DEPARTMENT OF FORESTRY AND FIRE PROTECTION
SOUTHERN REGION HEADQUARTERS
1234 East Shaw Avenue
Fresno, CA 93710-7899
(559) 243-4100
Website: www.fire.ca.gov

OFFICIAL RESPONSE OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION TO SIGNIFICANT ENVIRONMENTAL POINTS RAISED DURING THE TIMBER HARVESTING PLAN EVALUATION PROCESS

THP NUMBER: 4-20-00185-TUO

SUBMITTER: Sierra Pacific Industries

COUNTY: Tuolumne

END OF PUBLIC COMMENT PERIOD: March 8, 2021

DATE OF OFFICIAL RESPONSE/DATE OF APPROVAL: March 25, 2021

The California Department of Forestry and Fire Protection has prepared the following response to significant environmental points raised during the evaluation of the above-referenced plan. Comments made on like topics were grouped together and addressed in a single response. Where a comment raised a unique topic, a separate response is made. Remarks concerning the validity of the review process for timber operations, questions of law, or topics or concerns so remote or speculative that they could not be reasonably assessed or related to the outcome of a timber operation, have not been addressed.

Sincerely,

John Ramaley

John Ramaley, RPF #2504
Forester III
Cascade, Sierra & Southern Regions

cc: Unit Chief
RPF, Sierra Pacific Industries, Plan Submitter
Dept. of Fish & Wildlife, Reg. 4, Water Quality, Reg. 5
Central Sierra Environmental Resource Center

COMMON FOREST PRACTICE ABBREVIATIONS

CAL FIRE	Department of Forestry & Fire Protection	FPR	Forest Practice Rules
CAA	Confidential Archaeological Addendum	LTO	Licensed Timber Operator
CESA	California Endangered Species Act	NMFS	National Marine Fisheries Service
CEQA	California Environmental Quality Act	PHI	Pre-Harvest Inspection
CIA	Cumulative Impacts Assessment	RPF	Registered Professional Forester
CGS	California Geological Survey	THP	Timber Harvest Plan
CSO	California Spotted Owl	USFS	United States Forest Service
DBH	Diameter at Breast Height	WLPZ	Watercourse/Lake Protection Zone
DFG	Department of Fish & Game	WQ	California Regional Water Quality Control Board
DPR	Department of Pesticide Regulation	PCA	Pest Control Advisor
NSO	Northern Spotted Owl	*[SIC]*	Word used verbatim as originally printed in another document. May indicate a misspelling or uncommon word usage.
CDFW/DFW	California Dept. of Fish & Wildlife		

AB 32	Assembly Bill 32	ARB	Air Resources Board
NPP	Net Primary Production	BOF	Board of Forestry
NEPA	National Environ. Policy Act	CAPCOA	Calif. Air Pollution Control Officers Assoc.
NEP	Net Ecosystem Production	CCR	Calif. Code of Regulations
NTMP	NonIndust. Timb. Manag. Plan	CESA	Calif. Endangered Species Act
OPR	Govrn's Office of Plan. & Res.		
Pg	Petagram = 10^{15} grams		
PNW	Pacific NorthWest		
CO_2	Carbon Dioxide	PRC	Public Resources Code
CO_2e	Carbon Dioxide equivalent	RPA	Resource Plan. and Assess.
DBH/dbh	Diameter Breast Height	RPF	Registered Professional Forester
DFG	Calif. Department of Fish and Game	SPI	Sierra Pacific Industries
EPA	Environmental Protection Agency	SYP	Sustained Yield Plan
FPA	Forest Practice Act	tC	tonnes of carbon
FPR	Forest Practice Rules	Tg	Teragram = 10^{12} grams
GHG	Greenhouse Gas	THP	Timber Harvesting Plan
ha^{-1}	per hectare	LBM	Live Tree Biomass
LTSY	Long Term Sustained Yield	TPZ	Timber Production Zone
m^{-2}	per square meter	USFWS	U.S. Fish & Wildlife Service
MAI	Mean Annual Increment	WAA	Watershed Assessment Area
MMBF	Million Board Feet	WLPZ	Watercourse. & Lake Prot. Zone
$MMTCO_2E$	Million Metric Tons CO_2 equivalent	yr^{-1}	per year

NOTIFICATION PROCESS

In order to notify the public of the proposed timber harvesting, and to ascertain whether there are any concerns with the plan, the following actions are automatically taken on each THP submitted to CAL FIRE:

- Notice of the timber operation is sent to all adjacent landowners if the boundary is within 300 feet of the proposed harvesting, (As per 14 CCR § 1032.7(e))
- Notice of the Plan is submitted to the county clerk for posting with the other environmental notices. (14 CCR § 1032.8(a))
- Notice of the plan is posted at the Department's local office and in Southern-Sierra office in Fresno. (14 CCR § 1032))
- Notice is posted with the Secretary for Resources in Sacramento. (14 CCR § 1032.8(c))
- Notice of the THP is sent to those organizations and individuals on the Department's current list for notification of the plans in the county. (14 CCR § 1032.9(b))
- A notice of the proposed timber operation is posted at a conspicuous location on the public road nearest the plan site. (14 CCR § 1032.7(g))

THP REVIEW PROCESS

The laws and regulations that govern the timber harvesting plan (THP) 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 (rules) which are contained in the California Code of Regulations (CCR).

The 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:

*THP contents and the THP 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
*Logging roads and landing

When a THP is submitted to the California Department of Forestry and Fire Protection (CAL FIRE) a multidisciplinary review team conducts the first review team meeting to assess the THP. The review team normally consists of, but is not necessarily limited to, representatives of CAL FIRE, the Department of Fish and Game (DFW), and the Regional

Water Quality Control Board (WQ). The California Geological Survey (CGS) also reviews THP's for indications of potential slope instability. The purpose of the first review team meeting is to assess the logging plan and determine on a preliminary basis whether it conforms to the

rules of the Board of Forestry. Additionally, questions are formulated which are to be answered by a field inspection team.

Next, a preharvest inspection (PHI) is normally conducted to examine the THP area and the logging plan. All review team members may attend, as well as other experts and agency personnel whom CAL FIRE may request. As a result of the PHI, additional recommendations may be formulated to provide greater environmental protection.

After a PHI, a second review team meeting is conducted to examine the field inspection reports and to finalize any additional recommendations or changes in the THP. The review team transmits these recommendations to the RPF, who must respond to each one. The director's representative considers public comment, the adequacy of the registered professional forester's (RPF's) response, and the recommendations of the review team chair before reaching a decision 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 2 years more for a total of 7 years.

Before commencing operations, the plan submitter must notify CAL FIRE. During operations, CAL FIRE periodically inspects the logging area for THP and rule compliance. The number of the inspections will depend upon the plan size, duration, complexity, regeneration method, and the potential for impacts. The contents of the THP and the rules provide the criteria CAL FIRE inspectors use to determine compliance. While CAL FIRE cannot guarantee that a violation will not occur, it is CAL FIRE's policy to pursue vigorously the prompt and positive enforcement of the Forest Practice Act, the forest practice rules, related laws and regulations, and environmental protection measures applying to timber operations on the timberlands of the State. This enforcement policy is directed primarily at preventing and deterring forest practice violations, and secondarily at prompt and appropriate correction of violations when they occur.

The general means of enforcement of the Forest Practice Act, forest practice rules, and the other related regulations range from the use of violation notices which may require corrective actions, to criminal proceedings through the court system. Civil, administrative civil penalty, Timber operator licensing, and RPF licensing actions can also be taken.

THP review and assessment is based on the assumption that there will be no violations that will adversely affect water quality or watershed values significantly. Most forest practice violations are correctable and CAL FIRE's enforcement program seeks to assure correction. Where non-correctable violations occur, civil or criminal action may be taken against the offender. Depending on the outcome of the case and the court in which the case is heard, some sort of supplemental environmental corrective work may be required. This is intended to offset non-correctable adverse impacts. Once a THP is completed, a completion report must be submitted certifying that the area meets the requirements of the rules. CAL FIRE inspects the completed area to verify that all the rules 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. If the stocking standards have not been met, the area must be planted annually until it is restored. If the landowner fails to restock the land, CAL FIRE may hire a contractor to complete the work and seek recovery of the cost from the landowner.

The following issues/concerns were raised during the public comment period and are addressed as follows:

Concern #1: ***Dear CAL FIRE Director,***

The Central Sierra Environmental Resource Center (CSERC) submits these comments in response to the Upper Beaver Creek THP. The Upper Beaver Creek THP would allow 42 acres of selection logging (6.5%), 30 acres of commercial thinning (4.7%), 382 acres of alternative prescription (59.4%), one acre road right-of-way (0.2%), and 188 acres of operational buffer (29.2%). The total project acreage of this THP is 643 acres including the operational buffer. The Upper Beaver THP area is located entirely in the Upper Beaver Creek watershed, which eventually flows into the North Fork of the Stanislaus River. The Upper Beaver Creek watershed has been logged multiple times in the last two decades, with the 2001-2008 Curry THP and more recently Flat Tail THP, North Griswold THP, Upper Beaver Salvage, and other salvage projects (page 160). The project area has slopes ranging from 5 – 65 %, with moderate and high erosion hazard ratings, and SPI plans to operate heavy machinery, construct landings, construct roads, and use tractor watercourse crossings in winter. There are 420 feet of seasonal road, 4,655 feet of temporary road, and ~300 feet of these roads will be on a grade that exceeds 15% within the project area (page 37). There is suitable habitat for Pacific fisher, plus there are known California Spotted Owl (CSO) activity centers throughout the project area and a Northern Goshawk nest site associated with unit #4727.

CSERC provides the following specific comments.

While many of these comments are re-statements of comments we have previously submitted for similar THPs, the fact that SPI continues to submit similar THP plans makes repetitive use of our comments both logical and necessary. Until such time that SPI THPs adjust to respond to the key issues we have identified, many of our comments may be redundant with previously submitted comments.

Oak Retention

In Table 1. AP Stand Description by Species: the Pre-Harvest basal area per acre of oaks is ~1 sq. ft. and the Post-Harvest Basal area per acre is not provided because the amount of oaks retained will be dictated by the composition of individual units, not the continuous tree management systems (CTMS) analysis used to determine pre-harvest basal area per acre (page 16). There is currently ~1 sq. ft./ac. in the THP area, so this area does not fall under the protection of the Southern District forest practice rule regarding oak retention (959.15).

In alternative prescription units any live hardwood greater than or equal to 36" dbh shall be retained where they exist when this can be done safely (page 72). In selection and commercial thinning treatment areas any hardwood greater than or equal to 36" dbh shall be retained where they exist when this can be

done safely (page 73). There is only 1 sq. ft of oaks per acre, based on these claims made by SPI in the THP. Based on there being so few oaks currently present throughout the project area BEFORE project operations would further reduce their numbers, CSERC emphasizes the high value that is provided to wildlife by the few oaks that are now present across all the units. As both the Director and State Fish and Wildlife representatives are aware, oaks provide ecologically pivotal habitat values for birds and a wide range of mammal species. Furthermore, they are essential habitat attributes in home rages for the CA Spotted Owl and other species that are of special concern within the project area.

Because oaks are so extremely limited within the project, CSERC urges the Director/CAL FIRE to require SPI in this THP to retain all mature oaks (12" dbh or greater) within the project units be obtained in order to maintain critical habitat value and the food source to wildlife provided by mature oaks. This THP specific directive should be applied to all project units except for any areas where retention of the isolated, scattered mature oaks may not be feasible for some clear safety reason.

Response to Concern #1:

There is no language in the California Forest Practice Act and Rules (CFPR) that require retention of oaks that is applicable to this THP. 14 CCR 959.15 is the only rule in the Southern Forest District that would require retention of oaks. This plan does not meet the specifications and cannot be held to the requirements of 14 CCR 959.15 because it only has 1 sq. ft. of oaks per acre. 14 CCR 952.7, Resource Conservation Standards for Minimum Stocking, states that the site occupancy provided by Group A species shall not be reduced relative to Group B species. This plan is not proposing to reduce Oak relative to Group A species, and therefore will be able to meet CFPR post-harvest stocking standards.

Within the THP, there are the following areas that describe hardwood retention and wildlife. This is not a complete list, but a sample of the language that provides a theme in this plan.

- Beginning on page 72, hardwoods will be retained per "SPI Habitat Retention Objectives to Enhance Wildlife Opportunities".
- Beginning on Page 174, within the Biological Resources section in the Cumulative Impacts Assessment, "Terrestrial Habitat Features Discussion" provides hardwood snag retention standards, and hardwood cover discussions.
- Beginning on page 183, within the Biological Resources section in the Cumulative Impacts Assessment, "Wildlife" provides discussions about any wildlife concerns.

As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

CSERC acknowledges that 14 CCR 959.19 does not apply in that less than 400 sq. ft. of basal area per 40 acres is present within the THP area. Therefore, no requirement exists to retain any oaks. CSERC also acknowledges that the plan states that all hardwoods greater than 36 inches DBH will be retained. The plan states that this is for the objective of enhancing wildlife opportunities. During PHI, it was observed that the

hardwood component primarily consists of black oak. It appears that the plan accurately describes hardwood presence. Item 38 of the plan outlines more on the requirements on retention of both conifers and hardwoods with emphasis on retaining trees with characteristics that are conducive to enhancing wildlife values.

The Department has not found substantive evidence of probable significant adverse cumulative impacts to oaks or wildlife from its overall review of the data provided in the THP along with documentation from other past projects within the biological assessment area and in consideration of any information provided in public comments regarding this concern.

Concern #2: *Winter Operations*

During the fall, winter, and early spring periods, soils are often saturated for extensive periods of time. This THP, as proposed, would allow the use of class III watercourse crossings, road construction, and landing construction during winter months under the Winter Period Operation Plan (WPOP) and Ground Conditions (page 33). The Ground Conditions in the WPOP restrict operations during the winter period with the requirement that operations "may take place during extended dry periods when roads and landings are generally firm and easily passable or during hard frozen conditions" (page 34). Our center asserts that it is highly unlikely that field employees doing logging operations will be able to accurately and neutrally judge the conditions of the soils. We recommend that a neutral party be given the authority to make soil condition determinations.

This THP would allow mechanical site prep to be conducted during the winter period, "on slopes less than 40%, tractors and excavators may be used to mechanically clear brush and logging slash within the alternative areas" (page 33). All of this work creates the potential for a significant amount of sediment runoff to occur throughout the project area which has moderate to high erosion hazard ratings (page 21).

The THP states that roads and landings will be "hydrologically disconnected from watercourses and lakes to the EXTENT FEASIBLE" (page 24). The THP also defines Hydrologic Disconnection as "the removal of direct routes of drainage or overflow of road runoff to a watercourse or lake" (Page 24). This wording shows that the applicant can not guarantee that erosion into waterways will not occur, therefore they can not ensure that water quality will not be adversely impacted. In addition, the inability to actually monitor the effects of winter operation on water quality underscores the need to limit operation to dry months.

As noted in our comments above, it is challenging for a field employee to accurately judge the conditions of the soils under winter conditions, and it is also unlikely that a timber operator would be able to judge whether or not the sediment deposited in streams has increased turbidity to unacceptable levels

or whether the sediment visually observed has exceeded water quality standards.

Because CAL FIRE has a legal responsibility to protect water, it is important for CAL FIRE to ensure that regulatory requirements related to winter conditions are verified by either some measurement standards that can be assessed for accuracy, or that the determination for soil conditions or turbidity in streams be assessed by a third party with neutrality CSERC respectfully presses for CAL FIRE to avoid approving winter season operations based entirely on unsubstantiated claims by project operators that their operations are not affecting water quality.

Road conditions, skid trail conditions, and other areas across the project sites will vary widely in terms of soil saturation due to slope, exposure, etc.. Some soils may be saturated while others are not, making it challenging to avoid saturated conditions that are likely to produce significant sediment discharge. Therefore, our Center continues to oppose allowing timber operations during the winter period - but if those are nevertheless approved, we ask for the following.

Either winter operations should be denied or that the Director should require a neutral party to judge road conditions, soil saturations, and to the extent feasible to monitor the turbidity of streams on a regular basis during rain events -- both during operations and following timber operations. This will provide actual data that would potentially reveal whether water quality standards are indeed being met.

Response to Concern #2:

The Forest Practice Rules allow for an RPF to either utilize a standard Winter Period Operating Plan, or to come up with a prescriptive Winter Period Operating Plan (WPOP) that would provide equal protection to the environment and to the quality and beneficial uses of water. The WPOP prescribes timber operations that will and will not be allowed during the winter period. It is well known that, due to California's Mediterranean climate, many winters can have extended drought periods where rain does not fall for a month or more at a time.

CFPR require that the timber operation will not result in a change to water quality nor the beneficial uses of water. An approved WPOP must follow strict mitigations to avoid impacts to water quality, turbidity standards, basin plans or the beneficial uses of water. All the following rules in this regard are in effect.

- 14 CCR 954.5, Servicing of Logging Equipment, Disposal of Refuse, Litter, Trash and Debris
- 14 CCR 954.6, Waterbreaks
- 14 CCR 954.8, Tractor Road Watercourse Crossing
- 14 CCR 956, Intent of Watercourse and Lake Protection
- 14 CCR 956.2, Protection of the Beneficial Uses of Water and Riparian Functions

- 14 CCR 956.3, General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas
- 14 CCR 956.4, Watercourse and Lake Protection
- 14 CCR 956.7, Reduction of Soil Loss

Ongoing site inspection occurs from CAL FIRE Area Foresters to ensure the correct application of the rules are being followed are year-long. As an example, a quick review of the 4-19-00007-CAL and 4-14-026-CAL, Inspection Reports by the CAL FIRE Area Inspectors revealed the following on a Sierra Pacific Industries THP:

> 12/20/2019, 4-19-00007-CAL, CAL FIRE Inspector Whitson: *Operations were active in four evenaged units. Fulton Trucking was conducting skidding and loading operations in unit 630 and was falling and preparing to skid and load out of unit 629. Fray Logging was conducting falling, skidding and loading operations in unit 627. Sutton Logging was active in unit 623 where falling, skidding and loading operations were occurring. I walked portions of all active units, and observed ground conditions were ideal for operations. The units were slightly wet on the surface, but dry dirt was present just below the surface. All active operations were being hauled on rocked roads, and no issues were observed though the area was partially covered in snow. SPI Forester Steve Kafka was present on site and we discussed the landowners plan to continue logging off of rocked or paved roads as long as unit conditions allowed. No violations were observed during this inspection*
>
> 1/14/2021, 4-12-026-CAL, CAL FIRE Inspector Whitson: *This inspection was initiated by the forester administrating the THP. He wanted to inspect four Class Three Watercourses mapped on the harvest area. Each terminated above Love Creek Road, and he wanted to downgrade them to swales. I inspected all four. Each has an area which is incised, but travels downslope to a gentle grade where the channels dissipate and there is no longer a defined bed and bank. After examining each, I notified the forester I supported downgrading each.*
>
> *During this inspection the LTO and I examined the spur road which had been saturated during the previous visit. The road is drying out, and the LTO does not plan to use the road for several days. After walking the road, I notified the LTO I saw no potential for sediment to access a watercourse. Given this, I felt the LTO could use the road when needed even in the present state.*

While the extensive rules listed above are always in effect, the WPOP contains provisions that are designed to protect the quality and beneficial uses of water. The definition of "saturated soils", and "hard frozen conditions" applies to every area of the plan that is deemed to be operable during the winter months. Just because one area of the project may be sufficiently dry for winter operations, it would not be permissible to declare all areas of the project in acceptable condition given the microclimate, aspect, slope and elevational differences that are going to be found on a THP area.

The plan also contains soil stabilization measures to treat bare areas within the WLPZ within Item # 18, THP page 22. Specific Winter Operations are discussed in Item #23, THP page 31. The WPOP (found within Item #23) includes several limitations required by the California Forest Practice Act and Rules (CFPR) that are designed to prevent sediment discharge into

watercourses. The Department finds that, if followed as prescribed, the provisions in the WPOP plan will protect the quality and beneficial uses of water. WLPZ in-lieu or alternative practices, are discussed within Item # 27, THP page 56. These practices were reviewed and found to be at least equal to the protection provided by the standard rule.

> ***Significant Sediment Discharge*** *means soil erosion that is currently, or, as determined based upon visible physical conditions, may be in the future, discharged to watercourses or lakes in quantities that violate Water Quality Requirements or result in significant individual or cumulative adverse impacts to the beneficial uses of water. One indicator of a Significant Sediment Discharge is a visible increase in turbidity to receiving Class I, II, III, or IV waters.*

The use of the phrase "visible increase in turbidity" in the above excerpt from the CFPR was designed by the California Board of Forestry and Fire Protection (BOF) to make it easier for a timber operator or timberland landowner to determine when it is inappropriate to continue with winter operations without needing to involve a neutral party to inspect the work area, or use measuring instrumentation.

As of January 1, 2015, all roads within Timber Harvest Plans must be hydrologically disconnected to the extent feasible. The 2015 Road Rules package contains a set of comprehensive revisions to the construction, reconstruction, maintenance and use of logging roads, and are designed with stringent water quality protections. CAL FIRE finds that the rules along with the measures contained in the WPOP of the THP combined with our ability to enforce these provisions on-site, at our convenience, will mitigate the fact that the plan has WPOP provisions. Protection of the quality and beneficial uses of water is a requirement of the rules of the BOF.

The Lower Stanislaus River is a 303(d) listed watercourse, however the listing is not for impacts related to timber operations. The Lower Stanislaus River is listed as a 303(d) watershed because of Diazinon, Group A Pesticides, Mercury and “Unknown”. Group A Pesticides are defined on page 163 of the THP, and are not the type of pesticides used in forestry applications. Impacts relating to the harvest operations are not expected to change stressors to the Stanislaus.

CAL FIRE’s experience is that SPI normally does not operate during wet periods in the winter period. In many cases, landowners will operate early in the winter period before the winter rains set in or late in the season when the winter rains end prematurely.

As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

> *Non-compliance with the THP is considered a violation of the Forest Practice Rules. Field operations and conditions are routinely inspected and monitored for compliance with all Forest Practice Rules by CAL-FIRE inspectors throughout the life of the THP. This includes evaluating site conditions for timber operations during the winter period.*
>
> *The plan states that operations (including site prep) may not occur when saturated soil conditions may lead to significant sediment discharge. Erosion control requirements apply to site prep operations just as they do with all other forms of timber operations.*

Therefore, item 5 of the WPOP on page 33 applies. The plan EHR map shows the lower portion of Unit 5354 as being the only unit with a high EHR. This is a cable unit; therefore, mechanical site prep is not allowed. During PHI and previous inspections throughout the ownership site prep operations have been evaluated. To date, no violations were observed related to site prep during the winter period.

100% hydrologic disconnection of road and landing surface flows cannot be guaranteed. As a road crosses a watercourse, there will typically be a segment between the 2 disconnects that is hydrologically connected. The intent of the Forest Practice Rules is to minimize connectivity of surface flows. 14 CCR 963.5 (a) states that Logging Roads and Landings shall be disconnected from Watercourses and Lakes "to the extent feasible." Therefore, the practice is in compliance with the Forest Practice Rules. During PHI several watercourse crossings and roads were evaluated. In some cases, recommendations were made to ensure hydrological disconnection would comply with the Forest Practice Rules and minimize inputs.

The Department has not found substantive evidence of probable significant adverse cumulative impacts to beneficial uses of water from its overall review provided in the THP along with documentation from other past projects within the biological assessment area and in consideration of any information provided in public comments regarding this concern.

Concern #3: *Water Drafting*

Water drafting guidelines on page 74 state that "Individual water holes may be used for drafting when the waterhole demonstrates the ability to recharge itself to the point where use is plausible (waterhole contains greater than 300 gallons)" (page 74). On page 122 the THP reads "Individual water holes may be used for drafting when the waterhole demonstrates the ability to recharge itself to the point where use is plausible (waterhole contains greater than 500 gallons)".

CSERC asks that this inconsistency between the two amounts (300 gallons vs. 500 gallons) be addressed to avoid a reduction in stream flows that will impact aquatic resources downstream.

Should there be a drought, any removal of water from streams will further stress aquatic animals. Upper BeaverCreek is a fish-bearing, Class I watercourse (page 53). To avoid detrimental effects to fish-bearing and non-fish bearing streams, SPI should be required to comply with the same water drafting standards as the Forest Service. BMP 2.5 requires logging operations on lands within the Stanislaus Forest.

Response to Concern #3:

Please see revised page 74 in regards to individual waterholes which contain greater than 500 gallons. The plan was revised to correct the inconsistency. Page 74 states, "individual waterholes may be used for drafting when the waterhole demonstrates the ability to recharge itself to the point where use is plausible (waterhole contains greater than 500 gallons)."

BMP 2.5 is required for Federal operations, but CAL FIRE does not have the regulatory authority to require BMP 2.5 on non-federal timberlands.

Water drafting is typically required when timber operations occur during the dry summer months for dust abatement on haul roads. Dust abatement serves many important functions like reducing dust levels to protect the beneficial uses of water by reducing small loose material on the road surface that may runoff into watercourses. Dust abatement is also an important tool for public safety. Several of the haul roads are open to the public and through dust abatement, visibility on the road will be clearer, allowing the public to see traffic associated with the timber operations. Finally, dust abatement protects air quality by reducing particulate matter and dust particles from entering the atmosphere.

The RPF has provided information regarding water drafting activities associated with timber operations on pages 74 and 122, echoing many of the suggestions presented by the Commenter.

The THP review process is to be used to meet Department of Fish and Game CEQA review requirements. A 1611 addendum is attached at the end of Section II, and supporting information and analysis in Section III.

There is a winter operating plan for this THP which allows for timber operations to occur during the winter during extended dry periods. Typically, water drafting is not required during the winter period because soil moistures levels are higher in the winter compared to the dry summer season.

As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

> *Water drafting language in the plan was found to be inconsistent. A recommendation was made revising the THP to show consistency. There is no requirement in the Forest Practice Rules that water drafting operations must comply with BMP 2.5. Water drafting sites were evaluated during the PHI. No additional recommendations were made.*

CAL FIRE has found the plan in compliance with the Forest Practice Rules and Act. Additional protection will be in place through the requirements of Fish and Game Code.

Concern #4: *Raptor Protections*

There are multiple California Spotted Owl (CSO) activity centers within the THP area of concern and one known Northern Goshawk historic nest site east of unit #4727. "Surveys conducted in 2020 detected a single adult present in the nest site area" (Page 67).

Our Center strongly asserts that pre-operational surveys should be required within and around the proposed harvest area in each location where previous sightings have been identified in order to ensure that any nesting CA Spotted Owl or Northern Goshawk is not disturbed.

Requiring pre-operational surveys has far higher potential to locate birds prior to disturbance instead of waiting until after operations have started and then expect that raptors can then be discovered during timber operations. If pre-treatment surveys for nesting raptors of concern and other nesting birds cannot be conducted in the treatment area by a qualified biologist, then timber operations should not be allowed to occur during nesting season (between February 15 through September 30 to allow young time to fledge).

CDFW has also expressed concern and has suggested changes to this THP. CSERC restates (as we have in the past) CDFW's recommendations for appropriate protection of and mitigation of the projects;' impacts of nesting raptors. These are current comments from CDFW that our center re-emphasizes for this THP:

Section II Item 32(a) indicates that if an occupied nest of a listed bird species is discovered during timber operations, that all operations will be suspended within 375 feet of the nest and no vegetation disturbing activities will occur within ¼ mile of the nest (page 67). CDFW recommends a minimum no disturbance buffer of ¼ mile be established around an active nest of a listed species, prior to consultation with CDFW on the species-specific and project specific configuration of the buffer zone. If avoidance is not feasible, acquisition of an incidental take permit pursuant to Fish and Game Code section 2081 subdivision (b) would be warranted prior to lawfully engaging in any actions that could result in take of the species.

Section II Item 32(c) includes measures for non-listed raptor species and states that these are voluntary safeguard measures, and therefore, not an enforceable condition for the Project. CDFW recommends language that describes these measures as "voluntary" are removed.

There are multiple California spotted owl (CSO) activity centers within the Biological Assessment Area of this THP. It is CDFW's understanding that Sierra Pacific Industries has been working on a northern spotted owl and California spotted owl Habitat Conservation Plan with the U.S. Fish and Wildlife Service, which includes conducting CSO surveys and implementing site specific mitigation measures for known nest sites. However, this information is not included in the THP, and is therefore not an enforceable condition for the Project. CDFW continues to recommend that all mitigation measures, conditions, and restrictions that the LTO needs to comply with or be aware of, including surveys, be included in Section II of the THP.

Sierra Pacific Industries Final Habitat Conservation Plan (HCP) for Northern and California Spotted Owl was made available on the Federal Register on July 31, 2020. Since this HCP covers a portion of the ownership, please change Section I Item 8(e) to "yes."

Our Center provides strong support of the comments submitted by CDFW for this specific THP. However, we want to also re-emphasize our disagreement with the legal and scientific adequacy of the SPI-USFWS HCP "take permit" that USFWS

has given to SPI for their timber operations. Our center urges that the Director respond to the specified concerns described by CDFW staff in order to better protect nesting raptors and other wildlife species.

Response to Concern #4:

On page 5, Item # 8 “e” has been changed to “yes”, indicating that a portion of the ownership is covered by a HCP. This HCP can be found at: https://www.spi-i-nd.com/OurForests/HabitatConservationPlanning.

This HCP is part of an application for a Northern and California Spotted Owl incidental take permit that was developed in deliberation with the USFWS, CDFW, and U.S. Forest Service. It describes the anticipated effects of the proposed taking; how those impacts will be minimized, or mitigated; and how the HCP is to be funded. Although the CSO is not currently a listed species, conserving species before they are in danger of extinction, or are likely to become so, can also provide early benefits and prevent the need for listing.

On page 196 of the THP, the discussion for Raptors begins. SPI has conducted all the appropriate database searches to determine if known raptors are located within the plan area and within the biological assessment area. The plan also elaborates about the protection measures given to listed and non-listed raptors and a detailed discussion is on page 197 of the THP. The THP has protection measures for listed raptors on page 66, Item # 32, and for non-listed raptors on page 69, Item # 32.

On page 70, item # 32, protection measures for CSO are found and the CSO is discussed in detail beginning on page 206. The THP mentions several historic locations for CSO. Species protection and identification for CSO and other listed and non-listed raptors is discussed in the plan. The THP discusses general survey efforts that will be made for raptor species. There is no provision within the rules of the BOF to provide restoration of habitat for CSO. The species is not currently listed under either the federal or state endangered species acts. The plan contains protections for habitat for any non-listed raptor species, which includes CSO, and these procedures are more than BOF rule requirements. CAL FIRE supports these measures as a preventative way to keep the species from being adversely impacted.

The Northern Goshawk is afforded the same protections as the Listed Raptors protections measures, as described on page 66, Item # 32.

In regards to surveys, on page 75 of the HCP, pre-operational surveys have been conducted since 1990 for CSO, which have been voluntarily accomplished by SPI, and will now be required as part of the HCP.

The letter from the RPF (available on CALTREES) “SUBJECT: THP #4-20-00185-TUO (Y Knot) PHI Report Response” dated January 15, 2021 responds to CDFW comments.

As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

Protection measures in the plan are in compliance with the Forest Practice Rules. Evaluation of the plan and surrounding area shows that potential habitat exists within the Biological Assessment Area.

The Department has determined the plan is in conformance with the rules and significant impacts are not expected.

Concern #5: ***Need for Habitat Protection for the Pacific Fisher***

The proposed project, along with nearby past, future, and current projects, significantly reduces forest connectivity (especially of mature conifers) which thus reduces suitable habitat for any fishers that may potentially be present within the project area. The proposed THP assumes that project activity in this region has no detectable effect on sensitive species such as the American Marten and Pacific Fisher. Unless protocol consistent surveys are first conducted in the project area, the THP cannot legally base wildlife impact determinations upon the unconfirmed assumption that a rare animal is not present.

Habitat fragmentation is one of the main threats to the fisher's according to CDFG's "A Status Review of the Fisher (Martes pennanti) in California (2010)," the fisher's ability to survive in areas that have had various silvicultural treatments depends on the size, distribution and type of those operations. "Fishers are negatively associated with clearcuts and habitats that are nearly or completely surrounded by clearcuts (Rosenberg and Raphael 1986) (CDFG, 2010)." Throughout this Report, fisher mortality was directly correlated with current timber harvesting practices place is fisher habitat.

Science has shown that fisher mortalities increase in heavily harvested areas due to the reduction of habitat quality (Kelly 1977; Weir and Harstad 1997; Simpson Resource Company 2003). The fisher, especially females, has a small home ranges, making them more susceptible to predation in areas with fragmented habitat (Buck et al, 1994:373-374).

The proposed project, along with past and upcoming future projects in the Upper Beaver Creek watershed, which flows into the North Fork of the Stanislaus River 6 watershed, continues to reduce forest connectivity and suitable habitat for any fishers that may potentially be present within the project area now or in the near future. Without any scientific basis for assessing whether or not fishers may be present or absent in the plan area, SPI cannot accurately conclude that their evenage treatments will not harm the fisher.

It has been well documented that fishers are forest specialists that prefer late seral forests for denning and resting. Late seral forest characteristics such as dense canopy cover, large diameter trees, large snags, large down logs, and understory vegetation of late seral forests for foraging are critical for the fisher survival. Such habitats as described above can be considered the Department's preliminary assessment of essential habitats and habitat elements for the fisher (CDFG).

> ***The fisher is one of several species selected to illustrate conservation issues with the Sierra Nevada and Cascade bioregion. Portions of the account from the 2007 CDFG report are as follows: "...the status of the Pacific fisher is one indicator of the status of forest condition of the Sierra, particularly the old-growth component" (CDFG 2007). On June 15, 2020 the Southern Sierra Nevada DPS of fisher (Pekania pennanti) (SSN DPS) was added as an endangered species to the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h).***
>
> ***Fish and Wildlife Services basis for action: The implications for the DPS's status were loss and fragmentation of habitat...(i.e., loss of snags and other large habitat structures on which the species relies), climate change, and tree mortality from drought, disease, and insect infestations (Fish and Wildlife Services). The Conservation of the Pacific fisher is dependent upon the approaches to and success of restoring healthy and diverse forest ecosystems along the Sierra range" (CDFG 2007:301).***

This THP will continue to exacerbate the loss of fisher habitat and is not responsive to the latest science. The lack of fishers found on SPI land should at least in part be considered to be an indicator of the poor condition of the forest habitat found on their land. This broad general THP area is within potential travel distance of known fisher occupied habitat in Yosemite Park and southern eastern portion of the Stanislaus forest. Accordingly, as a CEQA equivalent planning assessment, this THP should reasonably mitigate for potential significant impacts that would occur if this THP reduces suitable fisher habitat by removing large trees, large snags, large down logs, and closed canopy forest conditions.

CSERC asks that either SPI be required to undertake furbearer photo-detection (or track plate) surveys consistent with scientific protocols within all project units within the plan area prior to any approval of the THP, or that SPI be required to retain movement corridor areas with a minimum 60% canopy cover that should be retained with all large snags, large diameter living trees, and all large diameter down logs; along with a 200' wide swath across the project units acres so as to ensure there is suitable habitat for fisher movement -- not just at the present, but into future decades as the tree plantations gradually evolve into young forest stands.

Response to Concern #5:

It is noted the area proposed for management under the THP is not currently occupied by the Pacific Fisher.

As noted in the June 10, 2015 Memorandum to Sonke Mastrup, Executive Director of the California Fish and Game Commission (Status Review of Fisher) from the Director of the California Department of Fish and Wildlife on page 25 of the review:

> *"Despite a number of extensive surveys using infrared-triggered cameras conducted by the Department, the US Department of Agriculture Forest Service (USFS), private timber companies, and others since the 1950s, no verifiable detections of fishers*

> *have been made in that portion of the Sierra Nevada bounded approximately by the North Fork of the Merced River and the North Fork of the Feather River (Zielinski et al. 1995, 2005)."*

In the past, California specific literature and studies have indicated that the Pacific fisher is currently not found from the Cascade and Sierra Nevada Ranges from the Feather River south to the Tuolumne County area. This would mean that there are hundreds of thousands of acres of forested land in California, which includes National Park lands, National Forest lands and wilderness areas, small private landholdings, etc. wherein there has been no finding of Pacific Fisher in recent times. A published CDFW report, "A Status Review of the Pacific Fisher (Martes pennanti) in California" from February 2010 states:

> *"There is little empirical evidence of fisher inhabiting this gap in the Sierra Nevada range, although the Department believes they did at some level, and we are largely relying on observation data and trapping reports and distribution accounts described by Grinnell et. al (1937). Thus, as much as 43 percent of the historical range is either (1) not inhabited by fisher now; 2) not part of the historical range; or 3) fisher are extremely rare in this area. In this geographical area, there have been a handful of reported observations since the early 1900s. Overall, the Department concludes that there has not been a substantial change in fisher population distribution since the Grinnell period in the early 1920s, and that natural recolonization of fisher to a former range in any detectable number has not occurred"*. The CDFW report goes on to report on preliminary genetic coding data that is suggesting that "gap" in fisher distribution may indicate "separation of the northern and southern populations for thousands of years."

It is apparent from the documentation that this absence of fisher in the "gap" is science-based and not related to the number of surveys that have been completed on private industrial forest lands.

The June 10, 2015 Memorandum and status review of the Pacific Fisher is the latest document from CDFW. The Executive Summary discusses the current range and status of the species in references to land ownership below:

> *Within the fisher's current range in the state, greater than 50% of the land base is administered by the US Forest Service (USFS) or the National Park Service. Private lands within the NC ESU and the SSN ESU represent about 41% and 10% of the total area, respectively. Comparing the area assumed to be occupied by fishers in the early 1900s to the distribution of contemporary detections of fishers, it appears the range of the fisher has contracted substantially. This difference is due to the apparent absence of fishers from the central Sierra Nevada, most of the northern Sierra Nevada, and portions of the north Coast Ranges. This apparent long-term contraction notwithstanding, the distribution of fishers in California has been stable and possibly increasing in recent years.*

Analysis of terrestrial habitat within the THP also serves to evaluate the potential pre-harvest and post-harvest habitat, although not specific to Pacific fisher. Terrestrial habitats considered include hardwood cover, presence of snags/dens/nest trees, amount of large

woody debris, presence of multi-story canopy, road density, presence of late seral characteristics and late seral stage forests. The THP discusses these resources, and has determined that the operations as proposed will not significantly affect assessment area.

Regarding Pacific fisher, CAL FIRE has considered that, because of this harvest, there will continue to be a variety of stand conditions exist within and adjacent to the THP area and will not be significantly changed by the implementation of the THP. Since Pacific fisher is currently not found on or near SPI ownership in the Cascade and Sierra Nevada Ranges from the Feather River to south of the Tuolumne County area, no additional mitigation is required under CESA.

As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

> *Item 38 of the plan cites habitat retention objectives geared towards wildlife. This includes Pacific Fisher. The prescription selects for the retention of large conifer and hardwood species with cavities, basal hollows, and re-formed tops. During PHI it was observed that previously harvested areas are well stocked with regenerating conifers. Both aggregated and dispersed retention of wildlife trees was also observed throughout the watershed in these areas where harvesting took place. Watercourse and Lake Protection Zones where harvesting had taken place were observed to contain species of size and type similar to the preharvest stand. When combined, these areas appear to provide mitigation for the concern of fragmentation. Within the THP area itself, trees marked for harvest in these WLPZ's appear to comply with both the Forest Practice Rules and the THP's Retention guidelines.*

In 2016, SPI entered into a Candidate Conservation Agreement with Assurances (CCAA) for the Pacific Fisher. A CCAA description can be found at the following web location:

https://www.fws.gov/endangered/esa-library/pdf/CCAs.pdf

Retention levels described under Item 38 are in part to meet the requirements of the Fisher CCAA.

After careful review of the information provided both in the record and obtained through additional research, CAL FIRE has determined that operations as proposed are not likely to create significant adverse and cumulative impacts to the species listed in the comment letter.

Concern #6: Cumulative Impacts

As noted in the first paragraph of these comments, this THP would allow for 382 acres of alternative prescription (evenage logging). This will diminish the number of medium and large conifer trees in the project area and further convert unevenaged biologically diverse forest habitat into uniform, much more simplified and sterile habitat conditions as young tree plantations eventually grow into tree farm crops. The Upper Beaver Creek watershed area has already

been logged many times in recent years such as 2001-2008 Curry THP and more recently Flat Tail THP, North Griswold THP, Upper Beaver Salvage, and other salvage projects. All these projects have reduced canopy cover and degraded habitat for many wildlife species -- e.g. Pacific fisher, American marten, Northern Goshawk, Northern flying squirrel, and many more.

The Google Earth images below of this THP area and the surrounding area show how a checkerboard of clear-cuts already has SIGNIFICANTLY diminished mature forest habitat, created denuded or heavily disturbed watershed conditions, and degraded scenic, watershed, and soil resources. Approval of this THP as is currently proposed will add to the continued degradation of watershed and forest health.

With these comments, CSERC fully recognizes SPI's right to manage and operate treatments on the company's private lands in a manner that complies with Forest Practice Rules and other applicable regulatory requirements. Due to the Cumulative negative impacts of this project combined with not only recent logging operations by SPI with the general project area over the past two decades, but also with the wide-ranging conversion of mixed, unevenage forest habitat into sterile young evenage tree plantations across adjacent areas, CSERC strongly asserts that it is inexcusable for CAL FIRE to ignore the cumulative effects of all of these additive impacts. The Director needs to consider the significant impact of all of the project parts of this THP and all the adjacent even age treatments to the project area. This THP is not simply one effect, but it is part of a series of cumulative effects throughout the overall forest region overlapping with this specific THP project area.

Our center strongly urges the Director to coordinate with CDFW to develop an appropriate mitigation plan to decrease the impacts of this THP combined with past, present, and foreseeable future projects to create negative cumulative effects to below a level of significance.

Response to Concern #5

Submitted THPs are reviewed by the Director to determine the potential for significant adverse cumulative impacts. Each plan is reviewed considering past, present and foreseeable future projects, and how these environments have recovered and responded to site-specific mitigations with the application of the CFPR.

Per the CFPR, the Director is required to examine the cumulative impacts of timber harvests and related projects on a watershed assessment area (WAA) of approximately 10,000 acres, along with a biological assessment area designed for the consideration of wildlife. Within the CFPR, Technical Rule Addendum No. 2 establishes the framework for the assessment of cumulative impacts. If impacts are to occur, they will happen on the ground within the WAA and may not be detectable on aerial imagery. That is why it is necessary to examine the area on-the-ground, via a Pre-Harvest Inspection (PHI) with Interagency Review Team representatives, and analyze the findings in the THP.

With respect to the view from Google Earth or other aerial views, this does not reflect the complete consideration when assessing cumulative impacts. CAL FIRE finds that the overhead view from such a distance is unable to discern accurately the amount of regrowth that has occurred, especially where some of the vegetation features such as brush, grass and forbs are small, when compared to neighboring retention overstory trees that show up on the aerial images. It is not especially easy to pick out the detailed features of recovering vegetation, individual or grouped retention trees, or seedling growth from an aerial photo.

CAL FIRE utilizes either Geographic Information Systems (GIS) software, or its publicly available online “Forest Practice Watershed Mapper v2” application. These tools are utilized by Review Team staff to view the proposed operations to get an overview, and to determine if other rules pertaining to forest practices, such as maintaining the adjacency requirements for even-aged units or determining if proposed silvicultures are allowed under the CFPR, are being adhered to in plan proposals.

Confirmation of what is found in these tools occurs during on-the-ground inspections, active harvesting inspections, and post-harvest compliance. CAL FIRE relies heavily on observations made on-the-ground from inspectors. As described in the PHI attachment, "THP 4-20-00185 (Y Knot) Public Comment and Responses", the Inspector wrote:

> *Evaluation of the plan and assessment area was done during PHI. It was observed in the field that consideration was given to all potential cumulative effects. Management practices appear to have given consideration to all resources including Watershed, Biological, Soil, Recreational, Visual, Traffic, Greenhouse gases, and Wildfire Risk. In areas where there could be potential for negative effects, recommendations were submitted.*

In 1999, SPIs option “a” adopted new standards for their even-aged regeneration harvest areas in which 2% minimum islands of trees would be retained in HRAs. The option "a" document demonstrated how the planned harvest will be projected to yield a continuously increasing harvest level over the planning horizon, and would result in increasing tree diameters over time as compared to the first decade starting point. The option "a" plan

explained how the projected growth has been constrained by the required protection of "other forest values" such as watershed, scenic, and soil resources. It provided the Department with an analysis of long term sustained yield, as required by the CFPR, and has determined that even-aged management is the silviculture to achieve Maximum Sustained Production of high quality timber products. This management regime does not preclude SPI from ensuring that public trust resources are protected, and the 4-20-00185-TUO THP discloses the potential impacts described in Technical Rule Addendum #2, Cumulative Impacts Assessment Guidelines. CAL FIRE finds that even-age regeneration harvest is consistent with the analysis done in the SPI option "a" sustained yield plan for SPI lands within the Southern Forest District.

CAL FIRE has concluded that the plan meets the requirements of the CFPR and is compliant with SPIs Option “a” plan, while taking into consideration the various public trust resources.

SUMMARY AND CONCLUSIONS

The Department recognizes its responsibility under the Forest Practice Act (FPA) and CEQA to determine whether environmental impacts will be significant and adverse. In the case of the management regime which is part of the THP, significant adverse impacts associated with the proposed application are not anticipated.

CAL FIRE has reviewed the potential impacts from the harvest and reviewed concerns from the public and finds that there will be no expected significant adverse environmental impacts from timber harvesting as described in the Official Response above. Mitigation measures contained in the plan and in the Forest Practice Rules adequately address potential significant adverse environmental effects.

CAL FIRE has considered all pertinent evidence and has determined that no significant adverse cumulative impacts are likely to result from implementing this THP. Pertinent evidence includes, but is not limited to the assessment done by the plan submitter in the watershed and biological assessment area and the knowledge that CAL FIRE has regarding activities that have occurred in the assessment area and surrounding areas where activities could potentially combine to create a significant cumulative impact. This determination is based on the framework provided by the FPA, CCR’s, and additional mitigation measures specific to this THP.

CAL FIRE has supplemented the information contained in this THP in conformance with Title 14 CCR § 898, by considering and making known the data and reports which have been submitted from other agencies that reviewed the plan; by considering pertinent information from other timber harvesting documents including THP’s, emergency notices, exemption notices, management plans, etc. and including project review documents from other non-CAL FIRE state, local and federal agencies where appropriate; by considering information from aerial photos and GIS databases and by considering information from the CAL FIRE maintained timber harvesting database; by technical knowledge of unit foresters who have reviewed numerous other timber harvesting operations; by reviewing technical publications and participating in research gathering efforts, and participating in training related to the effects of

timber harvesting on forest values; by considering and making available to the RPF who prepares THP's, information submitted by the public.

CAL FIRE further finds that all pertinent issues and substantial questions raised by the public and submitted in writing are addressed in this Official Response. Copies of this response are mailed to those who submitted comments in writing with a return address.

ALL CONCERNS RAISED WERE REVIEWED AND ADDRESSED. ALONG WITH THE FRAMEWORK PROVIDED BY THE FOREST PRACTICE ACT AND THE RULES OF THE BOARD OF FORESTRY, AND THE ADDITION OF THE MITIGATION MEASURES SPECIFIC TO THIS THP, THE DEPARTMENT HAS DETERMINED THAT THERE WILL BE NO SIGNIFICANT ADVERSE IMPACTS RESULTING FROM THE IMPLEMENTATION OF THIS THP.

Letter of Concern:

Central Sierra Environmental Resource Center
Box 396 Twain Harte, CA 95383 (209) 586-7440 FAX (209) 586-4986
Visit our website at: www.cserc.org or contact us at: johnb@cserc.org

November 12, 2020

CAL FIRE Review Team
Forest Practice Program Manager
CAL FIRE
1234 East Shaw Avenue
Fresno, CA 93710-7899

RE: THP 4-20-00185/TUO (Upper Beaver Creek THP)

Dear CAL FIRE Director,

The Central Sierra Environmental Resource Center (CSERC) submits these comments in response to the Upper Beaver Creek THP. The Upper Beaver Creek THP would allow 42 acres of selection logging (6.5%), 30 acres of commercial thinning (4.7%), 382 acres of alternative prescription (59.4%), one acre road right-of-way (0.2%), and 188 acres of operational buffer (29.2%). The total project acreage of this THP is 643 acres including the operational buffer. The Upper Beaver THP area is located entirely in the Upper Beaver Creek watershed, which eventually flows into the North Fork of the Stanislaus River. The Upper Beaver Creek watershed has been logged multiple times in the last two decades, with the 2001-2008 Curry THP and more recently Flat Tail THP, North Griswold THP, Upper Beaver Salvage, and other salvage projects (page 160). The project area has slopes ranging from 5 – 65 %, with moderate and high erosion hazard ratings, and SPI plans to operate heavy machinery, construct landings, construct roads, and use tractor watercourse crossings in winter. There are 420 feet of seasonal road, 4,655 feet of temporary road, and ~300 feet of these roads will be on a grade that exceeds 15% within the project area (page 37). There is suitable habitat for Pacific fisher, plus there are known California Spotted Owl (CSO) activity centers throughout the project area and a Northern Goshawk nest site associated with unit #4727.

CSERC provides the following specific comments.

While many of these comments are re-statements of comments we have previously submitted for similar THPs, the fact that SPI continues to submit similar THP plans makes repetitive use of our comments both logical and necessary. Until such time that SPI THPs adjust to respond to the key issues we have identified, many of our comments may be redundant with previously submitted comments.

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Oak Retention

In Table 1. AP Stand Description by Species: the Pre-Harvest basal area per acre of oaks is ~1 sq. ft. and the Post-Harvest Basal area per acre is not provided because the amount of oaks retained will be dictated by the composition of individual units, not the continuous tree management systems (CTMS) analysis used to determine pre-harvest basal area per acre (page 16). There is currently ~1 sq. ft./ac. in the THP area, so this area does not fall under the protection of the Southern District forest practice rule regarding oak retention (959.15).

In alternative prescription units any live hardwood greater than or equal to 36" dbh shall be retained where they exist when this can be done safely (page 72). In selection and commercial thinning treatment areas any hardwood greater than or equal to 36" dbh shall be retained where they exist when this can be done safely (page 73). There is only 1 sq. ft of oaks per acre, based on these claims made by SPI in the THP. Based on there being so few oaks currently present throughout the project area BEFORE project operations would further reduce their numbers, CSERC emphasizes the high value that is provided to wildlife by the few oaks that are now present across all the units. As both the Director and State FIsh and Wildlife representatives are aware, oaks provide ecologically pivotal habitat values for birds and a wide range of mammal species. Furthermore, they are essential habitat attributes in home rages for the CA Spotted Owl and other species that are of special concern within the project area.

Because oaks are so extremely limited within the project, CSERC urges the Director/CAL FIRE to require SPI i this THP to retain all mature oaks (12" dbh or greater) within the project units be obtained in order to maintain critical habitat value and the food source to wildlife provided by mature oaks. This THP specific directive should be applied to all project units except for any areas where retention of the isolated, scattered mature oaks may not be feasible for some clear safety reason.

Winter Operations

During the fall, winter, and early spring periods, soils are often saturated for extensive periods of time. This THP, as proposed, would allow the use of class III watercourse crossings, road construction, and landing construction during winter months under the Winter Period Operation Plan (WPOP) and Ground Conditions (page 33). The Ground Conditions in the WPOP restrict operations during the winter period with the requirement that operations "*may take place during extended dry periods when roads and landings are generally firm and easily passable or during hard frozen conditions*" (page 34). Our center asserts that it is highly unlikely that field employees doing logging operations will be able to accurately and neutrally judge the conditions of the soils. We recommend that a neutral party be given the authority to make soil condition determinations.

This THP would allow mechanical site prep to be conducted during the winter period, "on slopes less than 40%, tractors and excavators may be used to mechanically clear brush and logging slash within the alternative areas" (page 33). All of this work creates the potential

for a significant amount of sediment runoff to occur throughout the project area which has moderate to high erosion hazard ratings (page 21).

The THP states that roads and landings will be "hydrologically disconnected from watercourses and lakes to the EXTENT FEASIBLE" (page 24). The THP also defines Hydrologic Disconnection as "the removal of direct routes of drainage or overflow of road runoff to a watercourse or lake" (Page 24). This wording shows that the applicant can not guarantee that erosion into waterways will not occur, therefore they can not ensure that water quality will not be adversely impacted. In addition, the inability to actually monitor the effects of winter operation on water quality underscores the need to limit operation to dry months.

As noted in our comments above, it is challenging for a field employee to accurately judge the conditions of the soils under winter conditions, and it is also unlikely that a timber operator would be able to judge whether or not the sediment deposited in streams has increased turbidity to unacceptable levels or whether the sediment visually observed has exceeded water quality standards.

Because CAL FIRE has a legal responsibility to protect water, it is important for CAL FIRE to ensure that regulatory requirements related to winter conditions are verified by either some measurement standards that can be assessed for accuracy, or that the determination for soil conditions or turbidity in streams be assessed by a third party with neutrality CSERC respectfully presses for CAL FIRE to avoid approving winter season operations based entirely on unsubstantiated claims by project operators that their operations are not affecting water quality.

Road conditions, skid trail conditions, and other areas across the project sites will vary widely in terms of soil saturation due to slope, exposure, etc.. Some soils may be saturated while others are not, making it challenging to avoid saturated conditions that are likely to produce significant sediment discharge. Therefore, our Center continues to oppose allowing timber operations during the winter period - but if those are nevertheless approved, we ask for the following.

Either winter operations should be denied or that the Director should require a neutral party to judge road conditions, soil saturations, and to the extent feasible to monitor the turbidity of streams on a regular basis during rain events -- both during operations and following timber operations. This will provide actual data that would potentially reveal whether water quality standards are indeed being met.

Water Drafting

Water drafting guidelines on page 74 state that "Individual water holes may be used for drafting when the waterhole demonstrates the ability to recharge itself to the point where use is plausible (waterhole contains greater than 300 gallons)" (page 74). On page 122 the THP reads "Individual water holes may be used for drafting when the waterhole demonstrates the ability to recharge itself to the point where use is plausible (waterhole contains greater than 500 gallons)".

CSERC asks that this inconsistency between the two amounts (300 gallons vs. 500 gallons) be addressed to avoid a reduction in stream flows that will impact aquatic resources downstream.

Should there be a drought, any removal of water from streams will further stress aquatic animals. Upper BeaverCreek is a fish-bearing, Class I watercourse (page 53). To avoid detrimental effects to fish-bearing and non-fish bearing streams, SPI should be required to comply with the same water drafting standards as the Forest Service. BMP 2.5 requires logging operations on lands within the Stanislaus Forest.

Raptor Protections

There are multiple California Spotted Owl (CSO) activity centers within the THP area of concern and one known Northern Goshawk historic nest site east of unit #4727. *"Surveys conducted in 2020 detected a single adult present in the nest site area" (Page 67).*

Our Center strongly asserts that pre-operational surveys should be required within and around the proposed harvest area in each location where previous sightings have been identified in order to ensure that any nesting CA Spotted Owl or Northern Goshawk is not disturbed.

Requiring pre-operational surveys has far higher potential to locate birds prior to disturbance instead of waiting until after operations have started and then expect that raptors can then be discovered during timber operations. If pre-treatment surveys for nesting raptors of concern and other nesting birds cannot be conducted in the treatment area by a qualified biologist, then timber operations should not be allowed to occur during nesting season (between February 15 through September 30 to allow young time to fledge).

CDFW has also expressed concern and has suggested changes to this THP. CSERC restates (as we have in the past) CDFW's recommendations for appropriate protection of and mitigation of the projects;' impacts of nesting raptors. These are current comments from CDFW that our center re-emphasizes for this THP:

Section II Item 32(a) indicates that if an occupied nest of a listed bird species is discovered during timber operations, that all operations will be suspended within 375 feet of the nest and no vegetation disturbing activities will occur within ¼ mile of the nest (page 67). CDFW recommends a minimum no disturbance buffer of ¼ mile be established around an active nest of a listed species, prior to consultation with CDFW on the species-specific and project specific configuration of the buffer zone. If avoidance is not feasible, acquisition of an incidental take permit pursuant to Fish and Game Code section 2081 subdivision (b) would be warranted prior to lawfully engaging in any actions that could result in take of the species.

Section II Item 32(c) includes measures for non-listed raptor species and states that these are voluntary safeguard measures, and therefore, not an enforceable condition for the Project. CDFW recommends language that describes these measures as "voluntary" are removed.

There are multiple California spotted owl (CSO) activity centers within the Biological Assessment Area of this THP. It is CDFW's understanding that Sierra Pacific Industries has been working on a northern spotted owl and California spotted owl Habitat Conservation Plan with the U.S. Fish and Wildlife Service, which includes conducting CSO surveys and implementing site specific mitigation measures for known nest sites. However, this information is not included in the THP, and is therefore not an enforceable condition for the Project. CDFW continues to recommend that all mitigation measures, conditions, and restrictions that the LTO needs to comply with or be aware of, including surveys, be included in Section II of the THP.

Sierra Pacific Industries Final Habitat Conservation Plan (HCP) for Northern and California Spotted Owl was made available on the Federal Register on July 31, 2020. Since this HCP covers a portion of the ownership, please change Section I Item 8(e) to "yes."

Our Center provides strong support of the comments submitted by CDFW for this specific THP. However, we want to also re-emphasize our disagreement with the legal and scientific adequacy of the SPI-USFWS HCP "take permit" that USFWS has given to SPI for their timber operations. **Our center urges that the Director respond to the specified concerns described by CDFW staff in order to better protect nesting raptors and other wildlife species.**

Need for Habitat Protection for the Pacific Fisher

The proposed project, along with nearby past, future, and current projects, significantly reduces forest connectivity (especially of mature conifers) which thus reduces suitable habitat for any fishers that may potentially be present within the project area. The proposed THP assumes that project activity in this region has no detectable effect on sensitive species such as the American Marten and Pacific Fisher. Unless protocol-consistent surveys are first conducted in the project area, the THP cannot legally base wildlife impact determinations upon the unconfirmed assumption that a rare animal is not present.

Habitat fragmentation is one of the main threats to the fisher's according to CDFG's "A Status Review of the Fisher (*Martes pennanti*) in California (2010)," *the fisher's ability to survive in areas that have had various silvicultural treatments depends on the size, distribution and type of those operations. "**Fishers are negatively associated with clearcuts and habitats that are nearly or completely surrounded by clearcuts** (Rosenberg and Raphael 1986) (CDFG, 2010)."* Throughout this Report, fisher mortality was directly correlated with current timber harvesting practices place is fisher habitat.

Science has shown that fisher mortalities increase in heavily harvested areas due to the reduction of habitat quality *(Kelly 1977; Weir and Harstad 1997; Simpson Resource Company 2003).* The fisher, especially females, has a small home ranges, making them more susceptible to predation in areas with fragmented habitat (*Buck et al, 1994:373-374).*

The proposed project, along with past and upcoming future projects in the Upper Beaver Creek watershed, which flows into the North Fork of the Stanislaus River

watershed, continues to reduce forest connectivity and suitable habitat for any fishers that may potentially be present within the project area now or in the near future. Without any scientific basis for assessing whether or not fishers may be present or absent in the plan area, SPI cannot accurately conclude that their evenage treatments will not harm the fisher.

It has been well documented that fishers are forest specialists that prefer late seral forests for denning and resting. Late seral forest characteristics such as dense canopy cover, large diameter trees, large snags, large down logs, and understory vegetation of late seral forests for foraging are critical for the fisher survival. *Such habitats as described above can be considered the Department's preliminary assessment of essential habitats and habitat elements for the fisher (CDFG).*

> *The fisher is one of several species selected to illustrate conservation issues with the Sierra Nevada and Cascade bioregion. Portions of the account from the 2007 CDFG report are as follows: "...the status of the Pacific fisher is one indicator of the status of forest condition of the Sierra, particularly the old-growth component" (CDFG 2007).* ***On June 15, 2020 the Southern Sierra Nevada DPS of fisher (Pekania pennanti) (SSN DPS) was added as an endangered species*** *to the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h).*

> **Fish and Wildlife Services basis for action:**
> *The implications for the DPS's status were* ***loss and fragmentation of habitat****...(i.e., loss of snags and other large habitat structures on which the species relies), climate change, and tree mortality from drought, disease, and insect infestations (Fish and Wildlife Services).* The Conservation of the Pacific fisher is dependent upon the approaches to and success of restoring healthy and diverse forest ecosystems along the Sierra range" (CDFG 2007:301).

This THP will continue to exacerbate the loss of fisher habitat and is not responsive to the latest science. The lack of fishers found on SPI land should at least in part be considered to be an indicator of the poor condition of the forest habitat found on their land. This broad general THP area is within potential travel distance of known fisher occupied habitat in Yosemite Park and southern eastern portion of the Stanislaus forest. Accordingly, as a CEQA equivalent planning assessment, this THP should reasonably mitigate for potential significant impacts that would occur if this THP reduces suitable fisher habitat by removing large trees, large snags, large down logs, and closed canopy forest conditions.

CSERC asks that either SPI be required to undertake furbearer photo-detection (or track plate) surveys consistent with scientific protocols within all project units within the plan area prior to any approval of the THP, or that SPI be required to retain movement corridor areas with a minimum 60% canopy cover that should be retained with all large snags, large diameter living trees, and all large diameter down logs; along with a 200' wide swath across the project units acres so as to ensure there is suitable habitat for fisher movement -- not just at the present, but into future decades as the tree plantations gradually evolve into young forest stands.

Cumulative Impacts

As noted in the first paragraph of these comments, this THP would allow for 382 acres of alternative prescription (evenage logging). This will diminish the number of medium and large conifer trees in the project area and further convert unevenaged biologically diverse forest habitat into uniform, much more simplified and sterile habitat conditions as young tree plantations eventually grow into tree farm crops. The Upper Beaver Creek watershed area has already been logged many times in recent years such as 2001-2008 Curry THP and more recently Flat Tail THP, North Griswold THP, Upper Beaver Salvage, and other salvage projects. All these projects have reduced canopy cover and degraded habitat for many wildlife species -- e.g. Pacific fisher, American marten, Northern Goshawk, Northern flying squirrel, and many more.

The Google Earth images below of this THP area and the surrounding area show how a checkerboard of clear-cuts already has SIGNIFICANTLY diminished mature forest habitat, created denuded or heavily disturbed watershed conditions, and degraded scenic, watershed, and soil resources. Approval of this THP as is currently proposed will add to the continued degradation of watershed and forest health.

With these comments, CSERC fully recognizes SPI's right to manage and operate treatments on the company's private lands in a manner that complies with Forest Practice Rules and other applicable regulatory requirements. Due to the **Cumulative negative** impacts of this project combined with not only recent logging operations by SPI with the general project area over the past two decades, but also with the wide-ranging conversion of mixed,

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unevenage forest habitat into sterile young evenage tree plantations across adjacent areas, CSERC strongly asserts that it is inexcusable for CAL FIRE to ignore the cumulative effects of all of these additive impacts. The Director needs to consider the significant impact of all of the project parts of this THP and all the adjacent even age treatments to the project area. This THP is not simply one effect, but it is part of a series of cumulative effects throughout the overall forest region overlapping with this specific THP project area..

Our center strongly urges the Director to coordinate with CDFW to develop an appropriate mitigation plan to decrease the impacts of this THP combined with past, present, and foreseeable future projects to create negative cumulative effects to below a level of significance.

Caitlyn Rich, Environmental Associate/Biologist
Sara Husby, Program Director
John Buckley, Executive Director

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End of Letter of Concern.