CALIFORNIA
NATIVE PLANT SOCIETY

January 7, 2015

Dr. Russell Henly
Assistant Secretary, Forest Resource Management
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, California 95814

RE: AB 1492 Working Group Charters

Dear Dr. Henly

On behalf of the California Native Plant Society, we are pleased to submit these comments regarding the charters for the three working groups established to develop and carry out important policy and program elements of the Timber Regulation and Forest Restoration Fund (AB1492, 2012). We regret that a CNPS representative was not able to attend the public meeting on December 19, 2014, initiating the public review of this effort, and greatly appreciate being able to review the meeting via the archived online recording.

As you have stated previously and included in the draft charters under review, the establishment, acceptance, and implementation of forest ecological performance measures are the foundation for moving forward on other elements in AB 1492 to improve transparency and reliability of the state's forest management programs. A complete reading of AB 1492 clearly reveals that the "forest practice regulatory program" is more than simply the issuance of timber harvesting permits. The Legislature intended that "forest practice" management be broadly focused to support the protection and conservation of all natural resources typically found in a forest ecosystem (see Section 4629.2, PRC, especially subsections (a), (f), and (h)).

The 2014 Annual AB 1492 report to the Legislature and the draft charters pick up this theme by pointing to the need to protect public trust values; ensure transparency in linking timberland management to overall ecological health; and integrating "ecological performance measures" into the resource conservation, management and planning activities of state agencies, including, but not limited to, State Water Plan, State Wildlife Action Plan, Water Quality Control Plans, Forest & Rangeland Resource Assessment, National Forest Management Plans, and the Governor's Environmental Goals and Policies. These documents also highlight the potential for forest ecological performance measures to link with and support the California Biodiversity Council efforts to develop broad based environmental indicators.

We include the forgoing as background to our specific comments regarding the draft working group charters, primarily the Ecological Performance Measures Working Group (EPM). While we generally feel the draft charters provide a comprehensive and detailed work plan for the

proposed working groups, we provide the following comments which summarize our remaining concerns regarding the draft Charters.

- The draft seems conflicted regarding the scope of ecological performance measures as tools for evaluating forest and timberland regulations. References to the broad charge given to the CA Natural Resources and CA Environmental Protection agencies and the need to integrate with a broad array of natural resource planning and management mandates are counterbalanced by numerous references to monitoring and adaptive management in relation to timber harvesting and the singular need for the EPM Working Group to coordinate with the Board of Forestry's Effectiveness Monitoring Committee (EMC). While we do not see these efforts as mutually exclusive, we urge you to modify the language of the EPM Working Group charter to make it clear that the purpose and use of EPMs will extend beyond a review and analysis of only timber harvest practices (i.e. of only THPs, NTMPs, WFMPs, PTEIRs). AB 1492 intends for a broader scope of use for EPMs, one which relates to "forest and timberland regulation." Thus, EPMs must also be able to evaluate the effects of on-going and developing forest and timberland management practice related to biomass energy generation, carbon credit market-driven carbon sequestration projects, and vegetation management related to fire, as these practices cumulatively impact the ecological performance of California's forest ecosystems.
- The Framework diagram attached to the draft charters indicates that the products of the EPM Working Group will simply be handed off to the Board of Forestry and its EMC rather than becoming a critical aspect to the Department of Fish & Wildlife implementation of the Wildlife Action Plan, CESA and CEQA; the State and regional water boards implementation of the Clean Water Act, etc. While coordinating the development and implementation of forest Ecological Performance Measures with the EMC is certainly acceptable, the same level of coordination and integration with other resource protection mandates and programs is also necessary. The numerous references to "the review team agencies," while technically accurate, suggests their engagement is limited to their role in the timber harvest permitting process when in fact these agencies have significant legal mandates of their own (e.g., the CDFW is legally responsible to protect public trust wildlife resources). This concern for the inappropriate role granted or claimed by the Board of Forestry via the EMC was the impetus for a joint letter to the Governor on March 26, 2014 (attached). There is a role for the EMC in evaluating the effect of California's Forest Practice Rules on forest habitats, and while the Board of Forestry directs the work of the California Department of Forestry and Fire Protection, the EPM Working Group must not become a subsidiary of the Board of Foresty and the EMC for it to fulfill its role in evaluating forest ecological performance as mandated by AB 1492. The EPM Charter's Framework diagram does not make this relationship clear, and therefore the language of the EPM Working Group Charter must be modified to clarify that the role of the EPM Working Group does not come under the authority of either the Board of Forestry or the EMC.

- We share the concern expressed in the EPM Working Group charter that state agencies may not have adequate scientific expertise on staff and that non-government experts will likely be needed. Here again, we urge you to seek the best available scientific input that represents as broad a consideration of forest ecosystem performance as possible, and not limit the focus of scientific input to timber production alone.
- The charter for the Data and Monitoring Working Group contains clear and appropriate statements that EPMs come first and data gathering and monitoring comes second. (pg. 2, Duty #2). We urge you to direct the EPM Working Group to "aim high" when developing the scope and goals of appropriate performance measures, and not be contrained in principle by what data and monitoring might be considered feasible by today's standards. In practice, data collection and monitoring necessary to evaluate success in meeting EPMs might well be resource limited at first. But by identifying truly meaningful EPMs at the start, Californians will have identified a lofty goal, and can work towards an ideal management scenario over time. In other words, current data and monitoring constraints should not constrain the development of essential performance measures.

We make the following additional recommendations to address these concerns:

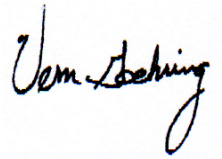
1. Redraft the EPM Working Group charter to clarify that performance measures are applicable to and will guide the work of many other resource conservation/protection programs. Data gathering, monitoring and adaptive management in the context of permitting timber harvesting will certainly be important but it will not be the only avenue for gauging efforts to ensure vital ecological performance.
2. It must be clear in the narrative and the framework diagram that EPMs are meant to guide the resource management duties of all agencies in regards to forest ecosystems and not just the work of the Board of Forestry and its EMC.
3. Both the EPM and Data & Monitoring Working Group charters need to contain assurances that the best broad based science will be incorporated and that the members of the working groups will represent a balanced view of the applicable science and policy objectives.
4. To ensure transparency and necessary expertise is available, the EPM and Data & Monitoring Working Groups should have several highly qualified non-agency persons as fully participating members. Limiting Working Group members to representatives of the four timber harvesting review agencies will likely exclude important views and expertise.
5. In light of the CA Air Resources Board mandate to oversee GHG reductions, including the adoption of forest carbon retention standards, it is imperative that CARB be included in the EPM Working Group.
6. The public needs to be assured of frequent engagement and transparency in the work group deliberations. The milestones contain in the EPM charter (pg. 5) list a stakeholder workshop during the first quarter in 2015 and a second workshop in January, 2016 – a whole year between meaningful engagements! And a third workshop six months later in June, 2016. In addition to these workshops, the meetings of the Working Groups need to

be open to the public with decisions and action items recorded and made publicly available.

7. Related to the previous recommendation, the first duty of the EPM Working Group includes the creation of a website to enable the public distribution of update notices. While this is an appropriate initial goal, an additional and easily accessible online mechanism for two-way communication between the public and Working Groups is also necessary.

We appreciate the opportunity to submit these comments and recommendations, and look forward to continuing a constructive and collaborative process in accomplishing this work. The proper development of forest Ecological Performance Measures marks a very significant step in the sustainable conservation and management of California's forest resources, and will help to ensure a wide range of important public values are enjoyed for many decades to come. Please let us know if we can assist in this work in any way possible.

Sincerely,



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Enclosure