

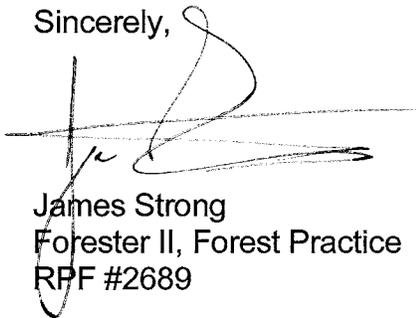
**OFFICIAL RESPONSE TO SIGNIFICANT ENVIRONMENTAL
POINTS RAISED DURING THE TIMBER HARVESTING PLAN
EVALUATION PROCESS**

**FROM THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF
FORESTRY AND FIRE PROTECTION (CAL FIRE)**

TIMBER HARVESTING PLAN (THP) No: 1-20-00186-MEN
SUBMITTER: Mendocino Redwood Co LLC
COUNTY: Mendocino
END OF PUBLIC COMMENT PERIOD: March 12, 2021
DATE OF RESPONSE AND APPROVAL: May 6, 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,



James Strong
Forester II, Forest Practice
RPF #2689



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 North Coast Regional Water Quality Control Board (NCRWQCB); 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 (14CCR §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 his 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.

FOREST PRACTICE TERMS

BOF	California Board of Forestry and Fire Protection	LTO	Licensed Timber Operator
CAA	Confidential Archaeology Addendum	MSP	Maximum Sustained Production of High Quality Timber Products
CAL FIRE	Calif. Dept. of Forestry & Fire Protection	NCRWQCB	North Coast Water Quality Control Board
CCR	California Code of Regulations	NSO	Northern Spotted Owl
CDFW or DFG	California Department of Fish and Wildlife	OR	Official Response
CEG	Certified Engineering Geologist	PC	Public Comment
CEQA	California Environmental Quality Act	PHI	Pre-Harvest Inspection
CESA	California Endangered Species Act	PRC	Public Resources Code
CIA	Cummulative Impacts Assessment	RPF	Registered Professional Forester
CGS	California Geological Survey	THP	Timber Harvesting Plan
DBH/dbh	Diameter Breast Height	TPZ	Timber Production Zone
DPR	Department of Pesticide Regulation	USFWS	U.S. Fish and Wildlife Service
FPR's	California Forest Practice Rules	WLPZ	Watercourse & Lake Protection Zone

BACKGROUND

Timber Harvesting Plan (THP) # 1-20-00186-MEN "Goddard Boardman 2020" proposes to harvest timber on 540.6 acres of Mendocino Redwood Co LLC (MRC) timberland using group selection, transition, fuel break, and variable retention silviculture. The THP was received by CAL FIRE on October 16, 2020, accepted for filing on November 25, 2020. The initial PHI on 12/04/2020 occurred within the initial 10-day period, ending 12/06/2020. The PHI was held open until 2/10/2021, for a second site visit. Agency personnel attending this PHI were: Izaac Russo, NCRWQCB; Daniel Harrington, CDFW; Patrick Brand, CGS (attended 2nd day PHI only); and Michael Orme, CAL FIRE. Mendocino Redwood Company (MRC) personnel attending this PHI were: Glenn Edwards, Ben Hawk, Clint Doucette, Clay Wanzer, Dave Ulrich (MRC biologist), and Scott Kirkman (MRC Geologist). The Final Interagency Review (aka Second Review) occurred on February 25, 2021. The Second Review Chair requested minor clarifications during the meeting. The RPF responded to those recommendations, and on March 1, 2021, the Second Review Chair accepted the revisions and recommended the Plan for approval. The public comment period then ended on March 12, 2021. The initial deadline for the Director's Determination Deadline (DDD) was set for April 5, 2021, per 14 CCR § 1037.4. An extension was granted extending the DDD to April 12, 2021, again until April 16, 2021, and finally to April 30, 2021, in order to address public comments and generate the Official Response (OR) to concerns brought up by the public.

PUBLIC COMMENT SUMMARY

During the public comment period for this THP as described above, there were 5 public comment letters received at the CAL FIRE Region Headquarters in Santa Rosa during the public comment period. One public comment letter was received on March 19, 2021, after the close of public comment. These public comments brought up concerns that are addressed in this Official Response (OR). Four of the six public comment letters had identical concerns which are addressed as common concerns. Direct quotes are presented as *italicized text*. Words that are emphasized have underlined font. Unique individual concerns from a public comment letter are addressed after the common concerns immediately following that comment. 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

1. COMMON CONCERN: Impacts to Hoe Road

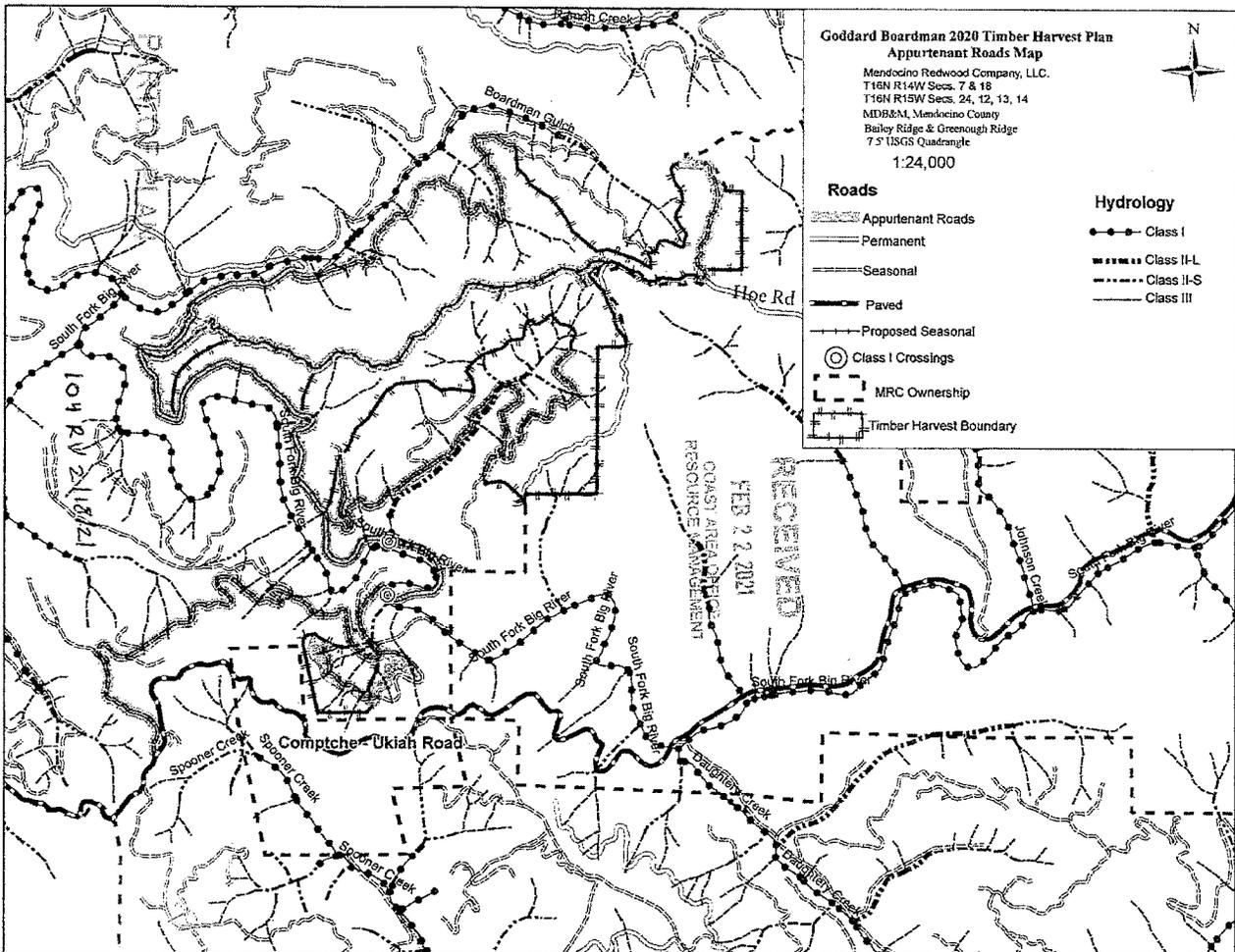
The public is concerned about impacts to Hoe Road, which is a private road and not maintained by the County of Mendocino. The common concern is as follows:

Our road is maintained by the residents with our money and labor. We are demanding that NO loggers be allowed to drive to and from the job on Hoe Road. Loggers and MRC employees must use their own access roads to the plan.

RESPONSE: The appurtenant roads are mapped on page 104 of the THP, which is shown below (reduced and not to scale). The grey highlighted roads will be used for timber operations leading to the Comptche- Ukiah Road. Approximately ½ mile of the Hoe Road is proposed to be used for timber operations because it is the only access to the northeast corner of the THP area. The majority of timber operations will be located to the west of Hoe Road and all traffic will use MRC roads. The FPRs (14 CCR 923.7) require all roads to be maintained and monitored during timber operations and 3 years after completion of operations during the prescribed maintenance period. The roads must be treated to prevent excessive loss of road surface materials, which is usually done by road watering:

- (a) Logging Road and Landing surfaces shall be monitored and maintained during Timber Operations and throughout the prescribed maintenance period to ensure hydrologic disconnection from Watercourses and lakes to the extent feasible, minimize soil erosion and sediment transport, and to prevent significant sediment discharge.*
- (b) Logging Roads that are used in connection with stocking activities shall be maintained throughout such use, even if this extends beyond the prescribed maintenance period.*
- (c) During Timber Operations, road running surfaces in the logging area shall be treated as necessary to prevent excessive loss of road surface materials by methods including, but not limited to, rocking, watering, paving, chemically treating, or installing commercial erosion control devices to manufacturer's specifications.*

CAL FIRE can't prohibit MRC from using the ½ mile of Hoe road. The Department has determined that the use of this road will be temporary to access the northeast corner of the plan and that all THPs roads will be maintained as described above.



2. COMMON CONCERN: Shaded Fuel Break Harvest Tree Selection

The public is concerned about cutting trees along Hoe Road and the number and type of trees harvested in the fuel break prescription. The common concern is as follows:

No trees cut along "Hoe Road". We understand this was filed as a "fuelbreak". We would like it to be reconsidered as a "shaded fuelbreak". The reason for this is because the selection of trees to remain needs to be a larger number in accordance with the surrounding land owners who have done fuel breaks. If there is NOT a shaded fuelbreak, we would like some specific LARGE trees to be tagged as No CUT, and would like to walk with the forester to tag those trees.

RESPONSE: It is unclear whether the concern is to create an effective fuel break or for aesthetic reasons. Trees must be cut within the fuel break to reduce fuel and meet the objectives of the fuel break prescription. The fuelbreak prescription is a special prescription under 14 CCR 913.4(c):

Where some trees and other vegetation and fuels are removed to create or maintain a shaded fuel break or defensible space in an area to reduce the potential for wildfires and the damage they might cause. Minimum stocking standards within the timber operating area shall be met immediately after harvest and shall be those found in 14 CCR 912.7. The RPF shall describe in the plan specific vegetation and fuels treatment, including timing, to reduce fuels to meet the objectives of the Community Fuelbreak area or other objectives identified by the RPF with the written concurrence of a public fire agency and determined by the Director to be consistent with the purposes of the Act.

On page 10 of the THP, the RPF describes the proposed fuel break prescription:

Special Prescription (14 CCR 913.4 (c)) will meet or exceed minimum stocking standard (14 CCR 912.7) upon completion of operations. Fuel breaks are considered site III timberlands for stocking purposes (14 CCR 913(d)). They shall have a minimum average point count of 150 or an average basal area of 50 ft² per acre. Where available conifers will be retained to meet stocking. Merchantable and submerchantable trees shall be removed to decrease horizontal continuity of fuels. The preferred method of treating sub merchantable trees (not needed to meet stocking) and slash created by timber operations shall be lopping, chipping, masticating, piled and burned, burying or removal from the zone. Submerchantable trees and slash shall be treated within one year of their creation.

On page 125.1, the RPF estimates that the postharvest stand will contain 55 square feet of basal area. The description on page 10 includes the removal of sub merchantable trees in the understory to decrease fuel continuity. On page 11 of the THP, the RPF describes how trees will be marked:

Throughout the fuelbreak unit, trees to be retained will be marked with an orange painted slash or "0" at DBH and with a butt mark below the cutline by the RPF or their supervised designee.

CAL FIRE has no authority to require the RPF to meet with the public and mark trees. The THP must be marked prior to harvesting and it must meet the stocking standards post-harvest. In addition, sub merchantable material and slash must be treated in order to create an effective fuel break.

On page 198 of the THP, the RPF included an email from Chief Davey Beak, Comptche Volunteer Fire Department. He supports the fuelbreak project and had no recommendations for its prescription.

The Department has determined that the fuelbreak prescription is in conformance with the standards of the FPRs.

3. COMMON CONCERN: Harvest Adjacent to Property Boundaries

The public is concerned about harvest of trees near property lines and request no harvesting within 50 feet of the neighbor's property lines.

RESPONSE: It is unclear what the environmental concern is for harvesting along the property lines. However, the Department understands that harvesting could affect the aesthetics near the property line or have the potential to damage property.

The majority of the THP adjacent to other private property is using either the transition method or fuelbreak prescription. These two prescriptions will retain greater than 50 square feet of basal area. On page 125.1, the RPF indicates that the transition method will retain approximately 65 square feet of basal area, predominately redwood and Douglas-fir, with minor amounts of tanoak. The THP also indicates that the fuelbreak prescription will retain approximately 55 square feet of basal area, predominately redwood and Douglas fir, with minor amounts of tanoak. There are no requirements in the FPRs to prohibit timber harvesting within 50 feet of other private property owners when the fuelbreak, transition, or variable retention prescriptions are used.

With regard to safety directly related to harvest operations near property lines, it should be noted that code section PRC 4572(c) requires the LTO who performs the timber operations to: "... file with the director written evidence of timber operation insurance coverage under an insurance policy issued by an insurer eligible to do business in this state that includes both of the following: ... Commercial general liability insurance for not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined, including within that limit, or in a separate limit, loggers third party property damage liability." Like any reputable businessperson the LTO must conduct business in a professional manner to maintain insurance coverage and to secure future employment.

The THP addresses hazard reduction on page 77 of the THP. Please see Common Concern: Wildfire Protection.

4. COMMON CONCERN: Herbicide Use

The public is concerned about herbicide use utilizing the hack and squirt method. The public requests no hack and squirt be used, and if needed, it not be used within 200 feet of other private property.

RESPONSE:

The concern does not specifically highlight an environmental concern, but simply requests that hack-and-squirt not be used or be limited near property lines.

CAL FIRE has a responsibility under the CEQA to look for significant effects on the environment that could result from the approval of a THP. Since herbicide use is one of the activities that, under some circumstances, can cause a significant effect in connection with a THP, CAL FIRE is compelled to consider potential effects. The key CEQA element lies in the determination of whether there is a reasonable expectation of significance.

Page 11 of the THP indicates that group B species (hardwoods) need to be reduced to maintain relative site occupancy of group A (conifer) species. The reduction in hardwoods may be achieved through herbicide treatment or mechanical methods.

Harvest units where Group B species are inhibiting the site occupancy of Group A species will include some form of hardwood management as well as the removal of Monterey pine, where present. Except where marked with an "O" or "W" at DBH and with a butt mark below the outline, merchantable

hardwoods and Monterey pines shall be harvested or controlled 5-inch top D.I.B., 32' log length or larger). "Controlling" means by mechanical, chemical or physical means. 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 licensed Pet Control Advisor) 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. Hardwoods 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 CAL FIRE PHI Report states:

13. If Group B species are proposed for management [14 CCR § 912.7, 932.7, 952.7(d)]: Does the proposed prescription maintain relative site occupancy between Group A and Group B species? Yes

The U.S. Environmental Protection Agency regulates pesticide use nationwide and has exclusive authority over pesticide labeling. Use of a pesticide is limited to the applications and restrictions on the label, and the label restrictions are legally enforceable. The California Department of Pesticide Regulation (DPR) regulates pesticides within the State of California and has legal authority to adopt restrictions on pesticide use going beyond the regulations of the U.S. Environmental Protection Agency. 7 U.S.C.A. Sec. 136v. DPR operates with extensive authority in the California Food and Agricultural Code and in the California Code of Regulations.

Under California law, pesticide products must be registered by DPR to be sold and used in California. Before a substance is registered as a pesticide for the first time, DPR conducts a thorough evaluation. If DPR determines that further restrictions need to be placed on the use of a pesticide product to mitigate potential adverse effects including human health effects and environmental effects, DPR classifies the pesticide as a restricted pesticide, and individual applications need a permit from the county agricultural commissioner. After a pesticide is registered for use in this state, DPR has an ongoing obligation to review new information received about the pesticide that might show new problems beyond those identified in the registration process. Where the review of new information shows that a significant adverse impact has occurred or is likely to occur, DPR is required to reevaluate the registration.

DPR operates a statewide program of regulating pesticides and is the lead agency for regulating herbicide use under CEQA. DPR has the greatest authority of any state agency for analyzing and regulating herbicide use. Further, DPR acts before any other state or local agency can act because a herbicide product must be registered by DPR before it can be used at all. This lead agency role was confirmed in *City of Sacramento v. State Water Resources Control Board* (3d Dist, 1992) 2 Cal.App.4th 960, for DPR's predecessor in regulating pesticides.

DPR's program for regulating pesticides was certified by the Secretary of the Resources Agency as a functional equivalent program under Public Resources Code section 21080.5 in the same manner as CAL FIRE's program of regulating timber harvesting was certified. 14 C.C.R. Sec. 15251(i). Because the program is certified, DPR does not prepare environmental impact reports (EIRs) but prepares other documents in the place of EIRs. P.R.C. sec. 21080.5(d)(3). DPR's registration process takes into consideration that most herbicides will be used statewide. Because the registration evaluation process considers use of a herbicide in a broad area and in a variety of conditions, the documents are the functional equivalent of a program EIR for each pesticide. Site specific application and use of restricted pesticides is evaluated by the county agricultural commissioner during its review of applications for restricted materials permits. Not all pesticides are restricted, and only restricted pesticides require a permit from the county agricultural commissioner, except for a pesticide that DPR has not designated as restricted, the commissioner can require a permit for its use if the commissioner makes a finding that the pesticide will present an undue hazard when used under local conditions.

When posting for public comment its proposed decision to register a new pesticide product and in approving the Public Notice for registration of a pesticide, DPR makes a finding as to whether the pesticide would cause a significant effect on the environment. Because DPR is the CEQA lead agency, this determination is binding on CAL FIRE. P.R.C. sec. 21080.1, 14 C.C.R. 15050. Accordingly, if a DPR-registered herbicide will be used in accordance with the directions and restrictions on the pesticide product label and any other restrictions established by DPR, CAL FIRE is required to find that the use will not have a significant effect on the environment unless there is new information showing significant or potentially significant effects not analyzed by DPR. As a responsible agency, CAL FIRE is barred from repeating the environmental analysis conducted by the lead agency. Because the use of a DPR registered herbicide would not have a significant effect on the environment, CAL FIRE is not required to analyze the use in the THP.

Herbicide use in the general location of a THP may be either a part of the THP or a separate but related activity that is not controlled by the THP. Where the herbicide use is described in the THP as an integral part of the timber operations, CAL FIRE will need to review the herbicide use and its possible environmental effects. CAL FIRE will determine whether the proposed use would be consistent with the label and the registration limitations and whether DPR's lead agency determination of significance will still apply. CAL FIRE will also need to check for significant new information showing changes in circumstances or available information that would require new environmental analysis. Significant new information should be referred to DPR for that department's analysis as part of its ongoing evaluation program. CAL FIRE reviewers should look for simple and practical ways to avoid or mitigate potential new significant effects on the environment. Effects of herbicides proposed as part of the THP would be considered direct effects of the THP.

CAL FIRE believes that where herbicide use is related to the THP but not a part of the THP itself, the environmental effects would be regarded as indirect effects of the THP. The landowners may have ongoing management activities that may occur before a THP is approved, during operation of the THP, and after expiration of the THP when CAL FIRE's inspection authority has lapsed. The use is subject to independent, intervening decisions of the timberland owner, a pest control advisor, and in the case of restricted herbicides, the county agricultural commissioner, and these independent decisions may lead to no herbicide use at all or a use differing from predictions in a THP. CAL FIRE would not know whether in fact the timberland owner would use herbicides at all, which ones the owner may use if any, what restrictions the pest control advisor may recommend, and, in the case

of restricted herbicides, what conditions the county agricultural commissioner may impose. Outside of the THP, CAL FIRE has only general information about possibilities. Even if the timberland owner provides herbicide use plans to CAL FIRE with a THP, the use plans may well be changed by the county agricultural commissioner if the timberland owner intends to use a restricted herbicide.

The effects are generally not cumulative impacts because herbicide uses related to different THPs are separated in time and distance so that their individual effects do not reinforce or interact with each other. Use may occur a year or two before a THP begins, then possibly two to five years after operations are complete to reduce competition with small seedlings, or later to release the young trees from competition with brush.

The project proponent has proposed potential use of herbicides in accordance with Federal and State labeling and under the CEQA certified regulatory program administered in California by the Department of Pesticide Regulation (DPR). The County's agricultural commissioner oversees portions of the DPR's functional equivalent program and is designated as a state agency for the purposes of certification (3 CCR 6100(a)(7)). Detailed records are kept on any pesticide application. This information is tracked by DPR and is available to the public.

Prior to commercial application of any herbicides proposed in the plan, MRC must comply with California's DPR process that requires additional site-specific analysis. The analysis takes the form of a written recommendation for herbicide use prepared by a licensed Pest Control Advisor (PCA). MRC must use contractors that are supervised by Licensed Qualified Applicators. MRC works with all contractors to ensure applications are conducted in a professional manner that strictly follows all regulatory and licensing requirements.

CAL FIRE has conducted a field review of the timber stands where potential herbicide treatment may occur and finds hardwood reduction to be both necessary and appropriate.

CAL FIRE has evaluated the potential herbicide use as it pertains to cumulative watershed or biological effects. We have concluded that adherence to State and Federal laws pertaining to certifications and operations will prevent significant effects.

5. COMMON CONCERN: Northern Spotted Owl Protection

The public is concerned about a pair of nesting northern spotted owls and request that no activity take place within 2,000 feet of the pair.

RESPONSE: The northern spotted owl is state and federally listed as threatened. The THP addresses northern spotted owls on pages 79-81 and pages 240-355. The THP will comply with 14 CCR 919.9(e) of the California Forest Practice Rules which allows a landowner to consult with the United States Fish and Wildlife Service:

If the submitter proposes to proceed pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the RPF that the described or proposed management prescription is acceptable to the USFWS.

For timber operations, the USFWS has provided standard surveying and mitigation measures in a letter "USFWS Take Avoidance Analysis and Guidance for Northern spotted owl (*Strix occidentalis caurina*) Attachment A," dated November 1, 2019. The THP will comply with these recommendations.

There are currently four historic NSO activity centers within 0.7 miles of the THP. One NSO activity center is within 0.25 miles of the THP. The THP area and surrounding area have an extensive survey history. Protocol NSO surveys were conducted in 2019 and 2020. These surveys are conducted following the 2011 USFWS Northern Spotted Owl Survey Protocol - 2012 Revision and the Northern Spotted Owl Take Avoidance Analysis and Guidance for California Coast Forest District, dated November 1, 2019 (Attachment A) for Spotted Owl Take Avoidance. Additional surveys are required in subsequent years to determine whether there is new NSO activity in the THP area and the status of each known activity center.

Each NSO activity center requires a 0.25-mile disturbance buffer, 1000-foot habitat retention buffer, 500-foot no harvest buffer, and a 100-acre core use area. These protection measures are consistent with the best science developed by the U.S. Fish and Wildlife Service and documented in their guidance documents. A 2000' protection distance is not consistent with the current NSO protocols in place.

6. COMMON CONCERN: Wildfire Protection

The public requests that MRC leave 2-3 water tanks on their property for fire crews. The common concern is as follows:

Since we live in a fire prone area, we are requesting that MRC leave water tanks (2-3) on their property that will be accessible to fire crews. All neighbors have water tanks for fire, and since MRC is a "neighbor" we need them to have water tanks on their land as well.

RESPONSE:

The THP addresses hazard reduction on page 77 of the THP. On page 9 of the CAL FIRE PHI report, the CAL FIRE inspector concluded "yes" for the following question:

Consider the areas fire hazard severity rating, fire history, expected fire behavior, and resources at risk:

Will proposed treatments be sufficient to reduce fire hazard and provide defensible space around buildings and along roads?

Slash must be treated within 200 feet of all residential structures as required by 14 CCR 917.2(c):

All woody debris created by Timber Operations greater than one inch but less than eight inches in diameter within 100 feet of permanently located structures maintained for human habitation shall be removed or piled and burned; all Slash created between 100-200 feet of permanently located structures maintained for human habitation shall be lopped for fire hazard reduction, removed, chipped or piled and burned; lopping

may be required between 200-500 feet where unusual fire risk or hazard exist as determined by the Director or the RPF.

During 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 feet. These firefighting tools, and equipment such as tractors/skidlers 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.

During timber operations, MRC will comply with the fire prevention rules described above. The THP proposes to use two drafting sites during timber operations for dust control. These may also be used by water trucks for fire use. However, there is no requirement in the FPRs to permanently install water tanks on forest lands.

20PC-000000464 – from S. Claypool on November 4, 2020

Technicality to point out in Project Summary (Item #4): The project IS NOT located approximately 5.5 air miles west of Comptche, CA. If anything it is located EAST of Comptche. Look at your maps.

RESPONSE: Under item 4, the Notice of Intent, was revised to state that the THP is 5 miles east of the town of Comptche, CA. This NOI was resubmitted and posted for public view.

NOTICE OF INTENT TO HARVEST TIMBER

A Timber Harvesting Plan (Plan) or Amendment has been submitted to the California Department of Forestry & Fire Protection (CAL FIRE). CAL FIRE will be reviewing the proposed timber operation for compliance with State law and rules of the Board of Forestry and Fire Protection. The following briefly describes the proposed timber operation and where and how to get more information. In accordance with the timeline stated under Public Resources Code Section 4582.7, you may submit written public comments on the Plan or Amendment for CAL FIRE to consider.

This notice applies to (select one):

- New Timber Harvesting Plan
 Amendment Approved Timber Harvesting Plan

Applicant Information (Timberland Owner(s), Registered Professional Forester who prepared the plan and Plan Submitter should match those listed in the plan or amendment.)

1. The name(s) of the Timberland Owner(s) where timber operations are to occur: Mendocino Redwood Company, LLC.
2. Registered Professional Forester who prepared the plan or amendment: Julian Womble RPF# 3052
Registered Professional Forester Phone (optional): (707) 513-9312
3. The name of the Plan or Amendment Submitter: Mendocino Redwood Company, LLC.

Project Summary (County, legal description, acres proposed to be harvested and treatments to be used should match those listed in the plan or amendment.)

4. Location of the proposed timber operation (county, legal description, approximate direction & approximate distance of the timber operation from the nearest community or well-known landmark):
The THP is in Mendocino County and lies within T16N R15W Sec. 12, 13, 14, & 24 and T16N R14W Sec. 7 & 18 MDBM.
The project is located approximately 5 air miles east of Comptche, CA.
5. The name of, and distance from, the nearest perennial stream and major watercourse flowing through or downstream from the timber operation:
Boardman Gulch (Class I watercourse) is approximately 130 feet down slope from the plan area to the North at the closest point. Boardman Gulch is a tributary to South Fork Big River. South Fork Big River is approximately 350 ft down slope from the plan area at the closest point.
6. Acres proposed to be harvested: 541 Acres
7. The regeneration methods and intermediate treatments to be used:
Transition, Variable Retention, Fuelbreak, and Group Selection.
POWERLINES: 14 CCR 1032.7(d)(10) & (e) (provide name and mailing addresses of the utilities for department distribution)
8. Overhead electrical power lines within the plan boundary? (except lines from transformers to service panels) Yes
 No
9. Overhead powerlines within 200 feet outside the plan boundary? Yes No

RECEIVED

NOV 16 2020

COAST AREA
RESOURCE MANAGEMENT

21PC-00000249 – from Terry d'Selkie on March 8, 2021

The following comments are regarding THP 1-20-00186-MEN ("Goddard Boardman 2020 THP"). Please consider these comments and respond in writing to all points raised herein. The Goddard Boardman THP allows large-scale logging next to my place of residence. The boundary lines are in dispute and a survey is necessary.

This THP is adjacent to 7 different landowners, and the foresters have done a pretty good job in explaining what is being done as far as Transitional and Variable Retention tree removal. All other treatments we were told were no longer being considered (Selection, Seed Tree Removal and Group Selection). Since this THP is adjacent to so many landowners, we have asked for the mitigation measures below:

1. No trees cut along "Hoe Road". We understand this was filed as a "fuelbreak". We would like it to be reconsidered as a "shaded fuelbreak". The reason for this is because the selection of trees to remain needs to be a larger number in accordance with the surrounding land owners who have done fuel breaks. If there is NOT a shaded fuelbreak, we would like some specific LARGE trees to be tagged as No CUT, and would like to walk with the forester to tag those trees.
2. Since there is a boundary line in dispute, I want a surveyor to come out and survey for that boundary. I want to be present when this happens. Once this boundary line has been found, I am asking that NO trees be cut within 50 feet of my boundary and that a specific small grove (4-5 trees) of second growth continues to grow "as is".
3. Since we live in a fire prone area, we are requesting that MRC leave water tanks (2-3) on their property that will be accessible to fire crews. All neighbors have water tanks for fire, and since MRC is a "neighbor" we need them to have water tanks on their land as well.
4. We are asking that NO hack and squirt be done in this plan. If it needs to be done, then no hack and squirt within 200 feet of any property boundary with any of our neighbors.
5. We are asking that NO cutting of trees is done within 50 feet of any neighbors property line.
6. We understand there are at least 1 pair of nesting spotted owl pairs within the plan. We are asking that NO activity takes place within at least 2,000 feet of the pair identified by foresters.
7. Our road is maintained by the residents with our money and labor. We are demanding that NO loggers be allowed to drive to and from the job on Hoe Road. Loggers and MRC employees must use their own access roads to the plan.

The THP should not proceed until all negative impacts above have been mitigated and all questions/requests answered.

RESPONSE: Please refer to common concerns above: Impacts to Hoe Road, Shaded Fuel Break and Harvest Tree Selection, Harvest Adjacent to Property Boundaries, Herbicide Use, NSO Protection, and Wildfire Protection. Specific questions not directly covered are listed below:

The location of the property line and harvesting specific trees along the property line are a civil matter. In approving timber harvesting plans, the Department is guided by enabling legislation which deals with the enhancement of timberland productivity and the prevention of environmental degradation. THPs which are found to be in compliance with applicable legislation, rules, and regulations are approved. Approval of the plan does not, in any way, ratify, indicate official approval of, or otherwise

give credibility to civil agreements such as property line locations. It only authorizes the submitter to harvest trees for commercial purposes on his or her property. An approved plan does not authorize the use of another's land. Persons with an approved plan that so trespass do so at their own risk. Issues which deal with resolution of property line disputes or involve damage to a neighboring property are beyond the scope of the THP review process. Resolving disputes of this nature is the responsibility of the judicial system which specifically exists to resolve matters such as this. While it may seem harsh when a state agency advises that one's only recourse in a civil dispute is a court action, please understand it is not out of concern such statements are made. Departments such as Forestry and Fire Protection must operate within their authorities and cannot adjudicate disputes outside such limits.

21PC-000000250 – from Marggie Chandler on March 10, 2021

The following comments are regarding THP 1-20-00186-MEN ("Goddard Boardman 2020 THP"). Please consider these comments and respond in writing to all points raised herein. The Goddard Boardman THP allows large-scale logging next to my place of residence.

This THP is adjacent to 7 different landowners, and the foresters have done a pretty good job in explaining what is being done as far as Transitional and Variable Retention tree removal. All other treatments we were told were no longer being considered (Selection, Seed Tree Removal and Group Selection). Since this THP is adjacent to so many landowners, we have asked for the mitigation measures below:

1. In the artifacts part of the THP, there is an indication that there are artifacts and cultural sites in and or near this area. Who determined the significance of these artifacts?
2. Have there been ethnographic and botanical studies done on this THP?

Based on these 2 facts alone (1. And 2.), we call for further investigation. We have let Coyote Valley Tribes know of these findings. Tribes should be consulted.

I also agree with the following:

3. No trees cut along "Hoe Road". We understand this was filed as a "fuelbreak". We would like it to be reconsidered as a "shaded fuelbreak". The reason for this is because the selection of trees to remain needs to be a larger number in accordance with the surrounding land owners who have done fuel breaks. If there is NOT a shaded fuelbreak, we would like some specific LARGE trees to be tagged as No CUT, and would like to walk with the forester to tag those trees.
4. Since we live in a fire prone area, we are requesting that MRC leave water tanks (2-3) on their property that will be accessible to fire crews. All neighbors have water tanks for fire, and since MRC is a "neighbor" we need them to have water tanks on their land as well. If these tanks are full of water and hooked up, NOBODY will be able to "steal them" as indicated by the foresters.
5. We are asking that NO hack and squirt be done in this plan. If it needs to be done, then no hack and squirt within 200 feet of any property boundary with any of our neighbors.
6. We are asking that NO cutting of trees is done within 50 feet of any neighbors property line.
7. We understand there are at least 1 pair of nesting spotted owl pairs within the plan. We are asking that NO activity takes place within at least 2,000 feet of the pair identified by foresters.
8. Our road is maintained by the residents with our money and labor. We are demanding that NO loggers be allowed to drive to and from the job on Hoe Road. Loggers and MRC employees must use their own access roads to the plan.

The THP should not proceed until all negative impacts above have been mitigated and all questions/requests answered.

RESPONSE: Please refer to general concerns above: Impacts to Hoe Road, Shaded Fuel Break and Harvest Tree Selection, Harvest Adjacent to Property Boundaries, Herbicide Use, NSO Protection, and Wildfire Protection. Specific questions not directly covered are listed below:

In response to concern #1 above, the THP's archaeology survey is confidential. However, the following can be summarized.

A Confidential Archaeology Addendum (CAA) was prepared by someone with the following training:

14 CCR 929.4, 949.4, 969.4 Archaeological Training Requirements [All Districts]

To meet the requirement of 14 CCR § 929.1 [949.1, 969.1], archaeological surveys of a plan, or Emergency Notice areas for archaeological or historical sites shall be conducted only by a professional archaeologist or a person who has attended a training program approved by the Director within five years prior to submission of the plan, or Emergency Notice. The training program must meet the following standards:

(a) The course shall use education materials approved by the Director which address the current regulations and procedures for the identification, recordation, and protection of archaeological and historical resources during timber operations.

(b) The course may require that the applicant demonstrate, in the field, and in a final written examination, the ability to conduct a record search, perform field identification, complete an archaeological site record, and to identify appropriate mitigation and protection measures for archaeological or historical sites covered in the course.

(c) The Director shall issue a verification to all students that satisfactorily complete the training course.

(d) Following an individual's successful completion of an archaeological training course approved by the Director, he or she may enroll in a refresher training course, approved by the Director, to renew a 5-year archaeological training certification.

(e) The Director may conduct the archaeological training courses (in addition to or in-lieu of approving programs conducted by others) at least annually.

14 CCR 929.1 of the California Forest Practice Rules require the following steps when preparing the CAA:

929.1, 949.1, 969.1 Plan, and Emergency Notice Preparation [All Districts]

(a) Preparing a plan. Prior to submitting a plan, the RPF, or the RPF's supervised designee:

(1) Shall conduct an archaeological records check at the appropriate Information Center. A previously-conducted archaeological records check for the property may be used to satisfy this requirement if it covers the entire area proposed for timber operations and if it meets the definition of "current archaeological records check" in 14 CCR § 895.1.

(2) Shall provide written notification to Native Americans of the preparation of a plan. The primary purpose for this notification is to provide Native Americans an opportunity to disclose the existence of any Native American archaeological or cultural sites that are potentially within or adjacent to the site survey area, and the opportunity

to comment on the plan. The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director. The remainder of the 10-day waiting period is waived when all Native Americans required to be informed respond in less than 10 days. This notice shall contain the following attachments or items of information:

(A) A request for information concerning the potential existence of any Native American archaeological or cultural sites within the plan boundaries.

(B) Information concerning the location of the plan including:

1. A general location map that, at a minimum, shows the travel route from the nearest community or well-known landmark to the plan area.

2. A copied segment of the titled USGS (if available) or equivalent map(s) that displays the approximate boundary of the plan area, and includes a map legend and a scale.

3. A description of the plan location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well-known landmark.

(C) A statement that all replies, comments, questions, or other information submitted by Native Americans as a result of this notice be directed to the RPF. The name, address, and phone number of the RPF shall be provided.

(D) Information concerning the available time for response. Indicate that the RPF is requesting a response within ten days from the date of the notice so the information can be incorporated into the plan when initially submitted to the Director. Provide the estimated date the plan will be submitted to Director. Provide the following statement: "The earliest possible date the Director may approve the plan is 16 calendar days after it is submitted to Director, although typically, the plan is reviewed for at least 45 calendar days following plan submittal before the Director approves the plan.

(E) A statement that the Native American groups may participate in the plan review process by submitting written comments to the Director before close of public comment period.

(F) A statement that locations of sites disclosed will be kept confidential.

(G) A statement that a Confidential Archaeological Addendum (CAA) will be prepared for the plan and a copy of pertinent information contained within the CAA may, at the discretion of the Director, be obtained from the Director.

(3) Shall provide a professional archaeologist or a person with archaeological training (in accordance with 14 CCR §§ 929.4, 949.4, and 969.4) to conduct a field survey for archaeological and historical sites within the site survey area. Previous archaeological surveys within the site survey area may also be used to partially or entirely satisfy this requirement.

(4) Shall ensure that research is conducted prior to the field survey, including review of appropriate literature and contacting knowledgeable individual, concerning potential archaeological or historical sites occurring on the property.

(b) Provide Notification to Native Americans if a Native American Archaeological or Cultural Site is located within the plan.

The survey report was prepared by a person with the required training listed under 14 CCR 929.4. The survey report was reviewed by CALFIRE Associate State Archaeologist, Benjamin Harris and Archaeologist, Samantha Dollinger, on October 19, 2020. Letters were sent to Native Americans

requesting additional information on September 21, 2020. No reply was received as of October 25, 2020. Notification was made to:

Native American Heritage Commission, Coyote Valley Band of Pomo Indians, Guidiville Band of Pomo Indians, Deborah Hutt, InterTribal Sinkyone Wilderness Council, Cahto Tribe, Manchester Band of Pomo Indians, Noyo River Indian community, Pinoleville Pomo Nation, Potter Valley Tribe, Redwood Valley Reservation/Covelo Indian Community, Shebelna Band of Mendocino Coast Pomo Indians, Sherwood Valley Band of Pomo Indians, Wailaki Tribe, Guidiville Indian Rancheria, Hopland Band of Pomo Indians, & Manchester Band of Pomo Indians.

The site significance was documented in the CAA and appropriate mitigation measures were put in place for site protection. During the PHI, CAL FIRE inspected the THP area and determined that the protection measures were adequate. On page 10 of the CAL FIRE PHI report, it states that the proposed archeological site protection was adequate to prevent significant adverse impacts.

In the event that a cultural site is discovered during operations the following protections are required by the Forest Practice Rules:

929.3, 949.3, 969.3 Post Review Site Discovery [All Districts]

If a person discovers a potentially significant archaeological or historical site after a plan, Emergency Notice, or Exemption is accepted by the Director, the following procedures apply:

(a) The person who made the discovery shall immediately notify the Director, LTO, RPF, or timberland owner of record.

(b) The person first notified in (a) shall immediately notify the remaining parties in (a).

(c) No timber operations shall occur within 100 feet of the identified boundaries of the new site until the plan submitter proposes, and the Director agrees to, protection measures pursuant to 14 CCR § 929.2 (949.2, 969.2).

(d) A minor deviation shall be filed to the plan. The minimum information provided shall include:

(1) A statement that the information is confidential.

(2) The mapped location of the site.

(3) A description of the site.

(4) Protection measures, and

(5) Site records, if site records are required pursuant to 14 CCR §§ 929.1(g)(2)(b) and 929.5 [949.5, 969.5].

(e) Upon receipt, the Director shall immediately provide the proposed minor deviation or portions of the minor deviation, to Native Americans when Native American archaeological or cultural sites are involved.

The Department determined that the CAA was complete and accurate and in compliance with the FPRs. Appropriate Native American notification occurred.

In response to concern #2, the CAA includes ethnographic information, but is not an ethnographic study. An ethnographic study is a more detailed study where an anthropologist observes or interacts with a group of people and document their culture. The CAA includes background history of the area including historical and prehistorical research of the past people that lived in the area. This is used

as a basis for developing the archaeology survey strategy and basis for making a determination of significance for archaeological sites that are discovered.

In response to concern #2, a botanical survey has not been completed but will be conducted prior to operations. It is common for botanical and other wildlife surveys to be completed prior to operations to take advantage of seasonal windows that result in more accurate and thorough results. On page 84 of the THP it states:

A botanical survey shall be conducted for the plan area prior to operations. Seasonally appropriate floristic surveys shall be conducted. The survey report(s) shall, at a minimum, contain survey times/dates, routes, personnel used and scoping. If listed plants are found, then proposed mitigations shall be included in the report and DFG shall be contacted. Botanical survey results shall be submitted to DFG and CDF as a minor amendment to the plan.

If listed plant species are found during operations, DFG will be contacted verbally or in writing. DFG will have 10 working days to respond to the contact. If there is no response from DFG, then the following measures shall be enforced (see following two bullet points). If a consultation occurs within the 10-working day period with DFG, then mitigation measures will be amended into the plan as enforceable provisions of the THP. The mitigation measures may be amended into the plan as a minor amendment. The following protection measures shall be implemented if a listed species is found:

- A 50-foot no-operations buffer, (except for vehicles traversing existing roads), shall be established around the perimeter of the plant species until a site-specific alternative buffer is established, if needed, after consultation with the DFG.*
- The buffer will be flagged with "SPECIAL TREATMENT ZONE" flagging or other unique type of flagging.*

21PC-000000250 – from Janna Hansen and Scott Claypool on March 10, 2021

The following comments are regarding THP 1-20-00186-MEN ("Goddard Boardman 2020 THP"). Please consider these comments and respond in writing to all points raised herein. The Goddard Boardman THP allows large-scale logging next to my place of residence.

This THP is adjacent to 7 different landowners, and the foresters have done a pretty good job in explaining what is being done as far as Transitional and Variable Retention tree removal. All other treatments we were told were no longer being considered (Selection, Seed Tree Removal and Group Selection). Since this THP is adjacent to so many landowners, we have asked for the mitigation measures below:

1. No trees cut along "Hoe Road". We understand this was filed as a "fuelbreak". We would like it to be reconsidered as a "shaded fuelbreak". The reason for this is because the selection of trees to remain needs to be a larger number in accordance with the surrounding land owners who have done fuel breaks. If there is NOT a shaded fuelbreak, we would like some specific LARGE trees to be tagged as No CUT, and would like to walk with the forester to tag those trees.
2. Since we live in a fire prone area, we are requesting that MRC leave water tanks (2-3) on

their property that will be accessible to fire crews. All neighbors have water tanks for fire, and since MRC is a "neighbor" we need them to have water tanks on their land as well.

3. We are asking that NO hack and squirt be done in this plan. If it needs to be done, then no hack and squirt within 200 feet of any property boundary with any of our neighbors.

4. We are asking that NO cutting of trees is done within 50 feet of any neighbors property line.

5. We understand there are at least 1 pair of nesting spotted owl pairs within the plan. We are asking that NO activity takes place within at least 2,000 feet of the pair identified by foresters.

6.* Our road is maintained by the residents with our money and labor. We are demanding that NO loggers be allowed to drive to and from the job on Hoe Road. Loggers and MRC employees must use their own access roads to the plan.

* As mentioned above, our road is maintained by property owners who contribute annually for its upkeep. We would request that MRC, as a land owner along Hoe Road, contribute as well. This is especially important as this plan goes forward since a section of the road will be altered and used by logging trucks for hauling logs.

The THP should not proceed until all negative impacts above have been mitigated and all questions/requests answered

RESPONSE: Please refer to general concerns above: Impacts to Hoe Road, Shaded Fuel Break and Harvest Tree Selection, Harvest Adjacent to Property Boundaries, Herbicide Use, NSO Protection, and Wildfire Protection. Specific questions not directly covered are listed below:

The impacts to Hoe Road are addressed in common concerns. CAL FIRE cannot require MRC to contribute to a private road maintenance fund. It is the Department's conclusion that the use of the private road and its long-term maintenance is a civil matter. In approving timber harvesting plans, the Department is guided by enabling legislation which deals with the enhancement of timberland productivity and the prevention of environmental degradation. THPs which are found to be in compliance with applicable legislation, rules, and regulations are approved. Approval of the plan does not, in any way, ratify, indicate official approval of, or otherwise give credibility to civil agreements such as rights-of-way or easements. It only authorizes the submitter to harvest trees for commercial purposes on his or her property. An approved plan does not authorize the use of another's land or roads. Persons with an approved plan that so trespass do so at their own risk. Issues which deal with resolution of road use disputes or involve damage to a neighboring property are beyond the scope of the THP review process. Resolving disputes of this nature is the responsibility of the parties.

21PC-000000250 – from Els Cooperrider on March 12, 2021

First of all, with all due respect, CalFire should NOT be in the logging rubber stamping business. I have witnessed this sacrilege for over 30 years and want to remind you that the Redwood Ecoregion is a delicate and increasingly fragile ecosystem. This is due to climate change AND approving logging plans that have decimated fish and wildlife, not to mention the trees themselves. I am not anti-logging. I am anti fuzzy clearcuts that I see everywhere and that contributes to redwoods no longer able to withstand wildfires as they did in the past. This THP is yet another fuzzy clearcut. Furthermore:

The following comments are regarding THP 1-20-00186-MEN ("Goddard Boardman 2020 THP"). Please consider these comments and respond in writing to all points raised herein. The Goddard Boardman THP allows large-scale logging next to my place of residence.

This THP is adjacent to 7 different landowners, and the foresters have done a pretty good job in explaining what is being done as far as Transitional and Variable Retention tree removal. All other treatments we were told were no longer being considered (Selection, Seed Tree Removal and Group Selection). Since this THP is adjacent to so many landowners, we have asked for the mitigation measures below:

1. No trees cut along "Hoe Road". We understand this was filed as a "fuelbreak". We would like it to be reconsidered as a "shaded fuelbreak". The reason for this is because the selection of trees to remain needs to be a larger number in accordance with the surrounding land owners who have done fuel breaks. If there is NOT a shaded fuelbreak, we would like some specific LARGE trees to be tagged as No CUT, and would like to walk with the forester to tag those trees.
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3. We are asking that NO hack and squirt be done in this plan. If it needs to be done, then no hack and squirt within 200 feet of any property boundary with any of our neighbors.
4. We are asking that NO cutting of trees is done within 50 feet of any neighbors property line.
5. We understand there are at least 1 pair of nesting spotted owl pairs within the plan. We are asking that NO activity takes place within at least 2,000 feet of the pair identified by foresters.
6. Our road is maintained by the residents with our money and labor. We are demanding that NO loggers be allowed to drive to and from the job on Hoe Road. Loggers and MRC employees must use their own access roads to the plan.

The THP should not proceed until all negative impacts above have been mitigated and all questions/requests answered.

RESPONSE: Please refer to general concerns above: Impacts to Hoe Road, Shaded Fuel Break and Harvest Tree Selection, Harvest Adjacent to Property Boundaries, Herbicide Use, NSO Protection, and Wildfire Protection. Specific questions not directly covered are listed below:

In response to your concern about CAL FIRE rubber stamping logging plans, the Department is legislated responsibility to review commercial timber harvesting by the Public Resource Code. The proposed plan and public concerns were thoroughly reviewed and mitigated by a multidisciplinary review team of competent and experienced professionals with expertise in such fields as forestry, wildlife and fisheries biology, geology, water quality, and archaeology. The Second Review Team Chairperson recommended that the plan, as revised and mitigated, be found in conformance with the rules of the Board of Forestry. Representatives from NCRWQCB, CGS, and CDFW participated in the review of this plan, provided written recommendations, and did not file a non-concurrence with the recommendation for approval of the plan. The potential cumulative effects of this plan were considered during the review and no significant unmitigated cumulative effects are likely to occur.

In response to fuzzy clearcuts, the variable retention silviculture system is proposed in this plan. The variable retention silviculture is described as follows:

Variable retention is an approach to harvesting based on the retention of structural elements or biological legacies (trees, snags, logs, etc.) from the pre-harvest stand for integration into the post-harvest stand to achieve various ecological, social and geomorphic objectives. The major variables in the variable retention harvest system are retention types, densities, and spatial arrangement of retained structures; aggregated retention is the retention of structures or biological legacies as intact forest patches within the harvest unit; dispersed retention is the retention of structures or biological legacies in a dispersed or uniform pattern. Retained trees may be intended to become part of future stands managed by the Selection regeneration method. Retained trees are often designated as decadent tree or snag recruitment hence not ever intended for harvest. Regeneration after harvest outside of aggregated retention patches may be obtained by direct seeding, planting, sprouting, or by natural seedfall.

This THP proposes 273 acres of variable retention. The variable retention areas have a high proportion of hardwoods, predominately tanoak. Tanoak is less desirable for commercial purposes and Maximum Sustained Production of High Quality Timber Products (MSP). The variable retention harvest will allow MRC to maintain structural wildlife components throughout the THP area while improving the proportion of conifer species for long term MSP. These stands will be managed over time and will have no higher fire danger than the current forest. The harvest will break up the current closed canopy of conifers and hardwoods, creating a mosaic of harvested and unharvested retention areas.

Public Comment Letter from Environmental Protection Information Center on March 19, 2021, after the close of public comment.

In addition, five references were uploaded. These are referenced as follows but not included in this response letter:

1. Blakesley, Jennifer A, Alan B. Franklin, and R.J. Gutierrez, Spotted Owl Roost and Nest Site Selection in Northwest California, *Journal of Wildlife Management*, 56(2): 388-392
2. Forsman, Eric D. and Alan R. Giese, Nests of Northern Spotted Owls on the Olympic Peninsula, *Washington, The Wilson Bulletin*, 109(1) 28-41
3. Forsman, Eric D., E. Charles Meslow, and Howard M. Wight, Distribution and Biology of the Spotted Owl in Oregon, *Wildlife Monographs*, 87, 1-64
4. Franklin, Alan B., David R. Anderson, R. J. Gutierrez, and Kenneth P. Burnham, Climate, Habitat Quality, and Fitness in Northern Spotted Owl Populations in Northwest California, *Ecological Monographs*, 70(4) 539-590
5. Sovern, Stan G. and Margaret Taylor, Nest Reuse by Northern Spotted Owls on the East Slope of the Cascade Range, *Washington, Northwest Naturalist* 92:101-106

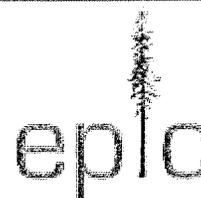
An additional reference was downloaded via CALTREES on March 23, 2021:

The document referenced is:

Brown, Randy A, "Response to Request for Technical Assistance Regarding the Proposed Mendocino Redwood Company Spotted Owl Resource Plan, January 15, 2010.

The letter includes the Mendocino Redwood Company SORP and determined that the company's harvest operations conducted as proposed would not be likely to incidentally take northern spotted owls.

Santa Rosa Review Team
135 Ridgway Avenue
Santa Rosa, CA 95401
(707) 576-2959



Dear Santa Rosa Review Team,

On behalf of the Environmental Protection Information Center, please accept these comments on THP 1-20-00186-MEN, "Goddard Boardman 2020". EPIC believes that MRC's deviation from Attachment A without consulting with USFWS violates the Forest Practice Rule 919.9 and could result in potential take of northern spotted owls ("NSO"). In addition, EPIC believes that widespread adoption of the deviation proposed by MRC will result in widespread negative cumulative impacts to NSO habitat. For these reasons, CAL FIRE should not approve this THP.

I. Forest Practice Rule 919.9(e) allows RPFs to base their NSO take avoidance procedures on a discussion with the USFWS

This THP contains 4 NSO territories within 0.7 miles of the plan area.¹ Because of the NSO's federally threatened status, the Forest Practice Rules contain numerous safeguards designed to protect the NSO and its habitat. California Code of Regulations, Title 14, Section 919.9 states the following:

"Every proposed timber harvesting Plan, NTMP, WFMP, conversion permit, Spotted Owl Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation Area or within 1.3 miles of a known northern spotted owl Activity Center outside of the Northern Spotted Owl Evaluation Area shall follow one of the procedures required in subsections (a)-(g) below for the area within the THP boundary as shown on the THP map and also for adjacent areas as specified within this section. The submitter may choose any alternative (a)-(g) that meets the on-the-ground circumstances. The required information shall be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl."²

For this THP, the RPF selected option (e).³ Option (e) allows the plan submitter to proceed with a THP "pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service".⁴ This requires the submitter to "submit a letter prepared by the RPF that the described or proposed

¹ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, p. 79.

² Cal. Code. Regs. tit. 14, § 919.9 Northern Spotted Owl.

³ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, pp. 79

⁴ Cal. Code. Regs. tit. 14, § 919.9(e) Northern Spotted Owl.

Environmental Protection Information Center
145 G Street, Suite A, Arcata, CA 95521 | (707) 522-7711
www.wildcaif.org

pg. 1

management prescription is acceptable to the USFWS.”⁵ In this instance, the RPF did not have a unique discussion with USFWS, instead they decided to rely on a document known as the Northern Spotted Owl Take Avoidance Analysis and Guidance for Private lands in California Attachment A: Take Avoidance Analysis - Coast Redwood Region (“Attachment A”).⁶

This THP guarantees the reviewer that this “THP follows the guidance put forth in Attachment A.”⁷ By stating that they would follow the guidance set forth in Attachment A in order to satisfy the requirements of § 919.9(e), the RPF has bound themselves to follow that document when conducting NSO surveys. The reason is that by selecting option (e) the RPF is indicating to the Director of CAL FIRE, who is charged with determining whether or not the proposed harvest would result in the “take” of an individual northern spotted owl, that the USFWS has approved of their procedures for preventing take. Selecting option (e) is meant to assure the Director of CAL FIRE and the public that the expertise of the USFWS has been consulted when designing the procedures for preventing take within a THP. It follows that the RPF is not free to make amendments or propose alternative practices to Attachment A within an individual THP that USFWS has not approved and still select option (e). This is further evidenced by the fact that option (g) is designed for a situation where the RPF wishes to propose their own protection measures.⁸ As will be discussed in more detail below, in this THP the RPF has chosen not to conform the NSO surveys with Attachment A and has therefore violated the requirements of § 919.9. In doing so, the RPF has violated the Forest Practice Act and CEQA and this THP should, therefore, be rejected by CAL FIRE.

II. Attachment A States that Multiple Activity Centers for an NSO Home Range Are Possible and Often Necessary to Protect the Species

Attachment A was developed by the U.S. Fish and Wildlife Service to provide guidelines to foresters on how best to avoid incidental take of NSO when conducting timber harvests in the coast redwood region of California.⁹ The guidelines provide specific measures which “the Service believes... represent effective measures to avoid take of NSO.”¹⁰ Attachment A makes clear that “[a]ccurately mapping the location of each activity center is critical to the protection of core use area habitat.”¹¹ In doing so, Attachment A stresses that “[m]ultiple activity centers for an

⁵ Cal. Code. Regs. tit. 14, § 919.9(e) Northern Spotted Owl.

⁶ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, p. 79.

⁷ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, p. 79.

⁸ Cal. Code. Regs. tit. 14, § 919.9(g) Northern Spotted Owl.

⁹ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California (Nov. 1, 2019)

¹⁰ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California (Nov. 1, 2019)

¹¹ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California, p.2 (Nov. 1, 2019)

NSO home range are possible.¹² This means that “[i]f 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” and that “[w]here it makes biological sense, multiple activity centers can be contained within a single core use area.”¹³ Attachment A further specifies that “[i]f NSO move to a new location (>1,000 feet from the historical activity center), the appropriate protection measures should be provided to each activity center, or consultation with NSO review agencies should occur to evaluate the status of what may be multiple activity centers.”¹⁴

The reason for these broad protection measures is that NSO reuse nests and regularly rotate between nest sites.¹⁵ Forsman et al. (1984) conducted a long-term demographic study of NSO nest sites in Oregon.¹⁶ They found that “[o]f 25 nests that were checked in 2 or more years, 17 were used more than once.”¹⁷ They also documented a single NSO pair using 5 different nest sites.¹⁸ Some NSO pairs used alternative nest sites as far away as 1.2km.¹⁹ During another long-term demography study, Sovereign, Taylor, & Forsman (2011) observed that NSO “switched nests between nesting attempts 81.2% of the time.”²⁰ Similarly, Forsman & Giese (1997) found that “[o]wls changed nests between successive nesting events in 80% of all cases.”²¹ This was

¹² Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California, p. 2 (Nov. 1, 2019)

¹³ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California, p. 2 (Nov. 1, 2019)

¹⁴ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California, p. 9 (Nov. 1, 2019)

¹⁵ See, e.g., Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): pp. 3-64; Sovern, Stan G., Margaret Taylor, and Eric D. Forsman. "Nest reuse by Northern Spotted Owls on the east slope of the Cascade Range, Washington." *Northwestern Naturalist* 92.2 (2011): 101-108; Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): 3-64; Blakesley, Jennifer A., Alan B. Franklin, and R. J. Gutiérrez. "Spotted owl roost and nest site selection in northwestern California." *The Journal of wildlife management* (1992): 388-392.

¹⁶ Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): pp. 3-64.

¹⁷ Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): p. 32

¹⁸ Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): p. 32

¹⁹ Forsman, Eric D., E. Charles Meslow, and Howard M. Wight. "Distribution and biology of the spotted owl in Oregon." *Wildlife Monographs* (1984): p. 32

²⁰ Sovern, Stan G., Margaret Taylor, and Eric D. Forsman. "Nest reuse by Northern Spotted Owls on the east slope of the Cascade Range, Washington." *Northwestern Naturalist* 92.2 (2011)

²¹ Forsman, Eric D., and Alan R. Giese. "Nests of northern spotted owls on the Olympic Peninsula, Washington." *The Wilson Bulletin* (1997): 28-41.

true despite the fact that "their historical nests were usually still intact."²² Just because an activity center is not believed to be occupied does not mean that protecting the area around it from timber harvests is no longer necessary to prevent take of NSO. This is because NSO could have returned to a previous activity center, unbeknownst to the timber operator. It is also true that NSO that would have returned to an activity center to breed may no longer be able to do so because of timber operations near that activity center. This is why Attachment A specifies multiple times that protecting multiple activity centers within one territory, even presumably unoccupied activity centers, is necessary to prevent incidental take of NSO.

III. This THP's NSO Take Avoidance Determination Package Does Not Comply with the Attachment A Guidelines

A. The RPF's deviations from Attachment May Result in Take of NSO

This THP's NSO Take-Avoidance Determination package begins by once again confirming that this THP was submitted for review under § 919.9(e).²³ The RPF explains this in the following way:

"Specifically using USFWS recommendations to CAL FIRE under scenario 4 and 'Attachment A.' This THP proposes alternative measures to some of these recommendations. They are discussed in the following NSO take avoidance determination package."²⁴

On its face, this explanation is unsatisfactory. §919.9(e) allows timber harvesters to submit a timber harvest plan "pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service" not to propose their own alternatives.²⁵ It is true that Attachment A is the outcome of such a discussion but it does not follow that RPFs are free to propose their own alternatives within an individual THP. The reason is that USFWS will never review these individual THPs and therefore it makes no sense to say that a THP containing alternative measures to those outlined in Attachment A was submitted "pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service." To allow RPFs to do this would be to eliminate the justification for §919.9(e) because it would allow RPFs to effectively ignore USFWS recommendations in their THPs while gaining the presumptive incidental take avoidance afforded by checking the box for §919.9(e). By simultaneously purporting to rely on Attachment A while proposing alternative measures to Attachment A, the RPF has violated §919.9 of the Forest Practice Act.

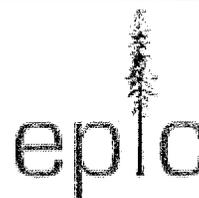
²² Forsman, Eric D., and Alan R. Giese. "Nests of northern spotted owls on the Olympic Peninsula, Washington." *The Wilson Bulletin* (1997): 28-41.

²³ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 5, p. 215.

²⁴ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 5, p. 215.

²⁵ Cal. Code. Regs. tit. 14, § 919.9(e) Northern Spotted Owl

Santa Rosa Review Team
135 Ridgway Avenue
Santa Rosa, CA 95401
(707) 576-2959



Dear Santa Rosa Review Team,

On behalf of the Environmental Protection Information Center, please accept these comments on THP 1-20-00186-MEN, "Goddard Boardman 2020". EPIC believes that MRC's deviation from Attachment A without consulting with USFWS violates the Forest Practice Rule 919.9 and could result in potential take of northern spotted owls ("NSO"). In addition, EPIC believes that widespread adoption of the deviation proposed by MRC will result in widespread negative cumulative impacts to NSO habitat. For these reasons, CAL FIRE should not approve this THP.

I. Forest Practice Rule 919.9(e) allows RPFs to base their NSO take avoidance procedures on a discussion with the USFWS

This THP contains 4 NSO territories within 0.7 miles of the plan area.¹ Because of the NSO's federally threatened status, the Forest Practice Rules contain numerous safeguards designed to protect the NSO and its habitat. California Code of Regulations, Title 14, Section 919.9 states the following:

"Every proposed timber harvesting Plan, NTMP, WFMP, conversion permit, Spotted Owl Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation Area or within 1.3 miles of a known northern spotted owl Activity Center outside of the Northern Spotted Owl Evaluation Area shall follow one of the procedures required in subsections (a)-(g) below for the area within the THP boundary as shown on the THP map and also for adjacent areas as specified within this section. The submitter may choose any alternative (a)-(g) that meets the on-the-ground circumstances. The required information shall be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl."²

For this THP, the RPF selected option (e).³ Option (e) allows the plan submitter to proceed with a THP "pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service".⁴ This requires the submitter to "submit a letter prepared by the RPF that the described or proposed

¹ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, p. 79.

² Cal. Code. Regs. tit. 14, § 919.9 Northern Spotted Owl.

³ Goddard Boardman 2020 THP 1-20-00186-MEN, sec 2, pp. 79

⁴ Cal. Code. Regs. tit. 14, § 919.9(e) Northern Spotted Owl.

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unoccupied because it may be necessary for future NSO occupations.³³ CDFW also commented that “the THP provides a core use area for territory MEN0080 but does not encompass all activity centers for the territory and does not provide protection for multiple activity centers.” This historic activity center will not receive adequate protections under MRC’s deviations.³⁴ So, despite the RPF’s protestation that this THP complies with Attachment A, it is clear that this THP proposes harvests in high quality nesting/roosting habitat that would be excluded if Attachment A were properly followed. The RPF responded to these concerns, when CDFW raised similar ones, by arguing that their deviations from Attachment A were based on rational and scientific information and judgements.³⁵ Whether or not that is the case, §919.9(e) requires the RPF to develop these measures *in consultation with* USFWS. The RPF has clearly not consulted for this THP, choosing instead to develop their own alternative measures without input from USFWS. So, regardless of any rationalization the RPF offers, this THP violates the forest practice rules.

Furthermore, if allowed to continue with this practice, MRC will degrade all of the high quality NSO habitat on their lands as NSO move from location. Under MRC’s deviation, each time an NSO moves and MRC identifies a new “most significant location” they permit themselves to log in the old Activity Center. Because NSO move frequently between ACs, this practice will result in MRC regularly changing what land is protected and allowing themselves to log there. In essence, MRC will chase the NSO, logging where they had previously been. The result will be that MRC THPs will log much of the best habitat for the NSO still available simply because NSO are not currently using that habitat. Logging in high quality habitat reduces the quality of that habitat for NSO and makes NSO more vulnerable to two of their highest causes of mortality: predation and cold wet weather.³⁶ By only protecting the most recent or best sites, MRC is making both of these outcomes more likely to occur in an area that is vital for the NSO’s future as a species. So, MRC’s proposed deviation has the result of significantly reducing the future viability of the species on their lands.

IV. Conclusion

The RPF has indicated that they would comply with forest practice rule §919.9(e) which requires them to consult with the USFWS about measures to prevent take of NSO. Instead of relying on Attachment A, a document that was produced by USFWS for the purposes of such consultation, the RPF chose to propose their own deviations from Attachment A without consulting with

³³ Dept. of Interior, Fish and Wildlife Service, NSO Take Avoidance Analysis and Guidance for Private lands in California (Nov. 1, 2019)

³⁴ Responses to First Review THP 1-20-00186-MEN (Dec. 3, 2020)

³⁵ Responses to First Review THP 1-20-00186-MEN (Dec. 3, 2020)

³⁶ Franklin, Alan B., et al. "Climate, habitat quality, and fitness in northern spotted owl populations in northwestern California." *Ecological Monographs* 70:4 (2000): 539-590.

USFWS. The proposed deviations have the potential to cause incidental take of NSO as well as seriously reduce the amount of high quality NSO habitat on MRC lands which will have a negative cumulative effect on NSO. By proposing their own deviations from Attachment A without consulting with USFWS, the RPF has violated the Forest Practice Rules and this THP must be rejected. If you have any questions about the content of this letter, please do not hesitate to contact EPIC at matt@wildcalifornia.org.

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RESPONSE:

THP Review History

The public commenter has brought up many concerns related to NSO. Many of these concerns were discussed during the multidisciplinary review of the THP. These concerns were reviewed during first review, the PHI, and culminating at the final interdisciplinary review team meeting (aka second review) where the plan was recommended for approval. The following review history summarizes the issues that were discussed.

First Review

CDFW Question 2

In Section V, number 5 (pages 264-266), the THP states the Northern Spotted Owl protection measures proposed for THP 1-20-00186 MEN are based on guidance provided by the USFWS Northern Spotted Owl Take Avoidance Analysis and Guidance for Private Lands in California (USFWS 2019), and the best available scientific information.

MRC has not completed a demography study, yet claims surveys for THP clearance across the ownership over a 25-year period, in combination with MRC's proposed habitat protection measures, provide a high likelihood that unauthorized take of Northern Spotted Owls will be avoided while conducting timber operations. The THP refers to activity centers that were established under criteria different than described in the USFWS protocol survey or Attachment A but does not explain how the criteria differ.

The THP states that the requirement to include every known activity center within the noharvest core area is not necessary to avoid take of NSO but does not provide evidence such as peer-reviewed studies to support this statement. The THP claims incidental take through habitat modification can only occur when NSO are present at an activity center and the habitat modification is significant enough to significantly impair essential behavior patterns or result in actual injury. This dismisses the potential for significant cumulative impacts due to the removal and/or downgrading of Northern Spotted Owl habitat. Removing an essential activity center, where birds were either known to nest or data supports likely nesting, means that owls will not return to the area. The USFWS has long considered habitat removal, even from a temporarily unoccupied activity center, is defined as take under the federal Endangered Species Act. Core area protections that include unoccupied activity centers are still necessary in most cases to preclude take under the federal ESA.

It is important to bear in mind that an approved process already exists for landowners to clarify historic activity centers, and/or move activity centers (described in the attached Spotted Owl Observations Database Management Framework). An activity center move of less than 1,000 feet may be completed by the SPOWDB Manager. However, a move of more than 1,000 feet without banding information will

need to be reviewed and approved by the appropriate USFWS and CDFW offices. Activity centers are active unless otherwise proven to be abandoned or not valid. Landowners must request Technical Assistance to abandon any activity center. Landowners are encouraged to contact their regional CDFW Timberland Conservation Program NSO contact for assistance in addressing multiple ACs.

The USFWS rescinded TA for MRC's SORP on January 1, 2018 (see attachment 1). If MRC chooses to justify alternative protections for avoiding take, the appropriate place is through consultation prior to submitting a THP.

Will MRC consult with CDFW and provide all survey data, supporting science, rationale, and justification to demonstrate the proposed core area protections in THP 1-20-00186 MEN will avoid take of Northern Spotted Owls in addition to other potentially significant impacts, including cumulative impacts? If MRC proposes to abandon an activity center, has MRC requested abandonment from the USFWS? (CDFW-RESUB1)

The RPF responded to the first review question on December 3, 2020:

MRC has provided all required survey data, supporting science, rationale, and justification regarding avoiding take and cumulative impacts to NSO for agency review in the THP. Consultation is not necessary to avoid take or significant adverse impacts to NSO as agency review will occur through the THP process. As stated in the THP, MRC has focused core area protection around the most significant location {i.e., highest ranked AC {USFWS 2019}} for each NSO territory, while including as many historic activity centers as possible within the core. See revised pages 267 and 269. For full protections already included in the THP, please refer to pages 266- 270 including the newly revised pages mentioned before. MRC is not proposing to abandon any NSO activity centers.

CDFW Question 3

The THP cites USFWS Northern Spotted Owl Take Avoidance Analysis and Guidance for Private Lands in California, Attachment A: Take Avoidance Analysis – Coast Redwood Region (Attachment A) as the method for avoiding take of Northern Spotted Owls. Attachment A defines activity centers, details designation of core use areas, describes multiple activity centers that need protection to avoid take, and states the following:

“If NSO move to a new location (>1000 feet from the historical activity center), the appropriate protection measures should be provided to each activity center, or consultation with NSO review agencies should occur to evaluate what may be multiple activity centers.”

The THP provides a core use area for territory MEN0080 that does not encompass all activity centers for the territory and does not provide protection of multiple activity centers. The Spotted Owl Database shows a pair detected at noon on April 22, 2013.

This is an activity center more than 1,000 feet from the historic activity center and outside the designated core use area. It is located west of the designated Activity Center and circled in light blue in the attachment 2.

Three detections (1990, 1991, 2002) are more than 1,000 feet from the historic activity center and outside the designated core use area. These detections are located north of the designated Activity Center and circled in purple in the attachment 2. One of these detections – a pair detected at 5:20 am on April 25, 1990, is an activity center according to available data.

Will the RPF revise operations maps and Section V maps to reflect a designated core use area for MEN0080 that encompasses all activity centers and provides appropriate protection measures for multiple activity centers? Or will the THP include explanation and justification as to why daytime pair detections on April 22, 2013 and April 25, 1990 are not provided core area use protection? (CDFW-RESUB2)

The RPF responded to the first review question on December 3, 2020:

The THP as proposed includes a 106-acre core area to the highest ranked Activity Center (AC) and more recent surrounding AC's associated with MEN0080. See revised page 267. The sites in question (1990, 1991, 2002) are not provided core area protections, however, take to NSO will be avoided due to the following:

The 1990 and 1991 ACs have had no detections near that area since 1991 and are likely unoccupied. MRC looked through all files and cannot find any 2002 detections other than one detection recorded to the west by SF Big River near MEN0301, which has core area protection under this THP, see attached survey data, please see revised page 328.3. The sites in question are also outside of the areas proposed for harvest and there will be no habitat downgraded within 1000 feet of the historic ACs.

The 2013 detection was an auditory detection from approximately 700 meters away up on the ridge while the surveyor was calling on Orr Springs Road. The surveyor immediately went down to the detection area to search. and did not find any sign of NSO in the area (see revised page 328.3). There were several detections of NSO during the 2013 survey season, but we never had any other detections at this site (see 2013 Detections Map. additional page 328.4). Because we could not find an actual nest or roost site and had detections throughout the area between MEN0301 and MEN0080 we did not determine a specific AC site for MEN0080 that survey year. There have been no other detections at that site since 2013, further supporting that protection is not required for this historic AC.

CDFW Question 4

The THP cites Attachment A as the method for avoiding take of Northern Spotted Owls. However, the THP provides a core use area for territory MEN0301 that does not encompass all activity centers for the territory and does not provide protection for multiple activity centers. A group of five nest sites are more than 1,000 feet from the

historic activity center and outside the designated core use area. They are located west of the designated Activity Center and circled in light green in the attachment 3.

In addition, two pair detections from 2005 – March 9 at 2:45 pm and March 17 at 2:57 pm – together would constitute an activity center but are not included in core use area protections. They are 420 and 460 feet from the harvest boundary. These detections are on the left side of the area circled in yellow in the attachment 3.

Will the RPF revise operational maps and Section V maps to reflect a designated core use area for MEN0301 that encompasses all activity centers, provides appropriate protection measures for multiple activity centers, and includes the areas of concentrated detections? Or will the THP include explanation and justification why five historic nest sites and an activity center from 2005 are not provided core area use protection? (CDFW-RESUB3)

The RPF responded to the first review question on December 3, 2020:

The THP as proposed includes a 107-acre core area for the highest ranked Activity Center (AC) and more recent surrounding ACs associated with MEN0301. See revised page 269. The sites in question are not provided core area protections, however, take of NSO will be avoided due to the following:

Habitat within the harvest unit adjacent to the 2005 detections is unsuitable habitat, these detection sites are unoccupied, they are outside the harvest area, and habitat will not be downgraded within 1000 feet.

The area surrounding the group of 5 historic nest sites was harvested in 2016. The ACs are likely unoccupied, they are outside the harvest area, and habitat will not be downgraded within 1000 feet.

Preharvest Inspection

The CAL FIRE inspector included the following in his PHI report, page 12:

The Northern Spotted Owl (NSO) database search, habitat typing/assessment, survey results & monitoring data are provided in THP Section V. Sufficient NSO information has been provided for review under 14 CCR 919.9(e), Take Avoidance Scenario #4, Attachment A (11-01-2019) – Coast. THP habitat typing information was reviewed and spot-checked during the PHI for accuracy. The habitat typing was generally consistent with descriptions provided in 14 CCR 895.1 for “Functional Nesting, Roosting & Foraging Habitat”, with one exception noted by CDFW on the 2nd day PHI (February 04, 2021). CDFW was concerned with a stand typed in the pre-harvest condition as non-habitat which appeared to be foraging habitat, leading to down-grading post-harvest, where the plan indicates no downgrading of habitat would occur. Observations of the stand on the ground during the PHI confirmed the pre-harvest stand is NSO foraging habitat, and resulted in CDFW recommending the

habitat typing for this stand be revised (see CDFW PHI report and recommendations).

The CDFW made the following PHI recommendations concerning NSO

Recommendation 1

During First Review, CDFW submitted questions regarding Northern Spotted Owl protections language in Section V, pages 264 – 266. The RPF states in the First Review Responses that the THP does not propose deviations from Attachment A. However, the language in Section V appears to serve as an explanation and justification for deviating from core use area protections. This includes multiple historical or alternative ACs associated with NSO territories MEN0080 and MEN0301 (see pages 278 and 308). In addition, the language in Section V appears to propose to abandon or invalidate historic Activity Centers at the RPF's discretion. Application of core use area protections to select Activity Centers is a deviation from Attachment A take avoidance guidance and suggests abandonment of Activity Centers. However, MRC has not consulted with the review agencies and has not discussed AC specific deviations or AC abandonment with CDFW or the U.S. Fish and Wildlife Service.

As written, the THP proposes to apply an alternative take avoidance strategy rather than the take avoidance protection measures outlined in Attachment A. The alternative strategy is not supported by the best available science, does not include a valid justification, and deviates substantially from Attachment A take avoidance guidance. As proposed, CDFW cannot conclude that the THP will avoid significant adverse impacts to Northern Spotted Owls.

To reduce potentially significant adverse impacts to Northern Spotted Owls, CDFW recommends revising the NSO protection measures in Section V so they are consistent with Section II and Attachment A take avoidance guidance. (CDFW Recommendation 1)

The RPF responded to this recommendation on February 22, 2021 and stated the following:

The RPF disagrees, please see revised Section V for justification. MRC has provided all required survey data, supporting science, rationale, and justification regarding avoiding take and cumulative impacts to NSO for agency review in the THP. Consultation is not necessary to avoid take or significant adverse impacts to NSO as agency review will occur through the THP process. As stated in the THP, MRC has focused core area protection around the most significant location (i.e., highest ranked AC (USFWS 2019)) for each NSO territory. while including as many historic activity centers as possible within the core. MRC is not proposing to abandon any NSO activity centers.

RPF agrees, there were discrepancies between Section V and Section II, Item 32. Please see revised Section II, Item 32.

The CDFW made the following PHI recommendations concerning NSO

Recommendation 2

Alternatively, Item 32 in Section II may be revised to state the THP will avoid take in a manner consistent with 14 CCR 919.9(g). If the THP proposes to avoid take pursuant to 14 CCR 919.9(g), Item 32 in Section II shall be revised to describe the alternative take avoidance strategy and Section V shall include the analysis and justification as follows:

- a) The justification shall include sufficiently detailed, site-specific analysis for each valid AC that differs from Attachment A protection measures;*
- b) The site-specific analysis shall describe how take and other significant adverse impacts, including cumulative impacts, will be avoided;*
- c) The analysis shall provide justification for each valid AC proposed to receive no take-avoidance protection measures, or some portion of take avoidance protection measures equivalent to or greater than the protection measures outlined in Attachment A guidance; and*
- d) Given the potential complexity of the information, the analysis shall be provided to the Review Team agencies a minimum of 5 working days prior to Second Review (CDFW Recommendation 2)*

The RPF responded to this recommendation on February 22, 2021 and stated the following:

RPF disagrees, this THP will avoid take in a manner consistent with 14 CCR 919.9 (e). Please see revised Section V.

The CDFW made the following PHI recommendations concerning NSO

Recommendation 3

If a historic AC no longer has sufficient habitat to support occupancy (e.g., from timber harvest or fire), MRC may seek Technical Assistance from the U.S. Fish and Wildlife Service to determine abandonment.

Information not currently included in THP 1-20-00186 MEN may be needed to evaluate a request for abandonment, including longer-term survey data and occupancy information, Barred Owl detection history, timber harvest history, and current habitat descriptions and acreage surrounding the AC (USFWS 2008, 2017a, 2017b).

To reduce potentially significant adverse impacts to Northern Spotted Owls, CDFW recommends revising Section II and Section V in THP 1-20-00186 MEN to include a Technical Assistance letter from the U.S. Fish and Wildlife Service indicating whether ACs without take avoidance protections are determined abandoned. (CDFW Recommendation 3)

The RPF responded to this recommendation on February 22, 2021 and stated the following:

RPF disagrees, a Technical Assistance letter from the U.S. Fish and Wildlife is not needed as we do not propose to abandon any AC's.

The CDFW made the following PHI recommendations concerning NSO
Recommendation 4

The language proposed in Section V also appears to propose a process for "invalidating" historical activity centers. The process for invalidating ACs in the Spotted Owl Database (SPOWDB) is described in the Spotted Owl Observations Database Management Framework (CDFW 2019).

To reduce potentially significant adverse impacts to Northern Spotted Owls, CDFW recommends MRC contact the SPOWDB manager to request invalidation of ACs that do not appear to meet current U.S. Fish and Wildlife Service standards. To ensure a streamlined review process, this should occur prior to the submission of THPs. At a minimum, CDFW recommends that MRC revise Section V in THP 1- 20-00186 MEN and call-out any ACs proposed for invalidation. MRC should share all relevant historical survey data so the Review Team can adequately review the proposal. (CDFW Recommendation 4)

RPF disagrees, this THP does not propose to invalidate any AC's. Section V provides historic occupancy data, all recent survey data, and justification for take avoidance following Attachment A guidance.

The CDFW made the following PHI recommendations concerning NSO
Recommendation 5

If MRC includes a proposal for alternative no-harvest buffers (e.g., smaller than 100 acres) for multiple activity centers, CDFW recommends that MRC consult with CDFW prior to Second Review.

CDFW will provide appropriate recommendations at that time.

If alternative protection measures for multiple activity centers are proposed without prior consultation, CDFW recommends, at a minimum, the THP include detailed information for each AC in addition to justification for the proposed buffer. This will better enable the Review Team to evaluate the biological significance of the activity centers. (CDFW Recommendation 5)

The RPF did not respond to this recommendation.

The CDFW made the following PHI recommendations concerning NSO
Recommendation 8

In Section V, page 257, THP 1-20-00186 MEN shows the stand marked Variable Retention Unit 1 (VR1) as unsuitable Northern Spotted Owl habitat in the pre-harvest

maps (revised October 28, 2020). However, in Section III, Item 14 (page 117) lists pre-harvest basal areas for VR1 that may qualify the stand as Northern Spotted Owl foraging or nesting/roosting habitat.

During the PHI, the CAL FIRE Inspector, MRC Forester, and CDFW Environmental Scientist visited the Unit identified as VR1. The CAL FIRE Inspector found the habitat meets the standard definition for Northern Spotted Owl foraging habitat consistent with USFWS Northern Spotted Owl Attachment A – Redwood Region. CDFW staff agreed the habitat appears suitable for Northern Spotted Owl foraging habitat.

To reduce potentially significant adverse impacts to Northern Spotted Owls, revise the Section V maps and tables for Unit VR1 and show the pre-harvest conditions are suitable Northern Spotted Owl foraging habitat. Revise the post-harvest conditions for Unit VR1 as unsuitable Northern Spotted Owl habitat. Revise, as necessary, activity center protections for MEN0301 in the Section V table (THP page 269) and include all activity centers within 1,000 feet of the downgraded habitat. Finally, discuss how potentially significant adverse impacts to Northern Spotted Owl will be reduced to a level of less than significant. (CDFW Recommendation 8)

The RPF responded to this recommendation on February 22, 2021 and stated the following:

RPF agrees, please see revised habitat maps and occupancy tables in Section V. A map of MEN0301 AC's and corresponding year is included for clarification. Historic ACs for MEN0301 that are not receiving full core area protection are not currently occupied and are outside the harvest area. If during spot call surveys it is determined these historic AC's are occupied, MRC will consult with CDFW to provide adequate protection measures to avoid take.

Final Interagency Review Team Meeting

During second review of the THP on February 25, 2021, NSO issues were discussed with the RPF, CDFW, and CAL FIRE Review Team Chairperson. The Second Review Chairperson made the following recommendation concerning NSO:

At submittal, the THP included language in Section II, Item 32 that provided specific parameters for avoiding take of Northern Spotted Owl (NSO) per the USFWS Attachment A NSO Take Avoidance Guidance Document. On February 22, 2021, the RPF revised Item 32 (revised pages 79- 81) by removing specific language about surveys, habitat retention, road use, and timber operations. Please revise THP Section II, Item #32 by including pages 79 - 81 as they were at plan submittal.

The RPF agreed to this recommendation and revised pages 79 and 80 on February 26, 2021.

On March 1, 2021, the Second Review Chairperson recommended the plan for approval stating that no significant unmitigated impacts were identified.

Compliance with 14 CCR 919.9(e) and Attachment A

The northern spotted owl is state and federally listed as threatened. The THP addresses northern spotted owls on pages 79-81 and pages 240-355. The THP will comply with 14 CCR 919.9(e) of the California Forest Practice Rules which allows a landowner to consult with the United States Fish and Wildlife Service:

If the submitter proposes to proceed pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the RPF that the described or proposed management prescription is acceptable to the USFWS.

For timber operations, the USFWS has provided standard surveying and mitigation measures in a letter "USFWS Take Avoidance Analysis and Guidance for Northern spotted owl (*Strix occidentalis caurina*) Attachment A," dated November 1, 2019 (Attachment A). The THP will comply with these recommendations.

On page 79 of the THP, it states the following:

The THP area is within the range of the Northern Spotted Owl and contains habitat suitable for the Northern Spotted Owl. NSO is Federally Threatened, State Threatened, and a BOF Species of Special Concern. There are 4 NSO territories within 0.7 miles of the plan area.

For the purposes of review of this plan, the provision of 14 CCR 919.9 (e) following Scenario 4 (Northern Spotted Owl Take Avoidance Scenarios, published 11/1/2019) shall be used to demonstrate with Northern Spotted Owl take avoidance guidelines in the Northern Spotted Owl Take Avoidance Analysis and Guidance for California Coast Forest District, Attachment A (AFWO-11B0075-11TA0069) revised November 1, 2019 (FWS-R8-ES).

The commenter is concerned that the THP is not in conformance with 14 CCR 919.9 (e) and should have used 14 CCR 919.9 (g), which would allow the landowner to propose their own protection measures. Note, the guidance letter from the USFWS included with Attachment A states:

While the Service believes 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.

CAL FIRE believes that this is a guidance document and that minor changes, when explained and justified, still comply with the guidance document. The RPF could change the THPs compliance to 14CCR 919.9(g) and provide the same protection measures, but by using the guidance of Attachment A under 14 CCR 919.9(e), the RPF has demonstrated how incidental take will be avoided.

Activity Center and Core Area Designation

The comment letter is concerned that the THP does not follow Attachment A in establishing and maintaining activity centers and their designated core areas.

There are currently four historic NSO activity centers within 0.7 miles of the THP: MEN0080, MEN0161, MEN0301, and MEN0567. MEN0301 is within 0.25 miles of the THP. The THP area and surrounding area have an extensive survey history. Protocol NSO surveys were conducted in 2019 and 2020. These surveys are conducted following the 2011 USFWS Northern Spotted Owl Survey Protocol - 2012 Revision and the Northern Spotted Owl Take Avoidance Analysis and Guidance for California Coast Forest District, dated November 1, 2019 (Attachment A) for Spotted Owl Take Avoidance. Additional surveys are required in subsequent years to determine whether there is new NSO activity in the THP area and the status of each known activity center.

Within 0.7 miles of MEN0161, the THP will retain the following post-harvest habitat:

Habitat Type	Pre-harvest-Acres	Post-harvest-Acres	Change
Nesting	282	282	0
Foraging	693	575	-118
Unsuitable	10	128	+118
Total Suitable	975	857	857

As shown in the above table, there is no post-harvest change in nesting/roosting habitat. The THP proposes to reduce foraging habitat by 118 acres. The minimum required retention from Attachment A is 200 acres of nesting/roosting habitat and 500 acres of suitable habitat. Therefore, the THP is maintaining in excess of the minimum requirements.

The designated core area is outside the THP area. There is no harvest of habitat adjacent to the core area.

Within 0.7 miles of MEN0080, the THP will retain the following post-harvest habitat:

Habitat Type	Pre-harvest-Acres	Post-harvest-Acres	Change
Nesting	291	291	0
Foraging	538	524	-14
Unsuitable	156	169	+13
Total Suitable	829	815	-14

As shown in the above table, there is no post-harvest change in nesting/roosting habitat. The THP proposes to reduce foraging habitat by 14 acres. The minimum required retention from Attachment A is 200 acres of nesting/roosting habitat and 500 acres of suitable habitat. Therefore, the THP is maintaining in excess of the minimum requirements.

The designated core area is outside the THP area. There is no harvest of habitat adjacent to the core area

Within 0.7 miles of MEN0301, the THP will retain the following post-harvest habitat:

Habitat Type	Pre-harvest-Acres	Post-harvest-Acres	Change
Nesting	260	260	0
Foraging	547	430	-117
Unsuitable	177	295	+118*
Total Suitable	807	690	-117
*1-acre rounding difference			

As shown in the above table, there is no post-harvest change in nesting/roosting habitat. The THP proposes to reduce foraging habitat by 117 acres. The minimum required retention from Attachment A is 200 acres of nesting/roosting habitat and 500 acres of suitable habitat. Therefore, the THP is maintaining in excess of the minimum requirements.

The designated core area is outside the THP area. There is no harvest of habitat immediately adjacent to the core area. Some habitat is being reduced to the north and east of the core area, but there is additional nesting/roosting and foraging habitat to the south and west of the core area.

Within 0.7 miles of MEN0567, the THP will retain the following post-harvest habitat:

Habitat Type	Pre-harvest-Acres	Post-harvest-Acres	Change
Nesting	244	244	0
Foraging	656	567	-89
Unsuitable	85	174	+89
Total Suitable	900	811	-89

As shown in the above table, there is no post-harvest change in nesting/roosting habitat. The THP proposes to reduce foraging habitat by 89 acres. The minimum required retention from Attachment A is 200 acres of nesting/roosting habitat and 500 acres of suitable habitat. Therefore, the THP is maintaining in excess of the minimum requirements.

The designated core area is outside the THP area. There is no harvest of habitat immediately adjacent to the core area. Some habitat is being reduced to the southeast of the core area, but there is additional nesting/roosting and foraging habitat surrounding the core area.

In Section V of the THP, page 265-266, the core area designation is described by MRC:

Finally, MRC reviews historic and current survey information in order to apply the guidance and recommendations of Attachment A core use area protection measures to the most significant location of the NSO—the location where NSO are most likely to be present and active. The most significant location represents the highest-ranking detection of the NSO for a given territory among the years it has been surveyed. Priority is given to more recent surveys and to surveys with positive results, if applicable. For example, the location of a confirmed nest tree is higher ranking than the roosting location of a non-nesting pair (see further information below). In the SPOWDB, activity centers are maintained at the highest-ranking location and are only moved if new data matches or surpasses the rank of the current activity center

(CDFW 2019). MRC will include as many historic, currently unoccupied, activity centers (AC) as possible in the core use area.

MRC will implement take avoidance and core use area protection measures for the most significant NSO location, regardless of occupancy, for each territory within the assessment area for this THP, as listed below.

Rationale and Support for MRC's Proposed Approach

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."

MRC's proposed NSO protection measures for this THP are focused on the most significant location for each known NSO territory. 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.

The hierarchy of detections used by MRC and the SPOWDB to determine significance of activity centers is as follows (CDFW 2019):

- 1. Nest*
- 2. Nest Stand*
- 3. Daytime Pair*
- 4. Daytime resident single*
- 5. Nighttime pair*
- 6. Multiple detections of a nighttime single*

In addition to the above hierarchy of detections, MRC applies our site-specific knowledge of each activity center in a territory to determine what, if any, protection should be applied. For example, either under previous versions of the USFWS take avoidance guidelines or MRC's Spotted Owl Resource Plan, timber harvest within some historically unoccupied activity centers has occurred. In this case, the habitat may have been downgraded or the combination of timber harvest and continued lack of occupancy do not warrant further protection of this activity center.

Similarly, protection for a historic activity center is not warranted if there have been multiple surveys and site visits over time and a preponderance of evidence indicates that NSO are no longer present at that specific location.

In addition to focusing NSO protection measures on the most significant NSO location, MRC conserves NSO habitat on a landscape basis. Based on current California Wildlife Habitat Relationships² typing of our forests, more than 40% of the entire ownership is comprised of nesting/roosting habitat, and over 80% is suitable habitat (nesting/roosting/foraging).

The Department concludes that MRC has not proposed eliminating any NSO activity centers. The four activity centers have been mapped and protected with a designated core area using years of survey history and the best available habitat.

- For MEN0080, the activity center is the most recent nest site which was detected in 1992 and the concentration of historic AC's are encompassed within the core area. The core area is 106 acres which meets the 100-acre minimum.
- For MEN0161, the activity center is the most recent nest site which was detected in 1991 and the core area includes all the historical activity centers. The core area is 117 acres which meets the 100-acre minimum.
- For MEN0301, the activity center is the most recent nest site which was detected in 2012 and the concentration of historic AC's are encompassed within the core area. The core area is 107 acres which meets the 100-acre minimum.
- For MEN0567, the activity center is the most recent pair detection in 2003 and the core area includes all the historical activity centers. The core area is 101 acres which meets the 100-acre minimum.

The 2019 USFWS Attachment A revision defines activity center as:

A mapped point located at the highest-ranking detection for each breeding season (e.g., nest, then daytime pair, then daytime single, etc.) at an area of concentrated activity. Activity centers occur within, but not necessarily in the exact center of, the "core use area," defined below. An NSO home range may have multiple mapped activity centers, and multiple activity centers may need protection to prevent take. Generally, single nighttime detections where an owl cannot be located during adequate daytime follow-ups should not be considered a valid activity center. 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.

The key provision in this definition is that not all activity centers are of equal value and require more or less protection on an annual basis. In all activity centers, MRC has included historic activity centers into the respective core areas and afforded appropriate protection at current and historic activity centers.

In summary, there is no downgrading of any NSO habitat in close proximity to either NSO activity center. In addition, there is no net loss of nesting/roosting habitat within 0.7 miles of the activity centers. There is a net loss of foraging habitat, but minimum habitat retention standards have been met within 0.7 miles of each activity center. In subsequent years, additional NSO surveys will be conducted in compliance with Attachment A. Due to these reasons, the Department has determined that cumulative effects and/or take of NSO is unlikely.

CONCLUSION

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 address the concerns brought up by the public comment process.

References

United States Dept. of Interior, Fish and Wildlife Service, Northern Spotted Owl Take Avoidance Analysis and Guidance for Private lands in California, Attachment A: Take Avoidance Analysis-Coast Region, November 1, 2019

United States Dept. of Interior, Fish and Wildlife Service, Protocol for Surveying Proposed Management Activities that May impact Northern Spotted Owls, Revised January 9, 2012