposition that growing plots of larger trees (which alone may improve the species' viability) surrounded by clear-cut parcels improves the habitat for the pacific fisher, fails to recognize the impacts of habitat fragmentation and the associated stress to the species.

The applicant also dismisses the conclusions of the USFS regarding cumulative impacts of timber harvesting on the California spotted owl without providing any site specific data to refute the notion the *greatest cumulative threat to this species is timber harvesting on private lands*.

The biological assessment area reviewed in the THP is the watershed assessment area. This may be a reasonable assessment area for plants and less mobile species. However, for wider ranging species, such as deer, it is inadequate.

¹⁷ California Department of Fish and Game, Natural Diversity Database. January 2006. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication, Mimeo. 97 pp.

Besides the general assertion of future increased forest health due to the applicant's managed approach to timber harvesting, no meaningful analysis of potentially significant impacts to animal species is provided in the THP. This analysis must be provided to comply with the requirements of CEQA and the FPRs.

Cumulative Impacts on Visual Resources

Setting the assessment area as the THP area with a 3-mile buffer is inadequate. Assessment of visual impacts from the past, proposed and future harvests should be conducted on a view-shed basis that includes reasonable vantage points. The standard that is applied - a significant number of people will not be affected - is inappropriate. Impacts to residents and those who access the area for recreation, not just the impacts to the largest number of people, must be considered. The impacts to even a few residents in the proximity of the proposed project may be significant and must be evaluated. Given the designation of the Highway 4 corridor as a Scenic Byway, views from the Highway are of great importance to the community. There is no meaningful analysis of the effect of the proposed project on these views and the project's effect on them. The landscape modifications are likely to produce significant adverse effects on the view-shed.

Cumulative Impacts on Watershed Resources

The discussion of impacts on the watershed resources in the THP is inadequate. No site-specific impacts are evaluated. Conclusory statements such as "these voluntary measures of the THP, along with the WLPZ requirements of the FPRs [sic], should be more than adequate to protect the beneficial uses of the water within and downstream of the CIAA.." (THP, p. 91) are not supported by evidence or discussion. The discussion of peak flow effects on page 92 is not site-specific to the watershed in the THP. The discussion is of unrelated watersheds without data to indicate how it is relevant to the watershed in which the THP is located. On page 94 the discussion seems to be a copy and paste error, as the watershed described is the Basin Creek watershed in Kern County.

Cumulative Impacts – Catastrophic Fire Vulnerability

The applicant states that "[a]n integral part of any proposed harvest operation is to pro-actively improve the current timber, watershed and wildlife resources and *reduce fire danger within the plan area...*" (emphasis added). The Upper San Antonio Creek is adjacent to an urban area where fire vulnerability is a major public issue, is a west-south-west aspect canyon with full sun and prevailing winds sweeping up the canyon, and as such is prone to forest fires.

The proposed harvest plan area has previously been extensively logged, altering a significant part of the watershed with even-aged silviculture (clearcutting authorized by the USA Creek THP ,1999) The proposed activities under the Summit THP and the anticipated activities discussed as future prescriptions (2009) are likely to be interim steps to clearcutting in the area, according the applicant's forest management philosophy, which would results in a high proportion of the watershed being altered to even-aged plantations. There is significant concern amongst agency and professional analysts that this type of forestry can and does lead to catastrophic fires, as evidenced by the Board of Forestry's recently implementation of the Tahoe Emergency Rules Package based on the danger of catastrophic fire due to even-aged plantation style timber harvest methodology.

The potential increase in forest fires in an area adjacent to residential land uses presents a serious threat to the adjacent communities. However, the applicant provides only a conclusory statement about the benefits of its activities in diminishing the fire risk without the meaningful analysis.

Closing

It is the intent of the Legislature to create and maintain an effective and comprehensive system of regulation and use of all timberlands so as to assure that where feasible, the productivity of timberlands is restored, enhanced and maintained. The goal of maximum sustained production of high-quality timber products is to be achieved while giving consideration to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment.

It is the duty of CDF to ensure that each THP submitted to it for approval contains an evaluation of all potentially significant impacts of the proposed project, and that it communicates this information honestly, fully and clearly to the public and the agency. Identified or potential significant impacts of each proposed project must be mitigated or the agency must find that there are overriding considerations that allow for the proposed plan to be approved despite unmitigated significant impacts. The subject THP does not meet the standard of analysis required by CEQA and FPRs and should not be approved without additional analysis.

Sincerely,

Ebbetts Pass Forests Watch

A handwritten signature in blue ink, appearing to read 'Agata A. Sulczynski', is written in a cursive style.

Agata A. Sulczynski, JD, REA
Vice President