

*Sent via Electronic Transmission to: [AB1492Program.Comments@resources.ca.gov](mailto:AB1492Program.Comments@resources.ca.gov)*

December 5, 2014

Russell Henly  
Assistant Secretary of Forest Resources Management  
California Natural Resources Agency  
1416 ninth Street Suite 1311  
Sacramento, CA 95814

**RE: Comments on "Draft Redding Pilot Project Follow-up Plan"**

Dear Mr. Henly:

The Environmental Protection Information Center (EPIC), Ebbetts Pass Forest Watch, Central Coast Forest Watch, Battle Creek Alliance, Sierra Club California, and Forests Forever provide the following comments on the "Draft Redding Pilot Project Follow-up Plan" (Draft Plan). We submit these comments on behalf of our organizations and our members.

We endorse the implementation of AB 1492 and believe that the Pilot Project should be transitioned into the AB 1492 Program. However, the Draft Report as presented is inadequate in its proposals because it lacks definition, clarity and specifics, as discussed below. Before any final Plan is

adopted, an adequate Draft Plan that provides clearer implementation of AB 1492 must be circulated for public review and comment. This would facilitate the transparency required by AB 1492.

The Draft Plan, by its terms, is a “brief follow-up report to provide a plan for further action on the Redding Pilot Project recommendations, closing out finished issues, and transitioning remaining issues into the larger, ongoing Timber Regulation and Forest Restoration Program Implementation [AB 1492].” (Draft Plan at 2). As we understand this, this means the brief follow-up report *is* the Draft Plan for which public comment is sought, and that after the public comment period has closed, California Natural Resources Agency (CNRA) and California Environmental Protection Agency (CalEPA) will issue a final follow-up plan for the Redding Pilot Project (Pilot Project). We further understand that all follow-up for the Redding Pilot Project will be proceed under the auspices of AB 1492 implementation. (*Id.* at 1). The Draft Plan provides an “implementation discussion” of the Pilot Project Recommendations; it does not identify what “finished issues” are being closed out.

These comments respond to what the Pilot Project did and did not do, identify AB 1492 requirements and how the Pilot Project may implement AB 1492, respond to the Draft Plan’s discussion to Pilot Project recommendations, and briefly discuss how to proceed with the AB 1492 Program.

### **Redding Pilot Project**

It is important to recognize what the Pilot Project did—and did not—do. Its stated goal was to “significantly reduce processing times for timber harvest permits within the Pilot Project area, ensure appropriate and full agency participation in review process, maintain a high level of environmental protection, and to identify process improvements that could be expanded to other parts of the state.” (*Id.*; see also “Redding Timber Harvesting Review Pilot Project, July 2013 (2013 Report) at 1).

As evidenced by both the “Findings” in the July 2013 Report, and the summary of study results as provided in the “Redding Timber Harvesting Review Pilot Project June 2014 Supplemental Report” (2014 Report), the Project focused on the first of these goals: reducing processing times for timber harvest permits. (See 2013 Report at 13–14; 2014 Report at 24–25). The data provided outlines the number of days and hours for the various review process steps. (See 2014 Report, Appendices B and C). The 2014 Report documents that the study resulted in identifying whether time frames for the identified review process “steps” were changed in the Pilot Project. (*Id.* at 24–25). The results show that in some instances there was a decrease in time (e.g., number of days from Plan filing to the PHI date), and in others, an increase in time (e.g., end of the PHI to the Director’s determination). (*Id.* at 24). It does not appear from the provided statistics that any “significant” reduction in processing times occurred under the Pilot Project. Because only statistics are provided, there is no evidence that “appropriate and full agency participation in the review process” actually occurred or was “ensured.”

While the 2013 Report sets forth findings concerning other process items, such as the commitment of review team agencies, agency coordination and communication, and the effectiveness of a single PHI report, there is no data to substantiate these findings. The findings presented in “lessons learned” appear to be based on feedback not from “all stakeholders,” but only from individuals and companies who submitted plans under the Pilot Project. (2013 Report at 12). In this way, the Pilot Project not only excluded the public from the whole process, but failed to provide data from relevant agencies concerning the conclusions reached.

These reports establish that the Pilot Project has limited results, as largely an experiment in efficiency and negotiating time frames for the review process. Particularly, to date it has not provided

any substantive data or information to inform or establish that achievement of its goal to “maintain a high level of environmental protection.” we therefore disagree with the 2013 Report conclusion that “the Pilot Project met the primary goals outlined in the joint CNRA-CalEPA Memorandum, dated March 22, 2012.” (2013 Report at 17). A “high level of environmental protection” is not ensured simply through the participation by all Redding review team agencies; it requires actual evidence of environmental protection through project implementation and monitoring. The Pilot Project did not provide that data.

### **AB 1492 and Pilot Project**

We provide these comments on AB 1492 because the Draft Plan proposes to transition the Pilot Project activities into the AB 1492 Program.

#### **– AB 1492 Provisions**

In AB 1492 the Legislature determined “that the state's forest practice program needs to develop adequate performance measures to provide transparency for both the regulated community and other stakeholders.” (PRC § 4629.1). To fulfill this need, the Legislature enacted Article 9.5 to accomplish these specific goals:

- promote and encourage sustainable forest practices consistent with many laws, including Timberland Productivity Act, CEQA, Porter-Cologne Water Quality Act, and CESA;
- ensure continue sustainable funding for the state’s forest practice program;
- support in-state timber production consistent with environmental standards and promote and encourage retention of forests and forested landscapes;
- create funding for restoration of state’s forested lands, promote restoration of fisheries and wildlife habitat and water quality improvement;
- promote restoration and management of forested landscapes consistent with our state’s Global Warming Solutions Act;
- promote transparency in regulatory costs and programs by creating performance measures and accountability for the state’s forest practice regulatory program, and simplifying the collection and use of critical data to ensure consistency with applicable laws;
- identify and implement efficiencies in the regulation of timber harvesting between state agencies; and
- modify the current regulatory programs to incorporate and provide incentives for best practices, and develop standards or strategies to protect natural resources, including through the development of ownership, watershed or district scale plans that address road management and riparian function. (PRC § 4629.2).

In sum, *AB 1492 establishes substantive goals* (1) for sustainable forest practices consistent with applicable laws, (2) to retain forests and forested landscapes to assure in-state timber production, (3) to restore fisheries and wildlife habitat and improve water quality, (4) to restore and manage forested landscapes consistent with California’s Global Warming law, (5) for transparency in the costs and the

programs through development of performance measures and accountability for the forest practice program and by simplifying the collection and use of data to ensure consistency with all applicable laws, (6) to identify and implement efficiencies among agencies in the regulation of timber harvesting, (7) to modify the existing regulatory program to incorporate and provide incentives for best practices and develop standards or strategies to protect natural resources through development of large scale plans for road management and riparian functions, and (8) for adequate sustainable funding for the state's forest practice program to protect the state's forest resources and to for restoration of state's forested lands, fisheries, wildlife habitat, and water quality.

The AB 1492 funding mechanism is the "Timber Regulation and Forest Restoration Fund," funded through an assessment on consumer-purchase of lumber products, (PRC §§ 4629.3, 4629.5), and to be used to fund specified activities in order of priority, (PRC §§ 4629.6, 4629.8).

AB 1492 requires the Board of Forestry to adopt regulations identifying the lumber products to be subject to the assessment, and to adopt any regulations necessary to implement Article 9.5. PRC § 4629.4.

The law also requires CNRA and CalEPA to submit joint annual reports to the Joint Legislative Budget Committee "on the activities of all state departments, agencies and boards relating to forest and timberland regulation." (PRC § 4629.9). At a minimum the reports must contain: (1) statistics about plan review, personnel and agency workloads and the costs associated with that review and other forest-related activities; (2) summary of any identified process-improvements; and (3) a set of measures for and collection of data on the program, including: (a) the numbers of timber harvest plans reviewed, field inspections per inspector, acres under active plans, violations; (b) average time for plan review; and (c) evaluating ecological performance. (*Id.*).

#### **- Relationship of Pilot Project and AB 1492**

AB 1492 was signed in September 2012, after issuance of the March 2012 Memorandum directing initiation of the Pilot Project. The 2013 Report includes discussion of the relationship of the Pilot Project to AB 1492, stating the "review team agencies assessed ways in which work performed to comply with AB 1492 could be dovetailed with work performed under the Pilot Project." (2013 Report at 16). The 2013 Report identifies two main AB 1492 areas it finds applicable to the Pilot Project: (1) the section 4629.2 goals to promote transparency through performance measures and accountability, to simplify collection and use of data among agencies, and to identify and implement efficiencies in the regulation of timber harvesting; and (2) the section 4629.9 annual reporting requirement. (*Id.* at 17). The 2013 Report recommends that "future implementation of any similar study should be tailored to comply with the[se] objectives and requirements," with an emphasis on "development and implementation of a central database," to be accessed by all agencies to "input, manage, and monitor key data important to each agency," which can monitor the status of the review process and compile the information necessary for the section 4629.9 report, and which provides an efficient mechanism to schedule PHIs. (*Id.*)

#### **Draft Plan Responses to Recommendations**

As an initial matter, we raise two specific objections to the Draft Plan. First, we object to the Pilot Project Recommendations, because they are the product of a process which entirely excluded the public as a bona-fide stakeholder. The public was never given an opportunity to provide input on and feedback of the Pilot Project Review processes. From our perspective, the Recommendations, as well-intentioned as they may be, are inadequate due to the failure to include the public. Any "final plan"

needs to remedy this failure by guaranteeing the public a meaningful role during the implementation. Second, we object to the Draft Plan to the extent it does not clearly identify what (1) “further action” is to be taken, (2) are the “finished issues” which are “clos[ed] out,” and (3) what are the “remaining issues” to be transitioned into the AB 1492 Program. Instead, we have to summarize comments in an effort to identify what these three areas are.

On February 5, 2014 a coalition of environmental groups submitted a comment letter in response to the 2013 Report. A copy of that letter is attached and incorporated by reference, as much of it remains relevant to any ongoing Pilot Project effort. Specifically, concern about public exclusion from the process, and conclusions reached particularly as to potential efficiencies through timing between First Review and the PHI, use of a single PHI report, and monthly manager meetings in lieu of Second Review Team meetings remain relevant going forward.

Below are comments on the Draft Plan’s proposed implementation of each Recommendation.

**Recommendation 1. Evaluate the use of lessons learned from the Redding Pilot Project model in other geographic regions of the State (e.g., Coast, Northern and Southern Forest Districts described in the Forest Practice Rules, Title 14, California Code of Regulations, Section 906 et seq.**

It is unfortunate that the Draft Plan does not state the “lessons learned” proposed for evaluation. The “lessons learned” as provided in the 2013 Report appear to be solely the product of feedback from plan submitters, without input from other stakeholders, including the public. In this way, the efficacy of the “lessons learned” is limited, if not one-sided. Moreover because many of the listed “findings” set forth are not supported by data or documentation other than the feedback letters from plan submitters, they too are of limited value.

In response, the Draft Plan indicates that “consideration” of these lessons learned “will be an ongoing part” under the AB 1492 Program. (Draft Plan at 2).

Due to the limited value of the lessons learned, we believe any “consideration” should be focused on the limited results of the Pilot Project, as set forth above, rather than adopt findings that are not credible due to lack of stakeholder involvement and supporting data.

**Recommendation 2. Consider establishing a framework, including duties for program managers, to allow CNRA and CalEPA to implement and oversee AB 1492 mandates. Oversight by CNRA and CalEPA would ensure that Statewide, consistent implementation of laws, regulations and policies occur when and where appropriate.**

In response to this recommendation, the Draft Report identifies steps now underway by the CNRA and CalEPA to address specific areas of AB 1492: development of working groups for data and monitoring, ecological performance measures, administrative performance measures, and interagency information systems. (Draft Report at 2–3). The Draft Plan refers to draft charters for the four working groups, which to date are not available. (*Id.*, at 3). The Draft Plan states that a public comment period will be provided for the charters (*id.*); however the charters should be available for comment in conjunction with this Draft Plan, to the extent the Draft Plan intends to rely on them. Delaying their release adversely impacts the ability to comment on this Draft Plan.

We endorse the Pilot Project Recommendation that a framework be created that places responsibility for implementing and overseeing AB 1492 mandates within CNRA and CalEPA, as it is

high-time to provide a true multi-disciplinary agency approach balancing protection of all natural resources, rather than the singular focus on timber production. AB 1492 recognizes this imperative when it calls for, among other things, “sustainable forest practices consistent with provisions” of other laws, (PRC § 4692.2(a)), transparency in the state’s forest practice regulatory programs, (PRC § 4692.2(f)), protection of natural resources through best practices and large scale planning, (PRC § 4692.2(h)), and annual plans by CNRA and CalEPA reporting on activities “of all state departments, agencies, and boards relating to forest and timberland regulation.” (PRC § 4629.9(a)).

We believe the Draft Plan’s response is insufficient to implement the Recommendation, because the current AB 1492 approach as described fails to embrace the full scope of AB 1492, largely keeps oversight within CAL FIRE, and fails to effectively provide a meaningful role for public input. The Draft Plan itself limits discussion of AB 1492 to certain matters, which much like the Pilot Project, are focused on process, rather than on substantive needs. There is no mention of, for example, the need to ensure “sustainable forest practices,” “incentives for best practices,” funding for “restoration of the state’s forest lands” and to “promote restoration of fisheries and wildlife habitat and improvement in water quality,” or “standards or strategies ... to protect natural resources.” Rather, the four working groups appear singularly focused on the categories of information required for the annual reports. This is a short-sighted approach. Oversight remains with CAL FIRE and its Board; for example, a major portion, if not the majority of the main players on the Working Groups are also members of the Board of Forestry’ Effectiveness Monitoring Committee (“EMC”). And, there is no real public representation on either the EMC or the AB 1492 working groups. The public is likely limited to letters and three-minute verbal testimony at what can be anticipated as poorly or unnoticed meetings with shifting locations, purposes, and personnel.

To proceed, all meetings and hearings must be held under the auspices and venues of the CNRA and CalEPA, including for development of charters and work plans. These must be adequately noticed and all documents available in advance for sufficient time to provide effective public participation. The funding scheme under AB 1492 certainly can provide for this kind of public role.

**Recommendation 3. Consider options to adjust the current legally mandated ten-calendar-day First Review and Pre-harvest Inspection (PHI) commencement timelines, and/or change statute and regulations to allow agencies to meter Plan review workload (i.e., set up a maximum number of plans accepted for review on a weekly basis), particularly during times of high workload.**

It appears that the Draft Plan proposes to (1) look at opportunities for process improvement more carefully and monitor how existing timelines are met and (2) initiate a discussion with the Board of Forestry and stakeholders the potential for modifying the existing timelines to provide more flexibility while still providing a thorough review process. (Draft Plan at 4).

The February 5, 2014 comments address the need to revise timelines. The 10-day timeframe is no longer realistic, and needs to be extended. To the extent the Draft Report proposes to initiate a discussion, we expect and request that the public being included as a bona-fide stakeholder throughout this discussion.

**Recommendation 4. Develop a centralized database shared by all Review Team agencies that would include the necessary information to accurately monitor Plan submittals plus reporting requirements of AB 1492. This database should be designed to allow each Review Team agency to**

**input, manage, and monitor key data, and where appropriate, allow data to be shared with other agencies.**

The Draft Report advises that this recommendation is a major area of work for the AB 1492 Program, and that current “[a]pproaches being considered include online THP submittals, commercially available permitting program information systems, and building on to existing systems such as Forest Practice Watershed Mapper or Cal MAPPER, a system currently under development.” (Draft Report at 5).

We agree that online access to THPs and other plan information is critical and necessary. We maintain that any centralized database should not be limited to Review Team agencies, and must be freely accessible by the public, so as to be advised of and inform legally adequate decision-making, monitoring and enforcement. This is particularly necessary for agencies to maintain adequate and accessible records of administrative review and decision-making.

**Recommendation 5. Encourage interagency communication through regular manager meetings sponsored by CNRA and CalEPA. These meetings should be focused on fostering interagency communication, addressing issues in a timely fashion, assessing procedures to increase efficiencies in Plan review while ensuring thorough and complete environmental review of projects. These meetings are intended to be staffed by local-level agency/department/board decision makers and attended by CNRA and CalEPA as appropriate.**

The Draft Report proposes a “single statewide roundtable meeting for managers about twice a year, with a focus on (1) problems coming up frequently on THPs or particularly difficult problems, (2) AB 1492 program updates, and (3) identifying new matters that units/regions will need to be trained on (e.g., new Forest Practice Rules, new policies, new species listings).” (Draft Plan at 5). These meetings would be attended by Sacramento and regional managers and CNRA, and additional local staff and supervisor meetings would be held more frequently, to provide opportunities for coordination and local problem solving. (*Id.*).

We agree in principle that period meetings for agencies and staff can address issues of concern, updates, and new matters. These meetings should not be used to develop short-cuts to adequate and necessary project review. These meetings should be transparent, such that meeting minutes be made available in a timely manner. In this way, all stakeholders can be kept apprised of issues and concerns, updates and new matters. We believe government functions best when it provides transparency.

However, because the Draft Report refers the reader to the “draft working group charters for more information,” (Draft Report at 5), in the absence of these charters, adequate information has not been provided to fully respond to the Draft Report’s response to this Recommendation.

**Recommendation 6. Examine opportunities to cross train staff and encourage the effective use of staff to service more than one program, region, or unit where feasible.**

The Draft Report proposes to “give further consideration to the needs for training of program staff.” (Draft Report at 6).

This Recommendation is somewhat unclear as to whether the opportunity to work in more than one program, region or unit is intended to apply to staff from different agencies or to staff within one agency. We are concerned if this is intended to train staff from one agency to then work in a program of

another agency. While we can appreciate the importance of training in other disciplines, we are concerned that this effort could result in diminishment of agency expertise. We believe that any further consideration of this Recommendation needs to be fully vetted and understood by all stakeholders before any binding action is taken.

**Recommendation 7. Evaluate the utility of a centralized PHI calendar system (e.g., Doodle Poll or through Microsoft Outlook) to better facilitate the scheduling of PHIs between the Plan-preparing Registered Professional Forester (RPF) and Review Team agencies.**

The Draft Report states that this Recommendation “will be addressed by the Interagency Information Systems Working Group.” (Draft Report at 6).

We find this proposal insufficient for comment. Before we are able to provide comment, the charter for the Interagency Information Systems Working Group needs to be disclosed and in place, and the manner in which this Recommendation is to be “addressed” needs to be identified.

**Recommendation 8. Consider adopting a common PHI report template used by all Review Team agencies.**

While the Draft Report mentions various steps being discussed by Review Team agencies—development of “an updated, common PHI report template” for use statewide and use of a flexible PHI report process—the Draft Report provides no response as to what action the CNRA and CalEPA propose in response to this Recommendation. It is unclear how the Draft Report considers this Recommendation—does it require further action, is it closed, or is it a remaining issue?

We refer to the enclosed February 5, 2014 comment letter which addresses this issues. While the Draft Report appears to acknowledge the concern as expressed in the February 5, 2014 letter, the Draft Report fails to provide an effective response to the Recommendation. At this point, we oppose any effort to permit a process which relies on a common PHI template which does not also maintain the right to submit an independent PHI report with equivalent reporting responsibilities.

**Recommendation 9. Investigate software that would allow Review Team agency staff to directly write to a common PHI report in real time (e.g., Microsoft SharePoint software).**

The Draft Report advises that this Recommendation “has been discussed by an *ad hoc* single PHI report working team” and that the providing the “desired information system will be addressed by the Interagency Information Systems Working Group.” (Draft Report at 7).

We object to the Draft Report proposal for three reasons. *First*, the Recommendation itself is not clear as to whether this “software” will be equally accessible to all stakeholders, including the public. It must be. *Second*, the Draft Report fails to disclose the make-up or mission of the so-called “*ad hoc* single PHI report working team.” We request that it be provided with this information so it may better understand what is being considered. *Third*, in the absence of a charter for the Interagency Information System Working Group, we are deprived the ability to understand how this working group can address any information system. The charter needs to be provided so that we may respond to the Draft Report on this Recommendation.

**Recommendation 10. Consider editing the existing CAL FIRE PHI report template to incorporate agency-specific recommendations not under CAL FIRE jurisdiction and clarify responsibility for enforcement.**

The Draft Report advises that this Recommendation “will be addressed together with Recommendation 8.” (Draft Report at 7).

We incorporate our comments above for Recommendation 8. In addition, it is not clear what “existing CAL FIRE PHI report template” is being referenced. The Draft Report should provide a copy of that document, as it is not documented in either the 2013 or 2014 Reports. Until this information is provided, we must oppose this Recommendation.

**Recommendation 11. Explore the possible benefits of establishing agreements to share staff resources, office locations, and/or equipment amongst state agencies (via Memorandum of Understanding).**

The Draft Report advises that “[a]s we work on the above recommendation and as we do our broader work to implement AB 1492, we will keep attuned to identifying and pursuing these kinds of efficiency opportunities. Our work on monitoring and ecological performance measures could potentially move us toward some exciting new opportunities in how we organize ourselves to understand and protect California’s many forest resources.” (Draft Plan at 7).

It appears that this responds to more than just Recommendation 11. As to the specifics of the Recommendation: in the past, when agencies have shared offices with CAL FIRE, it has been difficult to maintain agency independence and autonomy.

We can remember when under these circumstances staff other than CAL FIRE were directly or indirectly intimidated from taking positions contrary to CAL FIRE. While we would hope that this kind of scenario would not occur in the 21<sup>st</sup> century, it provides a lesson to be learned - any attempt at sharing staff resources must provide adequate measures to ensure independent agency autonomy and authority.

### **Moving Forward with AB 1492**

We are trying to closely follow the implementation of AB 1492. To the extent the efficiencies explored in the Pilot Project are relevant, they should be further explored. However, as noted above in the discussion of AB 1492, the law encompasses much more than review and program efficiencies. Among other things, it calls for very important and necessary program improvements — sustainable forest practices, restoration of forested lands, fisheries, wildlife and water quality, best practices, standards and strategies for large scale plans addressing road management and riparian functions, and measures to evaluate ecological performance.

It appears from our review of the two AB 1492 Reports that CNRA and CalEPA are focused on the list of reporting items set forth in section 4629.9 (a)—a list which is *not* all inclusive. There is little if any discussion in these reports describing the *substantive or complete nature* of “activities of all state departments, agencies, and boards relating to forest and timberland regulation.” (PRC § 4629.9(a)). And the reporting is even more limited than that because it provides no documentation of “measures for, and a plan for collection of data on . . . (F) Evaluating ecological performance.” (*Id.*, § 4629.9(a)(8)(F)).

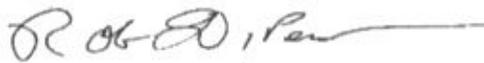
It is unfortunate that the report due on March 1, 2014 has not been submitted, as it may inform some of this. Among other things, this tardy report is to include recommendations on future funding, adequacy of the existing regulatory program, and suggestions for policy recommendations to improve the forest practice program. (PRC § 4629.10).

Moving forward, we request that with the transitioning of the Pilot Project into the AB 1492 Program and to properly implement AB 1492, the "Final Plan" needs to include foundational pilot projects on several representative real planning watersheds to start as soon as possible to: (1) inform all stakeholders what are actual landscape conditions; (2) what information is produced by the existing and past systems; and, (3) what is the reliable basis for moving forward with reform that benefits forest, watershed and wildlife recovery while being consistent with the needs of all stakeholders, multidisciplinary resource conservation and science, and environmental regulations and law.

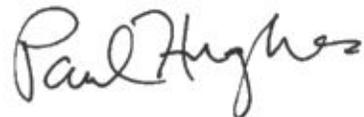
This work needs to focus on the directive to modify the current regulatory program. This effort must also include restoration and recovery, as specified in AB 1492. In conjunction with the AB 1492 process, the effort should reform the cumulative effects evaluation and response process under the existing Forest Practice Rules. Basic information must be organized, at a minimum, on a planning watershed scale with a single cumulative effects evaluation for each planning watershed—which can then be easily and electronically accessible to all stakeholders for planning and review purposes. It can contain prescribed and standard formats for essential information, upon which THPs and other plans can rely.

The AB 1492 reporting requirements provide the mechanism to secure funding for these projects, through budget change proposals. We appreciate your careful consideration of these comments and request written response.

Very truly yours,



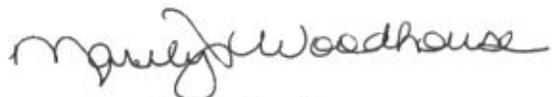
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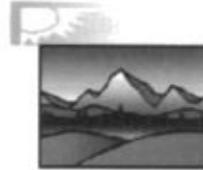


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## Central Coast Forest Watch



Keeping Northwest California wild since 1977



**Battle Creek Alliance**  
Protecting Water, Forests and Wildlife



February 5, 2014

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Dear Russ,

We the undersigned have finally had an opportunity to read and review the July, 2013 Redding Timber Harvesting Review Pilot (Pilot) Project Report (Report) on the first season of the Pilot, and would like to share our thoughts and concerns about the project to date.

More than a year ago, we asked CalFire upper management if we could be kept in the loop on what was happening, how the Pilot was being implemented, etc. Unfortunately, that never happened and it wasn't until recent receipt (November, 2013) of the Report that we had our first inkling of what was being contemplated and implemented and how the process was proceeding.

We would like to share our thoughts and concerns in the hopes of maintaining a continuing dialogue and have our comments considered prior to the preparation of the Final Report. We understand that some of our concerns are also concerns identified by

the Report, and some will be addressed during the second year of implementation, but we will still note them here now.

Our major concerns with the Pilot Project can be outlined as follows:

**1. There were insufficient plans that underwent the complete review process.**

Most plans in the Pilot only underwent First Review and the Pre Harvest Inspection (PHI). The Pilot did not focus on remaining steps including Second Review, Director's determination or operational aspects of the process.

We understand that this was due to 'a low number of approved plans at the end of the one-year pilot period', in part because many plans were submitted during the latter half of the year.

"Key process steps such as second review, evaluation of PHI response, consideration of public comment, preparation of the Director's official response, and the Director's final decision could not be evaluated as part of this Report."

We understand that a supplemental report is planned. We are glad to hear that the Pilot will continue through Second Review and plan approval, and once again, we hope we may be kept abreast of the process as it proceeds.

One question we have at this point is whether the Final/Supplemental Report will include observations on active operational inspections by CalFire.

**2. Insufficient time for conducting First Review and the PHI.**

14 CCR 1037 mandates that a plan be accepted for filing within 10 days of receipt by the Department, if found to be 'accurate, complete and in proper order.' PRC 4604 mandates that a PHI be initiated within 10 calendar days from the date the plan was filed.

We would note that since the law was enacted, the size of plan documents has increased dramatically due to additional information required to be included for environmental protection. This requires more time to adequately read and review each plan. In addition, due to a variety of issues, more PHIs are being conducted. The 10-day timeframe is no longer realistic. Under these circumstances, meeting these time frames is exceedingly hard to do and/or to do well.

- **PRC 4604. Inspection of timber operation; periodic inspections; operative date.**

**(a)** The department shall provide an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan or nonindustrial timber management plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan, except that the inspection need not be made pursuant to the filing of a timber harvesting plan if the department determines that the

inspection would not add substantive information that is necessary to enforce this chapter.

The Report notes that there are only 5 working days in which to schedule PHIs. Of course, this is in part because plans are systematically (and unexplainedly) filed on Fridays, which then includes 4 non-working days within the 10-day legally mandated period. Filing plans on a different weekday would give the Review Team agencies more flexibility for scheduling PHIs. (E.g. plans could be required to be submitted on a certain day.)

The Report also notes that due to more 'scrutiny of environmentally complex issues and additional agency-specific permit requirements' it has become more common to ask for PHIs. We believe this is a good thing.

However, we also noted reluctance from CalFire to ask for extension of PHIs, even though that is clearly allowed pursuant to PRC 4604. (See language above)

The Report notes the following problems as a result of the current 10-day PHI requirement:

- PHIs being forced to occur during inclement weather, making it difficult to perform a thorough field review.
- Reduction of staff time to conduct pre-consults and harvest inspections. (needed for 'regulation compliance and environmental assurances.')
- Reduction in other mandated work such as monitoring and law enforcement.

We note additional time constraints arise when plans are submitted immediately before Thanksgiving, or otherwise during the holiday season when agency staff are often unavailable, and when weather conditions may be so adverse as to hinder adequate site visits.<sup>1</sup>

We agree with the Report that measures need to be undertaken to relieve agency staff from this stiff 10-day PHI requirement. It is no longer appropriate given the changes in timber harvest regulation. We believe that the law should be changed to allow a longer time period in which to 1) conduct First Review, and 2) in which to schedule and conduct a PHI.

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<sup>1</sup> Comment letter appended to the Report from SPI in response to request for feedback, complaining about PHI not taking place in a timely fashion. (Of course, they submitted the plan just before Thanksgiving, which led to holiday issues and snow!)  
[ftp://thp.fire.ca.gov/THPLibrary/Sierra\\_Southern\\_Region/THPs2013/4-13-025ELD/20131211\\_4-13-025ELD\\_XPHI.pdf](ftp://thp.fire.ca.gov/THPLibrary/Sierra_Southern_Region/THPs2013/4-13-025ELD/20131211_4-13-025ELD_XPHI.pdf)

### 3. Preparation of a single PHI report, which could lead to responsible agency recommendations and/or concerns being eliminated.

CalFire currently prepares a single first review team question document in all regions during First Review. We know of one instance where DFW concerns were abbreviated and significant ones were left out of the first review questions. DFW was unhappy, and we were disturbed that CalFire would use its lead agency position to truncate the input of any of the responsible agencies tasked with participating in the timber harvest review process with a mandate to protect the public trust resources.

We are concerned that a single PHI report prepared by CalFire might also fall into a similar abyss. For this reason alone, we feel that a single PHI document is not warranted.

In fact, the Report confirms our concerns as it goes so far as to say, "CalFire inspector's report was intended to **document the major issues and recommendations shared by all agency staff** attending the PHI." (Emphasis added) We do not think it is CalFire's job to only represent their assessment of 'major issues', or only those issues 'shared by all agency staff'. This is not in compliance with CEQA, and we believe it is a misuse of authority.

The following are problems identified during the Pilot, and noted in the Report, with having multiple agency PHI reports:

- Occasions where inconsistent and duplicate PHI recommendations were developed by one or more agencies.
- Tracking and addressing each agency's recommendations was cumbersome for the RPF and CalFire RT Chair.
- Additionally, the Report states that, "This can add to the Plan approval period as additional time is needed to communicate and resolve the differences."

We find these to be insufficient reasons for creating a single PHI report. Currently, all PHI reports are posted on the ftp site, and therefore, are easy to locate. Recommendations are usually numbered and collected at the end of each PHI report for easy access. Given that there are rarely more than 3 responsible agencies participating (CGS, DFW and Regional Water Boards – (the Southern sub-district usually has the County as a fourth), tracking or dealing with redundant or inconsistent recommendations should not be an insurmountable problem. We think resolving those differences is a necessary and productive part of the Second Review meeting process. Supplemental recommendations can be added in Second Review Team reports.

Additionally, we understand that the responsible agencies need to get management approval of their PHI comments prior to their official submission to CalFire. This seems appropriate. However, it means that agreements arrived at during the PHI tailgate, may be changed upon further review, or upon receipt of additional information. It also means

that depending on workloads, additional time may be needed for these Review Team agencies to properly do their jobs.

We think all of the above-identified problems may seem insurmountable due to the apparent fact that CalFire does not hold Second Review Team (RT) meetings in the Sierra or the Northern Cascade Regions. These meetings are actually required by the Forest Practice Rules (CCR 1037.5)<sup>2</sup>, and, we believe, conducting a proper Second RT meeting will alleviate the need for a single PHI report, which may short-change the other RT members, and possibly short-change environmental protections. Any agency differences, inconsistencies or redundancies can be resolved at this point in time, when all RT members and the plan submitting RPF can be in attendance.

If an office meeting is not feasible due to distance, weather or other conditions, then such meetings can be handled by conference call. Conference lines would need to be available to all those interested in participating. Since CCR 1037.5(d) provides for public attendance, we think it critical, as well as legally required, that these meetings take place.

Given the very short legal time frame for initial paper review (First Review) of the plans and the short time spent in the field on PHIs, it is not reasonable to expect RT agencies to have all their concerns identified and finalized at the tail-gate gathering at the end of the PHI. We believe it is an unrealistic expectation, which allows RPFs to complain when the agencies come in with additional concerns later in the process.

Another concern we have with the single PHI report is that recommendations made by responsible agencies that CalFire believes to be outside their area of enforcement get excluded.

The Report noted that single PHI reports made it easier to find info (one document instead of multiples, plus emails), BUT Cal Fire was reluctant to include agency-specific recommendations believed to be outside the requirements of the FPRs due to concerns of enforceability.

These other recommendations MUST NOT be left out. CalFire has expressed an apparent willingness to include agency-specific recommendations, and alter the PHI report template to provide language explaining that enforcement of those recs would fall to the agency making them.

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<sup>2</sup> CCR 1037.5(d) excerpts: "Review team meetings shall be open to the RPF, supervised designee, the landowner, and the timber owner and, insofar as possible without disrupting the work of the team, to the public. The chairperson may impose limitations on the scope of any public participation at the meetings. All interested persons will normally be allowed to attend team meetings. On occasions when space or other considerations will require some limitation on attendance, the review team chairperson shall endeavor to allow for attendance of at least one representative for each of the various agencies, organizations or special interest groups."

Of course, this would not be necessary if the current practice of individual agency PHI reports were to be retained, and we find no meaningful basis for not retaining this current practice.

#### **4. Lack of Second Review Team meetings.**

Most of the plans in the Pilot Project did not get this far through the process, but the regular Sierra or Cascade Region review processes *do not include the mandated Second Review Team 'meeting'*. CCR 1037.5(d)

Instead, the Report noted that monthly manager meetings were held during the Pilot Project to largely deal with 'overview' issues. These meetings were apparently used to monitor individual plans and "managers were able to discuss individual issues or concerns that they had and come to a consensus." *This is the business of second review.* Second Review meetings are required to be open to the public. The public should have the option to attend and hear these discussions, which should also include the RPF.

According to Appendix B, something deemed "Second Review" is conducted "within the 20 day window after the PHI date to allow 10 days for public comment after final review." However, there is no mention of the required Second Review Team meeting. Having reviewed a number of Southern District plans on the ftp site and reading what are identified as Second RT Recommendations, it appears that this initial Second Review is something that occurs via email and/or direct communication (via phone or face-to-face). Often times this so-called Second Review occurs PRIOR to receipt of the RPF's response to the PHI comments, and, therefore, no recommendations are made. All of this seems to be very irregular, and the processes in the Northern Cascade and Sierra Regions clearly differ from the review process that occurs in the Coast Region.

Appendix B then notes that, "After receipt of the (PHI) response from the RPF..... and in consultation by email or direct communication (via phone or face-to-face) with responsible review team agency members, an additional review (post Second Review or 2<sup>nd</sup> - Second Review of the plan) is conducted." Again, this is done in-lieu of a meeting in conformance with CCR 1037.5(d).

We respectfully request that as the Pilot enters its second year, that Second Review Team meetings be held where the public is allowed to attend. In addition, we submit that if the RPF can't get his/her response to the PHI recommendations to CalFire in a timely fashion, that CalFire is no longer required to adhere to any mandated time frame. The Second Review Team meeting should not be held prior to receipt of the RPF's response. Doing so puts an extra burden on agency staff.

#### **5. A flow chart of the review process leaves out "RPF Responses" and "inspections during operations".**

We would like to see this oversight corrected in the Final Report.

## **6. Public not asked for input on the Pilot process.**

Development of Lessons Learned included requests for feedback from "all stakeholders e.g. individuals and companies who submitted plans under the Pilot Project." Clearly the public was left out of the definition of affected stakeholders. We feel this was a serious mistake. The public was kept completely excluded from the whole process from start to finish, including any request for feedback. The only reason we have the Report is because we have persistently and repeatedly requested a copy.

We request that this oversight be corrected. The public should be kept informed of the process as it moves forward, and clearly asked for feedback along with other stakeholders.

## **7. Unsubstantiated Findings.**

As incomplete as the review process was due to a variety of circumstances, the Report still made this unsubstantiated finding: "THE INVOLVEMENT BY ALL REDDING REVIEW TEAM AGENCIES ENSURED A HIGH LEVEL OF ENVIRONMENTAL PROTECTION." We would like to know what this assertion was based on, and we are concerned that it will misrepresent the study to the Governor and legislators who may actually read the document.

We note the following from the Report:

- The Pilot did not follow 2/3rds of plans through second review, and the Report opined that they had reduced time for inspections both during and post-ops. Only 24 of 66 plans reviewed were approved.

We would like to know how many plans were actually operated on during the year-long Pilot. Also, how many active (operational) inspections were conducted?

Absent any additional information not included in the Report, we feel strongly this comment re 'a high level of environmental protection' should be deleted from the Final Report.

Lastly, we believe that recommendations from the Pilot Project for changes in the review process may not be appropriate or applicable in other areas of the state for the following reasons:

- Pilot Project area encompasses timberlands that in "many cases are less sensitive to disturbance when compared to other areas in the State..." This is stated as one reason for success of the Pilot Project.
- Listed fish, watershed issues, urban-interface issues, etc. are more numerous in the Coast Region, including the Southern sub-district.
- A more comprehensive Second Review Team meeting process now successfully occurs in the Coast Region. Public access is allowed. This should not be done away with.

We look forward to a continuing dialogue on the Redding Pilot Project. We hope our concerns will be taken seriously, and we look forward to discussing them with you. Please do not hesitate to contact us with any questions.

We hope to be able to schedule a meeting with you to discuss these matters and others, probably in the second half of March.

Sincerely,



Jodi Frediani  
Director  
Central Coast Forest Watch

Susan Robinson  
Vice President  
Ebbetts Pass Forest Watch

Justin Augustine  
Attorney  
Center for Biological Diversity

Rob DiPerna  
Industrial Forestry Reform Advocate  
Environmental Protection Information Center

Paul Hughes  
Executive Director  
Forests Forever

Marily Woodhouse  
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Heidi Strand  
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Sue Lynn  
Secretary  
Cascade Action Now