

**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:	1-20-00081 MEN
SUBMITTER:	Mendocino Redwood Company LLC
COUNTY:	Mendocino
END OF PUBLIC COMMENT PERIOD:	January 11, 2021
DATE OF RESPONSE AND APPROVAL:	February 3, 2021

The California Department of Forestry and Fire Protection (CAL FIRE) serves as 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,



**Shawn Headley**  
Forester II, Forest Practice  
RPF #2970

cc: RPF, Unit, File; Timber Owner, Timberland Owner and/or Submitter  
CP, CDFW, DPR, & RWB (through <https://caltreesplans.resources.ca.gov/caltrees/caltrees.aspx>)

## **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:

- Notification of the receipt of a timber harvesting plan was sent to the adjacent landowner(s).
- Notice of the receipt of the plan was submitted to the county clerk for posting with other environmental notices.
- Notice of the plan was posted at the Department's local office and also at the regional office in Santa Rosa.
- Notice of the receipt of the THP was sent to those organizations and individuals on the Department's list for notification of plans in the county.
- A "Notice of the Intent to Harvest Timber" was posted near the Plan site.

## **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
- Use, construction and maintenance of logging roads and landings
- County-specific rules

When a THP is submitted to the Department, it undergoes a multidisciplinary review consisting of several steps. In addition to CAL FIRE, the Review Team members include representatives of the California Department of Fish and Wildlife (CDFW); the appropriate Regional Water Quality Control Board (RWQCB or RWB); California Geological Survey (CGS); the Department of Parks and Recreation (DPR); the appropriate County Planning office; and if within their jurisdiction, the Coastal Commission (CC) (14 CCR §1037.5(a)). Once submitted the Director determines if the plan is accurate, complete, and in proper order, and if so, files the Plan (14 CCR §1037). In addition, the Review Team determines whether a Pre Harvest Inspection (PHI) is necessary, and what areas of concern are to be examined during the inspection (14 CCR §1037.5(g)(1)).

If the Plan is accepted for filing, and a PHI is determined to be needed, a field review is conducted to evaluate the adequacy of the THP. All agency personnel who comprise the multidisciplinary Review Team are invited to attend the PHI as well as other experts and agency personnel whom the Department may request. During this field review, additional mitigation and/or recommendations may be formulated to provide greater environmental protection. These recommendations are forwarded to the RPF along with the Review Team member's PHI Report. The RPF will respond to the recommendations made and forward these to the Region office and Second Review Team Chair.

A Second Review Team meeting is held where members of the multidisciplinary Review Team meet to review all the information in the plan, and develop a recommendation for the Director (14 CCR §1037.5(g)(2)). Prior to and/or during this meeting they examine all field inspection reports, consider comments raised by the public, and discuss any additional recommendations or changes needed relative to the proposed THP. These recommendations are forwarded to the RPF. If there are additional recommendations, the RPF will respond to each recommendation, and forward the responses to the regional office in Santa Rosa.

The representative of the Director of the Department reviews all documents associated with the proposed THP, including all mitigation measures and plan provisions, written correspondence from the public and other reviewing agencies, recommendations of the multidisciplinary Review Team, and the RPF's responses to questions and recommendations made during the review period. Following consideration of this material, a decision is made to approve or deny a THP.

If a THP is approved, logging may commence. The THP is valid for up to five years, and may be extended under special circumstances for a maximum of two more years, for a total of seven years.

Prior to commencing logging operations, the Registered Professional Forester must meet with the licensed timber operator (LTO) to discuss the THP (CCR §1035.2); a CAL FIRE representative may attend this meeting. The Department makes periodic field inspections to check for THP and rule compliance. The number of inspections depends upon the plan size, duration, complexity, and the potential for adverse impacts. 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 as per PRC section 4588.

The contents of the THP, the Forest Practice Act, and rules, provide the criteria which CAL FIRE inspectors use to determine compliance. While the Department cannot guarantee that there will be no violations, it is the Department's policy to vigorously pursue the prompt and positive enforcement of the Forest Practice Act, the Forest Practice Rules, related laws and regulations, and environmental protection measures that apply to timber operations on non-federal land in California. This enforcement is directed primarily at preventing forest practice violations, and secondarily at prompt and adequate correction of violations when they occur.

The general means of enforcement of the Forest Practice Act, the rules, and other related regulations range from the use of violation notices, which require corrective action, to criminal proceedings through the court system. Timber operator and Registered Professional Forester licensing action may also be pursued. 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.

## ACRONYM AND ABBREVIATION DEFINITIONS

BAA	Biological Assessment Area	LTO	Licensed Timber Operator
BMP	Best Management Practices	MEN	Mendocino
CCC	California Coastal Commission	MRC	Mendocino Redwood Co.
CAL FIRE / CDF	California Department of Forestry & Fire Protection	MSP	Maximum Sustained Production (of High Quality Timber Products)
CalTREES	California Timber Regulation Environmental Evaluation System	NSO	Northern Spotted Owl
CCR	California Code of Regulations	OR	Official Response
CDFW	California Department of Fish and Wildlife	PC	Public Comment
CEQA	California Environmental Quality Act	PCA	Pest Control Advisor
CESA	California Endangered Species Act	PHI	Pre-Harvest Inspection
CGS	California Geological Survey	PRC	Public Resources Code
CNDDB	California Natural Diversity Database	RPF	Registered Professional Forester
DDD	Director's Decision Date	RWCB (RWB)	Regional Water Quality Control Board
DPR	Department of Parks and Recreation	STA	Special Treatment Area
EIR	Environmental Impact Report	THP	Timber Harvesting Plan
EPA	Environmental Protection Agency	TPZ	Timberland Production Zone
FPRs	Forest Practice Rules	USFWS	United States Fish and Wildlife Service
GHG	Greenhouse Gases	WLPZ	Watercourse and Lake Protection Zone
GIS	Geographic Information System	WAA	Watershed Assessment Area

[sic] Word used verbatim as originally printed in another document. May indicate a typo, misspelling or incorrect word usage.

## PUBLIC COMMENT SUMMARY

During the public comment period for this THP as described above, there were 2 public comment letters received at the CAL FIRE Region Headquarters in Santa Rosa. These public comments brought up concerns that are addressed in this Official Response (OR). Original text taken directly from the public comments are presented as *italicized text*, followed by the Departments response unless otherwise noted. The CDFW comment letter was initially submitted as correspondence for the Plan but determined best addressed in an OR. The public comments are identified with the CAL FIRE "PC" code. A copy of the original letters sent to the Department are viewable through the Department's online Forest Practice Database CalTREES.

**CalTREES instructions:** navigate to <https://caltreesplans.resources.ca.gov/caltrees/caltrees.aspx> Click the search icon at the top of the page, then type the THP# in the Record Number box (county identifier not needed). Select the THP Number under the Document Number column for the "Timber Harvest Plan" Type. Then click on the orange triangle to the right of "Records Info" dropdown and select "Attachments". The Public Comments are labeled under "Record Type" and are in pdf format, usually with a "PC" label.

## **SIGNIFICANT ENVIRONMENTAL CONCERNS AND RESPONSES**

**CONCERN Letter #1:** Received on May 27, 2020 from Carolyn Carleton Browe

*I am writing in regards to Mendocino Redwood Company's (MRC) Ross Ranch THP# 1-20-00081-MEN and would like my comments to be entered into your review process.*

*I have been a resident of Elk for 36 years and a landowner for 27 of those years bordering this 320 acre THP along Greenwood Road in Elk. I work full-time from home in my weaving studio and have witnessed many timber harvesting operations in our area. My concern is MRC's practice of 'hack and squirt' poisoning tanoak trees in their redwood forests. These dead trees remain standing for over 10 years after being treated with glyphosate, triclopyr or imazapyr which poses an extreme fire hazard in our area. We respectfully request that MRC stop this practice and remove the tanoak trees manually.*

**RESPONSE:** The Forest Practice Rules require that silvicultural treatments be chosen and conducted to maintain pre-harvest conifer site occupancy of Group A species to that of hardwood species in Group B per 14 CCR 912.7(d). This would include the potential for herbicide application when managing Group B species to that of Group A species regeneration. This is detailed in 14 CCR 912.7(d):

(d) The resource conservation standards of the Rules may be met with Group A and/or B commercial species. The percentage of the stocking requirements met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The site occupancy provided by Group A species shall not be reduced relative to Group B species. When considering site occupancy, the Director shall consider the potential long term effects of relative site occupancy of Group A species versus Group B species as a result of harvest. If Group A species will likely recapture the site after harvest, Group B species do not need to be reduced. The time frames for recapturing the site shall be consistent with achieving MSP. The Director may prohibit the use of Group A and/or B commercial species which are non-indigenous or are not physiologically suited to the area involved.

Starting on page 111 in Section III, the THP describes the regeneration Plan, which includes treatments for hardwoods. "Tanoaks and other small hardwoods shall be either cut, removed and piled for burning, cut and left within the unit, or treated with herbicides or some combination of these treatments". The discussion further details the estimated pre and post harvest growth metrics in tables to demonstrate the compliance of achieving the required maximum production (MSP) of high-quality timber products and compliance with mandated relative species occupancy. This management is further discussed on page 12, under Item 14 in the regeneration plan of the THP:

Hardwoods may be harvested under appropriate market conditions. The LTO is responsible for harvesting tanoak. Any other treatments shall be the responsibility of the Plan submitter and shall be determined upon a post-harvest evaluation. If conditions warrant further treatment to maintain relative site occupancy of Group A species (which require the use of a license PCA) he shall be involved in the evaluation process (also see Section IV, Chemical Contamination effects). Hardwoods will be managed in accordance with 14 CCR 912.7(d) and MRC's Option A, prior to the final completion of timber operations. Hardwood may be reduced through mechanical, physical or chemical means. Herbicide used shall be conducted under the guidelines established by the Department of Pesticide Regulations.

The Preharvest Inspection (PHI) conducted on 9/2/2020 addressed the concerns in this public comment letter. The following is found on the last page of the PHI report:

The public comment letter expresses a concern regarding the use of herbicides, chiefly the "frill" or "hack and squirt" application method with relation to potential increase in fire hazard. The THP contains a discussion of these topics. The use of herbicide does not qualify as "Timber Operations" as defined in 14 CCR 895.1 and is not regulated by CAL FIRE. Please see the following excerpt from the THP on page 152: "Herbicides that might possibly be used in reforestation have been the subjects of extensive testing and research within a certified regulatory program under CEQA administered by the Department of Pesticide Regulation (DPR). The DPR regulatory program is a functional equivalent of an Environmental Impact Report (EIR) certified by the California Secretary of Resources pursuant to PRC Section 21080.5."

Regarding the relationship between "hack and squirt" herbicide application and fire hazard, please see the following excerpt from page 171 of the THP: "We realize that there is a short period of time (2-5 years after application) in which the drier/un-degraded treated trees are more susceptible to ground fires, if weather conditions are right and there is an ignition source. This is juxtaposed against the benefits of having horizontal and vertical continuity disrupted during harvesting operation (substantially reducing the potential for crown fires) and providing favorable access for suppression efforts. "While herbicide treatments temporarily elevate surface fuels, these treatments are limited in area on the landscape, are generally associated with other forest management activities, and, provided that roads remain accessible, generally facilitate, rapid firefighter response. (Valachovic et al., 2011). Fuel loading will be reduced below baseline levels after the treated hardwoods decompose..."

The public comment letter also suggests tanoak trees be removed manually, a discussion of alternatives to herbicide can be found in THP Section IV, with the following excerpt on page 158: "Manually clearing brush does not have the same effect as herbicide application. Manual treatments temporarily control growth, but do not kill the plant. Pulling the plant out by the roots kills the plant altogether. Cutting most plants temporarily reduces the above ground stems, but rapid re-sprouting usually does not result in effective conifer release. Therefore, the effects of manual brush control are less predictable and not as consistent as herbicide application. Manual clearing is not feasible because there is a lack of a large, local work force that would be willing to do very strenuous and logistically challenging work. The rate of injuries is also very high, for the

work is tedious, difficult, and it often must be performed during adverse weather conditions. Once mechanical methods have been employed or have become impractical because young trees have been planted or seeded in, there is no feasible alternative to herbicide application that might achieve a similar result.”

The timber stand was evaluated during the PHI, I am in agreement with the information included in the THP in regard to hardwood treatment, no additional mitigations are necessary.

Additionally, timber harvest operations equipment and personnel are required by regulation to be available to fight a fire if one should start in the immediate vicinity when harvesting is occurring. Code section PRC 4428 requires that each logging crew have a fire cache and PRC 4431 requires that each chainsaw operator have at least one serviceable round point shovel or one serviceable fire extinguisher within 25'. These firefighting tools, and equipment such as tractors/skidders allow operators to immediately respond should a fire start as the result of natural causes (i.e., lightning), harvest operations, or other causes in the vicinity of active harvest operations. The Forest Practice Rules require that access for fire equipment be kept in passable condition during timber operations when those operations occur during fire season (code section 14 CCR § 923.6). Periodic inspections by CAL FIRE include the verification of the required firefighting requirements are in place or a violation may be issued.

The THP addressed the enforceable actions of the LTO for reducing wildfire risks during timber operations. Per 14 CCR 917, 937, 957 - Hazard reduction shall provide standards for the treatment of snags and logging slash in order to reduce fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat. The Plan states under Item 30(a) in Section II, starting on page 65 the following: “Slash treatment will be required within 100' of Philo-Greenwood Road, a county road. Please see description for Fuel Break / Defensible Space in Item 14 of Section II for fuel treatment.” The referenced Item 14 description on page 9 of the Plan states: “The preferred method of treating sub merchantable trees (not needed to meet stocking) and slash created by timber operations shall be looping, chipping, masticating, burying or removal from the zone (14 CCR 917.2 (b))”

The Department agrees that the proposed mitigations in the Plan will have less than significant impacts to increased fire hazard and will not contribute to cumulative impacts from any potential chemicals use during timber operations.

**CONCERN Letter #2:** Received on January 11, 2021 from Mr. Daniel Harrington of CDFW.

*Following the suggestion of CAL FIRE Second Review Chair on December 31, 2020, CDFW presents the following comments in response to the RPF letter dated December 21, 2020 for THP 1-20-00081 MEN, “Ross Ranch” entitled 20201229\_1-20-00081MEN\_2ndRTRecs\_RPF-Resp.pdf (included in CalTREES as the RPF Responses to Second Review Recommendations). The RPF was not present during second review.*

*RPF responses are not numbered but are underlined and in bold below. CDFW comments are numbered in sequential order after each response.*

**The NSO language and proposed protection measures in the THP are consistent with Attachment A guidance and are adequate to avoid take of NSO.**

- 1) *CDFW has reviewed the RPF responses and finds the information does not fully address our concerns regarding protections for Northern Spotted Owls (*Strix occidentalis caurina*) considering the best available science as well as the USFWS minimum standards for take avoidance (Attachment A, revised November 1, 2019) and other documents raised, below.*

**The primary difference between proposed protection afforded these NSO territories appears to be that all historic NSO activity centers (or ACs) for MEN0125 and MEN0633 are encompassed within the core areas. MEN0433 is different in that it has 11 historic ACs that are not encompassed within the proposed core area, while the two most recent ACs (including the most recent nest site) are included in the proposed core, which focuses on the most significant location (2016 nest) surrounded by the best available habitat. Reasons why all the historic ACs were not included in the MEN0443 core are discussed below.**

- 2) *CDFW has reviewed the RPF Responses and asserts the 11 Activity Centers for MEN0433 meet the definition of activity center according to Attachment A (page 13):*

*“Activity Center: A mapped point located at the highest-ranking detection for each breeding season (e.g., nest, then daytime pair, then daytime single, etc.) ...*

*“An NSO home range may have multiple mapped activity centers, and multiple activity centers may need protection to prevent take” ...*

*“All activity centers within a home range should be identified, mapped, and considered, however, not all activity centers are of equal value and site-specific information may be useful in determining which activity centers require more or less protection on an annual basis as determined by the NSO review agencies.”*

*Attachment A also provides the following guidance on page 2:*

*“Accurately mapping the location of each activity center is critical to the protection of core use area habitat. Because NSO can move from year to year, current activity center locations are more accurate when plotted as a result of surveys rather than solely relying on the locations found in SPOWDB. Multiple activity centers for an NSO home range are possible.*

*If one core use area does not encompass all known activity centers (current and historical), then multiple core use areas will need to be mapped and protected to avoid the likelihood of incidental take. Where it makes biological sense, multiple activity centers can be contained within a single core use area.”*

*This is supported by a memorandum from Chris Browder (CAL FIRE, 2008) regarding the evaluation process for Northern Spotted Owl in determining compliance with CCR 919.9(g), 939.9(g), and 919.10 [939.10]:*



*"In addition to ensuring that adequate information has been included in the plan, the first review team will ensure that all NSO activity centers (ACs) identified in the California Department of Fish and Game's NSO Database Management System (NSO database) Report # 2 have been addressed in the plan and that the pre- and post-harvest habitat analysis tables provided demonstrate retention of sufficient post-harvest suitable NSO habitat."*

*To meet this requirement, CAL FIRE asks project proponents to include a description of habitat retention levels and a description of operational protection measures for any known ACs within a .7-mile radius of the plan in Section II (CAL FIRE, 2008).*

*The THP has not provided the necessary analysis or justification for fewer activity center protections, therefore, CDFW recommends including additional information needed to complete the review process or to include disturbance buffers and habitat retention for all activity centers associated with MEN0433 that are located within 0.7-miles of THP 1-20-00081 in accordance with Attachment A.*

**As stated in the revised THP NSO language (revised pages 230- 230.2), USFWS Attachment A provides guidelines and not absolute standards for avoiding incidental take of NSO: "While the Service believes that the revised guidelines represent effective measures to avoid take of NSO, they are not the only manner in which take can be avoided. These guidelines are to be used as recommended tools to avoid take for the public and implementing agencies but are not required approaches imposed by the Service." (USFWS 2019)**

- 3) *Although there are other means of avoiding take of Northern Spotted Owls, the THP states that USFWS Attachment A is the plan's take-avoidance strategy and there are no exceptions to the guidelines other than road use. We reassert both the core use area for MEN0443 and the revised language in THP Section V (pages 230-230.2) appear contrary to the guidance provided in Attachment A. Although Attachment A allows for flexibility, site specific analysis is required, and alternative strategies should be determined by the review team agencies.*

**Attachment A (USFWS 2019) also states that "An NSO home range may have multiple mapped activity centers, and multiple activity centers may need protection to prevent take."**

**An NSO home range or territory is the area used for nesting, roosting, and foraging. In the coast range where MRC lands are located, the median home range of the NSO is defined by the USFWS (2012) as a 0.7-mile radius (approximately 985 acres) surrounding the most important AC. Given MRC's long history of NSO surveys (ca 30 years) there are often many activity centers located within each territory, in some cases one per each year of surveys conducted. In the case of NSO territory MEN0443 that is at issue here, there are 13 known historic or current ACs (see table p. 231.2). According to Attachment A, "All activity centers within a home range should be identified, mapped, and considered, however, not all activity centers are of equal value and site-specific information may be useful in determining which activity centers require more or less protection on an annual basis as determined by the NSO review agencies."**

- 4) As referenced in the RPF Response above, Attachment A specifies each activity center may need protection as determined by the review team agencies. Attachment A does not state activity center protections are unnecessary. In addition to Attachment A and the Forest Practice Rules, USFWS staff have asserted on multiple occasions – during NSO Coordination Meetings, NSO Stakeholder Forums, Attachment A workshops, and other public meetings – all valid activity centers may merit protection. THP 1-20-00081 MEN, “Ross Ranch” has yet to justify not protecting all 13 Northern Spotted Owl activity centers associated with MEN0443 that may be impacted by the THP. Three of the eleven unprotected activity centers are historic nest sites. Given the distance between these activity centers is more than 1,000 feet, the activity centers should be considered as multiple activity centers within the territory.

Thus, as stated in the THP revised pages, MRC NSO protection measures for this THP are focused on the biologically most significant location for each known NSO territory, including MEN0443. This typically represents the activity center within a territory which is the highest-ranking detection based on MRC surveys and cross-referenced with the SPOWDB. For MEN0443 this is represented by the most recent nest site in 2016 (there were no NSO detections from 2018-2020). This AC also encompasses the 2017 AC and is surrounded by the best nest/roost and foraging habitat available. Older nest sites and pair detections are primarily located within the Navarro River WLPZ and have not been occupied by NSO for from five (2015) to 26 (1994) years. In addition, fire and timber harvest occurred upslope from the WLPZ pursuant to past NSO protection measures (p.230.3). Thus, any core for these sites would include non-suitable habitat outside of the WLPZ (for example, see habitat maps pp. 218-219).

- 5) As described above, the THP is in need of more site-specific analysis and consultation with the review team agencies. Attachment A provides guidance in delineating core use areas, including when unsuitable habitat exists within the disturbance buffers of a given activity center. The THP initially delineated a core use area that included all 13 activity centers, but included some unsuitable habitat. The revised core area includes the best available habitat around two activity centers, but proposes no core area protection for the remaining 11 activity centers, including 3 historic nest sites.

Incidental take (e.g., harass, harm) could potentially occur through habitat modification at an NSO territory and individual activity centers. However, the USFWS has clarified that harm is “expressly limited to those actions causing actual death or injury to a protected species of fish and/or wildlife.” (USFWS 2018).

Thus, incidental take through habitat modification can only occur when NSO is present at an activity center, and the habitat modification is significant enough to significantly impair essential behavior patterns and must result in actual injury (USFWS 2018). Therefore, core use area and other Attachment A habitat retention measures are only required for those territories and activity centers which are occupied by NSO during the year in which timber harvest operations are to take place.

However, given that trends in spotted owl detectability, occupancy, and reproduction have been trending downward in the face of the barred owl invasion, and out of an abundance of caution, MRC shall provide take avoidance core use area protection measures for the most significant ACs, regardless of occupancy, for each territory within the assessment area for this THP, as is being proposed in this THP for MEN0125, MEN0443, and MEN0633.

- 6) USFWS staff correspondence and other documents provide guidance which is inconsistent with the THP's interpretation of incidental take (e.g., J. Hunter 2018, USFWS 2008, and 2017) as follows:

*"The USFWS generally considers that all NSO ACs (including single territorial birds, pairs, and nests) need to be maintained and managed as per Attachment A in order to preclude unauthorized incidental take. Often these points are all contained in a single core area, but other times more than one core area is necessary.*

*For any given breeding season however, only one AC point needs to have seasonal disturbance buffers around it, unless all the ACs are unoccupied, non-breeding, or have failed, in which case there could be no seasonal restrictions."*

**RESPONSE:** The Department appreciates CDFW's participation in the review of THP 1-20-00081MEN and has concluded that the Plan's provisions for protection of Northern Spotted Owl (NSO) are consistent with USFWS guidance in Attachment A, and take of NSO will therefore be avoided. The Plan has been determined to be in compliance with the Forest Practice Rules in regards to NSO regulation requirements and contains the appropriate mitigation measures to protect the species.

## SUMMARY

THP 1-20-00081 MEN was recommended for approval on December 31, 2020 at the conclusion of Second Review. The Plan had certain significant cumulative impacts identified but were mitigated, and was found to be in conformance with the Act and the Rules of the Board of Forestry and Fire Protection.

The Department has reviewed the concerns brought up through the public comment process and has replied to them by this Official Response. This process has not demonstrated any new significant points that would warrant a recirculation of the Plan pursuant to 14 CCR § 1037.3(e), or a recommendation of nonconformance pursuant to 14 CCR § 1054. The THP states in Section I, under Item 13(b) "After considering the rules of the Board of Forestry and Fire Protection and the mitigation measures incorporated in this THP, I (the RPF) have determined that the timber operation will not have a significant adverse impact on the environment". The Department finds that the RPF has sufficiently documented that there shall be no unmitigated significant impacts to the identified resources under this THP.

It is the Department's determination that this THP, as proposed, is in compliance with the FPRs and has been through a detailed multi-agency review system. The discussion points and mitigation measures included in the THP have been found to be appropriate to address the concerns brought up by the public comment process. The conclusions reached by the Department and the other state resource agencies are based on decades of professional experience associated with the review of similar harvest plans.