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Sent via Electronic Mail to: AB1492Program.Comments@Resources.ca.gov

October 23, 2015

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

Re: EPIC Comments Regarding Draft Concept Paper and Public Meeting for Forest Planning Watershed Pilot Projects.

Dear Mr. Henly:

The following comments are submitted on behalf of the Environmental Protection Information Center (EPIC). EPIC endorses the need for and implementation of at least four pilot projects. We thank you for the workshop presentation held on October 14 in Ukiah, and provide these comments in response to the Draft Concept Paper and comments presented at the workshop.

Need to Ensure Pilot Projects Inform Definition and Development of Ecological Performance Measures

Independent of the funding mechanism, AB 1492's Timber Regulation and Forest Restoration Program includes process components of efficiency and transparency, and the substantive components of data collection and management and ecological performance measures. As presented at the workshop, these components are intended to provide important "accountability" for the processes and outcomes of the program. According to the workshop presentation, and as stated in the 2015 "Assembly Bill 1492 Report to the Joint Legislative Budget Committee on the Timber Regulation and Restoration Program" (2015 Report) "ecological performance measures are placed at the bottom, as the foundation, because these are the fundamental assurances that the public and trustee agencies need to demonstrate whether the public trust values associated with nonfederal forest management are being adequately protected." 2015 Report, at 7.

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EPIC agrees that ecological performance measures are the “foundation,” as AB 1492 requires “creation of performance measures and ecological accountability for the state’s forest practice regulatory program and [to] simplify the collection and use of critical data to ensure consistency with other pertinent laws and regulations.” PRC § 4629.2(f).

The pilot project concept has been placed in the “Charter for the Data and Monitoring Working Group” (Data Charter), described as a part of the “Environmental Data Assembly and Sharing,” to:

“[t]est a pilot approach to the assembly of available data on the planning watershed level to assess cumulative impacts and identify opportunities for restoration of the habitat for listed anadromous salmonids. The intent here is to test an approach similar to past legislative proposals. Subject to the availability of staff, funding, local partners, and timing of public input, up to four pilot projects are to be completed within 24 months of their initiation.” Data Charter, at 2, # 1.B.

The Data Charter includes the imperative to inform development of ecological performance measures:

“[t]he data needed to support the ecological performance measures will drive the work of the Data and Monitoring Working Group to pursue the collection of additional data. Thus, it is important for the Data and Monitoring Working Group to coordinate closely with the Ecological Performance Measures Working Group.” Data Charter, at 1.

Yet, the Forest Planning Watershed Pilot Projects Concept Paper - Public Review Draft (Draft Concept Paper) does not include any mention of the need to inform the definition, development and support of ecological performance measures. This must be corrected to include ecological performance measures. EPIC recommends that the list of critical questions which are intended to frame the focus of the pilot projects include a question such as “what does the information provide to inform a definition and development of ecological performance measures?” Another critical question which should be included is “what data is needed to support the definition and development of ecological performance measures?” The results of the pilot project must contribute to the definition and development of the required ecological performance measures.

According to the “Charter for the Ecological Performance Measures Working Group” (Performance Measures Charter), a work plan, background paper and the first stakeholder outreach workshop are all due to be completed by the end of this year. Performance Measures Charter, at 6. Thus, the information developed as part of the Ecological Performance Measures Working Group must be available and included as part of the pilot project process, to better inform the data collection.

Specific Suggestions for Pilot Projects

Pilot projects will not solve everything. They should involve a cross section of stakeholders, look at real watersheds, and be used to find consensus as to how to move forward. These pilot projects should be viewed as the establishment of a foundational basis for evaluation and development of the rest of the Timber Regulation and Forest Restoration Program.

Tangible proposals and approaches need to be articulated in order for EPIC or the general public to effectively comment on the draft concept. While the Draft Concept Paper has a lot of good verbiage, it is light on specifics as to what the agencies are considering. The next document should provide specific and concise information about the proposed pilot project concept, so that all stakeholders may provide comment.

The public must have a meaningful role in the development and management of pilot projects. This means public input and management roles in the pilot projects. As stated at the workshop, the public are “experts” on the watersheds in which they live. Thus, the public’s role must be more than merely being able to attend meetings. In conjunction with this, we feel it is imperative that the pilot project teams include stakeholder representation not only from the public at-large, but also representation of native peoples with resource management experience.

A collaborative approach is needed, in which the public is recognized as an equal stakeholders, with experience and expertise. Mention was made at the workshop that an Advisory Committee is under development and will facilitate “public input.” EPIC requests that there be public representation on this Advisory Committee. The appointment of the Pilot Project Working Group (PPWG) is not to occur until after development of the final pilot project description document. Draft Concept Paper, Figure 1, at 9. This is not sufficient. EPIC requests that the PPWG be appointed by no later than the end of the year, to have a meaningful role in developing the final pilot project description document. The PPWG must include engaged members of the public. The PPWG should do more than provide “guidance”

to review team agencies. Draft Concept Paper, at 3. The PPWG should be a full participant in the data collection and review, and ground truthing. This means as well that designated public members will be allowed access to all lands covered by any pilot project, as part of the data collection and ground truthing processes. Adequate funding must be provided to facilitate effective public involvement. A prompt and transparent process to include the public must occur. The pilot projects will not be successful if this does not happen.

In selecting the pilot project watersheds, EPIC recommends selecting watersheds which are data rich. These should not be driven by only those watersheds for which most of the data comes from THP files or reporting, as this would skew the data in favor of that THP data. There needs to be balanced data collection, to capture other sources of information, such as scientific studies concerning resources, restoration work, non-timber activities, etc. It is important to include watersheds with presence of listed species. It is important to include watersheds with multiple landowners, so as to capture different practices and results, as well as the use of different criteria and prescriptions. This variation can serve to work toward accountability and development of consistent criteria. The size of the watershed is relevant, and should be a manageable size. If it is too large, it may exceed the practical constraints for development and completion of the pilot project. Only those watersheds in which there are landowners who are willing to have their lands included in the pilot project should be chosen.

We agree that “reference” watersheds are needed as companion to selected watersheds, in order to get a clear picture as to what is the current state of the chosen pilot watershed, to understand the impact of logging, and to identify what may be needed going forward, particularly in defining and developing ecological performance measures. Having a reference to a relatively intact, high functioning and ecologically sound watershed would yield critical information, particularly to inform ecological performance measures.

The work plan for selected watersheds must be tailored to the actual watersheds to achieve an understanding of what the information shows about specific conditions. At the same time, the pilot projects should be designed to achieve consistency of criteria, so that standard data and format will be developed for application to all logging plans.

According to the Draft Concept Paper, the pilot projects are intended to inform the processes for assessment of cumulative impacts, yet it is not clear how

this will be done. It is particularly difficult to understand how this can be done if all that is considered is existing data. We all know that routinely and consistently, plans are submitted and approved with the conclusion that no significant adverse cumulative effects will occur. Limiting review to only existing data will simply confirm this mythology, and defeat any necessary advancement of cumulative impacts assessment criteria.

The Draft Concept Paper advises that the review team agencies will “ground truth” preliminary office review “to identify significant gaps in existing information.” Draft Concept Paper, at 3. How will this be done, if no watershed assessments or cumulative effects analyses will be done? Certainly some field data must be assembled to understand the gaps in information and to inform development of ecological performance measures. A set of criteria for what constitutes negative cumulative impacts must be developed and utilized. Criteria must be developed to determine what constitutes an unacceptable level of disturbance in a watershed, as well as to public trust resources, including fish and wildlife, and our timber resource. An additional reason to develop field data is to make sure the data collection is not stale; it should be fresh and updated.

A question was asked during the October 14 workshop whether there is an expectation that landowners filing THPs will be asked to utilize the information as it is being collected. The response was that staff would “hope” people will use the information as available. The very nature of a cumulative effects analysis requires consideration of past, present and probable future projects. An ongoing pilot project would be a “present” project, and therefore its operations and information, as a matter of law, would need to be considered in any THPs that may be filed. Once the watersheds are selected for a pilot project, any landowner within that watershed would need to identify the pilot project and provide relevant information about it. To the extent the pilot project has developed information that may be relevant to the environmental impacts assessment for a THP that information will need to be considered in the THP.

It is important that the information which is developed through the pilot projects be readily available, so that the process is transparent during its entire course. This requires a user-friendly data base.

The Draft Concept Paper, as well as the presentation on October 14, places great emphasis on restoration, to identify needs and opportunities for restoration. Draft Concept Papers, at 6. While EPIC endorses the need and funding for potential

restoration activities in watersheds, we are concerned that it is insufficient to focus on restoration, in the absence of identifying specifically the impact and cause of the impact which forces the restoration. This requires a deeper and more probing analysis than contemplated in the Draft Concept Paper.

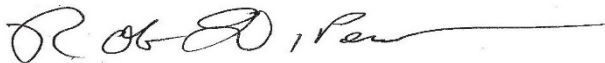
EPIC joins in the comment presented at the October 14 workshop that “we need our forests to be managed to be resilient into the future.” Pilot projects can help in this effort, provided they produce information which informs the definition and development of ecological performance measures and accountability for the forest practice regulatory program. This requires much more than merely collecting and organizing existing data, even if it is to be ground truthed. Assessments must be done to develop criteria to assure the needed resilience. And the public must be a part of this assessment process.

We agree with Richard Gienger that many concerns about logging practices—as the use of herbicides, loss of old growth forests, over harvesting, and clearcutting—will come up in the course of a pilot project. What is needed now is to focus on establishing a pathway to allow these concerns, if present in a given watershed, to be recognized so they may be addressed through development of ecological performance measures. These will inform any efficiencies which may be available for the overall forest logging plan review process.

Finally, we feel it is imperative that funds be made immediately available to facilitate public stakeholder participation in the pilot project development and implementation.

Thank you for considering these comments. Please keep me informed of any upcoming developments and meetings associated with the proposed pilot projects.

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