

Spur 11 Approval  
Comments

**OFFICIAL RESPONSE TO SIGNIFICANT ENVIRONMENTAL POINTS  
RAISED DURING THE TIMBER HARVESTING PLAN EVALUATION  
PROCESS**

**FROM THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF  
FORESTRY AND FIRE PROTECTION (CAL FIRE)**

TIMBER HARVESTING PLAN (THP) No :	4-06-46/CAL-8
SUBMITTER :	Sierra Pacific Industries
COUNTY :	Calaveras
END OF PUBLIC COMMENT PERIOD :	November 19, 2007
DATE OF RESPONSE AND APPROVAL :	December 4, 2007

The California Department of Forestry and Fire Protection (CDF, CAL FIRE, Department) is the lead agency in the review of Timber Harvesting Plans. These Plans are submitted to CAL FIRE, which directs a multidisciplinary review team of specialists from other governmental agencies to ensure compliance with environmental laws and regulations. As a part of this review process, CAL FIRE accepted and responded to comments, which addressed significant environmental points raised during the evaluation of the plan referenced above. This document is the Director's official response to those significant environmental points, which specifically address this timber harvesting plan. Comments, which were made on like topics, have been grouped together and addressed in a single response. Remarks concerning the validity of the review process for timber operations, questions of law, or topics and concerns so remote or speculative that they could not be reasonably assessed or related to the outcome of a timber harvesting operation, have not been addressed.

Sincerely,



Michael J. Bacca  
Forester II, Forest Practice Manager  
RPF # 2236

cc: CAL FIRE Inspector Tinsley  
Tuolumne Calaveras Unit  
Calaveras County Planning  
California Department of Fish and Game  
California State Parks and Recreation  
California Geological Survey  
Central Valley Regional Water Quality Control Board  
Ebbetts Pass Forest Watch  
Susan A. Robinson  
Californians for Alternatives to Toxics  
Central Sierra Environmental Resource Center

## **PUBLIC NOTIFICATION**

To inform the public of this proposed Timber Harvesting Plan (THP) and determine if there were any concerns with the plan the following actions were taken:

- Notice of the receipt of the plan was submitted to the county clerk for posting with other environmental notices (ref. 14CCR §1032.8).
- Notice of the plan was posted at the Department's local office and also at the regional office in Fresno.(ref. 14CCR §1032.8).
- Notice of the receipt of the THP was sent to those organizations and individuals on the Department's list for notification of plans (ref. 14CCR §1032.9(b)).
- A "Notice of the Intent to Harvest Timber" was posted near the plan site (ref. 14CCR §1032.7).
- A "Notice of Intent to Harvest Timber" was mailed to all property owners within 300 ft. of the plan boundary, where applicable (ref. 14CCR §§1032.7(e) & (f)).

In addition, the Department determined that a pre-harvest inspection (PHI) was required to take place on the site of the proposed operation before a decision could be made on the proposed plan. The review of this plan resulted in site-specific measures being incorporated into the THP. With the addition of these protective measures CDF determined there would be no significant adverse or cumulative impacts resulting from this plan.

## **THP REVIEW PROCESS**

The laws and regulations that govern the Timber Harvesting Plan review process are found in Statute law in the form of the Forest Practice Act which is contained in the Public Resources Code (PRC), and Administrative law in the rules of the Board of Forestry and Fire Protection (the Forest Practice Rules) which are contained in the California Code of Regulations (CCR).

The Forest Practice Rules are lengthy in scope and detail and provide explicit instructions for permissible and prohibited actions that govern the conduct of timber operations in the field. The major categories covered by the rules include:

- Timber Harvesting Plan contents and the Timber Harvesting Plan review process
- Silvicultural methods
- Harvesting practices and erosion control
- Site preparation
- Watercourse and lake protection
- Hazard reduction
- Fire protection
- Forest insect and disease protection practices
- Coastal Commission Special Treatment Areas (where applicable)
- Use, construction, and maintenance of logging roads and landings
- County-specific rules (where applicable)

When a THP is submitted to the California Department of Forestry and Fire Protection (CDF, CAL FIRE, Department), a multidisciplinary review team conducts the first review team meeting to assess the Timber Harvesting Plan. The review team normally consists of, but is not necessarily limited to, representatives of CAL FIRE, the Department of Fish and Game, the California Geological Survey, and the Regional Water Quality Control Board. The purpose of the first review team meeting is to assess the proposed logging plan

and determine on a preliminary basis whether it conforms to the rules of the Board of Forestry and Fire Protection. If it is found in conformance on this preliminary basis, questions are formulated which are to be answered by a field inspection team.

Next, a pre-harvest inspection (PHI) is normally conducted to examine the THP area and the logging plan. All review team members may attend, as well as other experts and agency personnel whom the Department may request. As a result of the PHI, additional recommendations may be formulated for site-specific conditions to ensure environmental protection.

After a PHI, a Second Review Team Meeting is conducted to examine the field inspection reports and to finalize any additional recommendations or changes in the Timber Harvesting Plan. The review team transmits these recommendations to the Registered Professional Forester (RPF) who developed the harvesting plan. The RPF must address and respond to each recommendation. To reach a decision on acceptance or denial of a proposed THP, the Director's representative considers public comment, the adequacy of the RPF's response, and the recommendations of the review team chairperson before reaching a decision to approve or deny a THP.

If a Timber Harvesting Plan is approved, logging may commence. The Timber Harvesting Plan is valid for up to three years, and may be extended under special circumstances for a maximum of 2 years more for a total of 5 years.

Before commencing operations, the plan submitter must notify CAL FIRE. During operations, CAL FIRE periodically inspects the logging area for compliance with the specifications of the Timber Harvesting Plan and for compliance with the Forest Practice Rules. The number of the inspections will depend upon the plan size, duration, complexity, regeneration method, and the potential for impacts. The contents of the Timber Harvesting Plan and the Forest Practice Rules provide the criteria CAL FIRE inspectors use to determine if violations exist. While CAL FIRE cannot guarantee that a violation will not occur, it is CAL FIRE's policy to pursue vigorously the prompt and positive enforcement of the Forest Practice Act, the Forest Practice Rules, related laws and regulations, and environmental protection measures applying to timber operations on the non-Federally owned lands in California. This enforcement policy is directed primarily at preventing and deterring forest practice violations, and secondarily at prompt and adequate correction of violations when they occur. The mitigation measures required or incorporated in this Timber Harvesting Plan will be monitored during the inspections conducted by CAL FIRE as authorized or required by the Forest Practice Act. The inspections include but are not limited to inspections during operations pursuant to Public Resources Code (PRC) section 4604, inspections of completed work pursuant to PRC section 4586, erosion control monitoring as per PRC section 4585(a), and stocking inspection pursuant to PRC section 4588.

Most forest practice violations are correctable and the Department's enforcement program assures correction. Where non-correctable violations occur, criminal action is usually taken. Depending on the outcome of the case and the court in which the case is heard, some sort of environmental corrective work is usually done. This is intended to offset non-correctable adverse impacts.

Once harvesting operations are finished, a completion report must be submitted certifying that the area meets the requirements of the rules. CAL FIRE inspects the area to verify that all aspects of the applicable rules and regulations have been followed, including erosion control work. Depending on the silvicultural system used, the stocking standards of the rules must be met immediately or in certain cases within five years. A stocking report must be filed to certify that the requirements have been met.

## BACKGROUND

THP 4-06-046/CAL-8 proposes the use of silvicultural methods where artificial regeneration will be required in order to establish a new crop of trees. Typically, the Plan Submitter (SPI) has utilized herbicides to retard the encroachment of brush and weed species. Page 107 of the THP states that "...there exists a reasonable possibility that some form of herbicide may be used to control vegetation post-harvest on some portion of the proposed THP." Herbicides may be used for site preparation purposes and/or may be used later where needed for release of conifers where their survival is threatened by competition from unwanted brush or weed species. Page 5 and 6 of the THP indicates broadcast burning and mechanical methods for site preparation, but also indicates that "*SPI has used herbicides in the past for vegetation management in certain even-aged management units.*" Page 104 of the plan further states: "*At the present time, it is not possible to predict (without speculation) which herbicide, in which area, in which concentration, at which time will be used, if at all.*" Previous landowners of the property on and surrounding this THP included Georgia-Pacific, Georgia-Pacific West, American Forest Products Company and earlier owners. These previous industrial landowner largely employed silvicultural methods where artificial regeneration was not required and where herbicides were used mainly for control of patchy areas that had been invaded by bear-clover. However, these landowners employed repeated use of uneven-aged methods which selected the best and fastest growing trees as frequently as twice per decade. This has resulted in areas and blocks of timber in which growth is not maximized and where, in some cases, the species composition of the resulting forest is skewed towards fir and cedar rather than the more valuable pine species. The current landowner has employed the use of even-age methods in the general project area for the past decade and has used herbicides to control competing vegetation. This past use of herbicides within the general area of this project has not resulted in CAL FIRE finding significant adverse impacts to the environment. The potential for use of herbicides is included in the THP in the event that some treatment of competing vegetation develops in the future or is needed in site preparation activities. As these events are dependent on natural conditions that would only occur after the actual harvest of timber, it cannot be predicted in advance with any degree of accuracy the extent or type of chemical application that might be needed. The use of this tool may actually occur at a time when the THP itself has expired and when CAL FIRE no longer has authority over activities that occur on this private property. But, while CAL FIRE authority expires, there is still the requirement for the landowner to comply with the laws and regulations from the State DPR, including the PCA and PCO licenses and requirements. Thus in the post CAL FIRE period, there is sill protective measures and mitigation of impacts.

On a totally intuitive basis it is reasonable to expect that the use of herbicides as typically applied for forest management purposes and as constrained by the protection measures described in the plan and by using methods required by other laws, would not produce significant adverse individual or cumulative impacts. Many of the products used in forest management are also used for agriculture and in urban/suburban settings. The rotation of a forest is on the order of decades with herbicides, if needed, being applied once or in rare cases two or three times during that rotation of 50 to 80 years in Sierra mixed conifer. In an agricultural or urban/suburban setting, herbicide application might be annually and often times it would be several times in a single year. Actual application methods in forest management or in agriculture may be similar and could include backpack sprayers, hack and squirt, ground mounted sprayers or use of aircraft. In urban/suburban settings they are commonly applied by the general public with little to no oversight relative to proper application, clean up and disposal of unused materials. In contrast, SPI states on page 108 of the THP that application of herbicides, if necessary, will be done under the advice of a licensed pest control advisor and the actual application will be under the direct supervision of a licensed pest control operator.

In a forest setting buffers protecting ponds, wet areas and watercourses are required by the Forest Practice Rules. The THP applicant has adopted the Forest Practice rule buffers, which are typically larger than buffers specified in the labels for most herbicide products as indicated on page 108 of the plan; *“As a point of clarification, SPI would like to define ‘required buffers’ as used in item 8 to include all Forest Practice Rule required buffers even though commonly the herbicide labels allow narrower stream protection. In addition, ‘carefully avoided’ means no herbicide will be applied in these buffers.”* In urban/suburban settings there may be no vegetated buffer between the treated lawn/garden/golf course and the storm drain that runs directly to the creek system. In agricultural settings, while buffers are provided for open water, they are generally not as generous as those provided for in the forest setting because agricultural crops are usually planted as close as possible to irrigation channels, drainage ditches and watercourses in order to economically utilize all available growing areas. Agricultural areas are not subject to the buffer restrictions of the Forest Practice Rules. The expectation that watercourses are adequately protected in California forest management that are subject to the Forest Practice Rules is supported by the fact that water monitoring downstream of timber harvest units treated with ground based herbicides has not detected herbicide residues (<http://www.cdpr.ca.gov/docs/empm/pubs/tribal/min06-98.htm>).

Likewise, in agricultural settings many adjacent fields may be treated during the same calendar year if not at the same time. Harvest restrictions on even-age management minimize the potential that adjacent areas will require treatment in the same year. In the Forest Practice Rules, 14 CCR 953.1(a)(3) and (4)(A) stipulate: *“Evenaged regeneration units within an ownership shall be separated by a logical logging unit that is at least as large as the area being harvested or 20 acres, whichever is less, and shall be separated by at least 300 ft. in all directions”* and *“Within ownership boundaries, no logical logging unit contiguous to an evenaged management unit may be harvested using an evenaged regeneration method unless the following are met: ... The prior evenaged regeneration unit has an approved report of stocking, and the dominant and codominant trees average at least five feet tall, or at least five years of age from the time of establishment on the site, either by planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent evenaged management may occur.”*

In a forest setting, relatively small areas averaging approximately 20 acres in size, scattered over the landscape may be treated. 14 CCR 953.1(a)(2) stipulates: *“The regeneration harvest of evenaged management shall be limited to 20 acres for tractor yarding. Aerial or cable yarding may be 30 acres. Tractor yarding may be increased to 30 acres where EHR is low and the slopes are <30%. The RPF may propose increasing these acreage limits to a maximum of 40 acres ...”* Any increase in acreage above the 20 or 30 acres limits must be approved by the Department. In THP 4-06-046/CAL-8, the clearcut harvest areas range in size from 4 to 23 acres and average less than 15 acres in size. The units are separated by a distance of 400 feet to over 1000 feet.

Exposure to the herbicides used in forestry settings or related chemicals off site is not common or frequent by the general public as the area is not heavily used or traveled and is private property. The treatment sites themselves are small, widely scattered. Page 115 of the THP reveals that fishing, hunting, hiking and similar activities are generally allowed on these timberlands, but that overnight camping is not allowed.

There are two USFS roads that could be used by the public to access the project area. Road 7N09 is an unpaved road that traverses the project area and is located over ten miles from the small community of West Point, California. Another unpaved road into the project area is Road 7N23, which ends on Black