

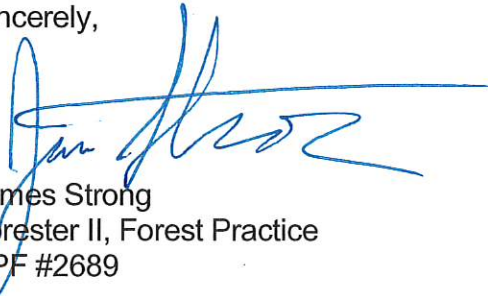
**OFFICIAL RESPONSE TO SIGNIFICANT ENVIRONMENTAL
POINTS RAISED DURING THE TIMBER HARVESTING PLAN
EVALUATION PROCESS**

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

TIMBER HARVESTING PLAN (THP) No:	1-20-00152-HUM
SUBMITTER:	Francis O. Stebbins TR
COUNTY:	Humboldt County
END OF PUBLIC COMMENT PERIOD:	March 29, 2021
DATE OF RESPONSE AND APPROVAL:	June 4, 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 appropriate Regional Water Quality Control Board (RWQCB or RWB); California Geological Survey (CGS); the Department of Parks and Recreation (DPR); the appropriate County Planning office; and if within their jurisdiction, the Coastal Commission (CC) (14 CCR §1037.5(a)). Once submitted the Director determines if the plan is accurate, complete, and in proper order, and if so, files the plan (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

CAL FIRE	Calif. Dept. of Forestry & Fire Protection	NCRWQCB	North Coast Water Quality Control Board
CCR	California Code of Regulations	PHI	Pre-Harvest Inspection
CDFW	California Department of Fish and Wildlife	PRC	Public Resources Code
CEQA	California Environmental Quality Act	RPF	Registered Professional Forester
CGS	California Geological Survey	THP	Timber Harvesting Plan
DBH/dbh	Diameter Breast Height	WLPZ	Watercourse & Lake Protection Zone
LTO	Licensed Timber Operator		

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

BACKGROUND

Timber Harvesting Plan (THP) 1-20-00152-HUM is called Stebbins Warren Creek #2. The plan is 58 acres in size and is located in Humboldt County, near the town of Arcata, Ca. The legal description is Sections 15 and 22 of Township 6 North, Range 1 East, Humboldt Base and Meridian, and is located on the Arcata North, USGS 7.5' Quadrangle. The THP is 58 acres in size and proposes 58 acres of Group Selection silviculture.

The THP was submitted by Francis O. Stebbins TR on September 4, 2020. The Registered Professional Forester (RPF) is Cameron Holmgren, RPF# 2929. The plan was found to be acceptable for filing and was filed on September 10, 2020. The plan originally proposed to use a road that crosses through adjacent property to the east, crossing a short bridge across a class I watercourse (Warren Creek), before entering the public road called West End Road. The road goes from the plan submitter's property (Stebbins) through Molly Fusi's property (Fusi) and then through Lavern Korb's property (Korb) before reaching West End Road according to the Reciprocal Easement and Road Maintenance Agreement (RERMA) provided by Ryan T. Plotz of The Mitchell Law Firm, LLP, the law firm retained by Molly Fusi, via public comment on March 29th, 2021. The bridge is on Fusi's property according to the RERMA.

The Pre-Harvest Inspection (PHI) was conducted on September 16, 2020. On the PHI, the bridge over Warren Creek was inspected by CGS Inspector Jim Falls. Mr. Falls took pictures of the bridge and commented on it in his PHI report, stating the following:

Although non-appurtenant and outside of the purview of the THP process, we consider this bridge suspect given that loaded log trucks will pass across it once operations begin.

The loadbearing capacity of the corroded truck chassis forming the main frame is an unknown, as are the condition of the abutments. We strongly recommend that this bridge be carefully evaluated by a Civil Engineer prior to log truck use.

On September 18, 2020, the first of three public comments came from Fusi (20PC-000000377). The first public comment expressed concerns about the bridge and made reference to the RERMA, although the RERMA was not attached to the public comment.

Due the recommendation from Mr. Falls, CAL FIRE informed the RPF via email on December 10, 2020 that a Civil Engineer would need to evaluate the bridge, unless the landowner chose to haul out a different direction thus avoiding the bridge. The Landowner hired a civil engineer and that evaluation was submitted to CAL FIRE and received on Feb 24, 2021. This information was determined to constitute Significant New Information per 14 CCR 895.1, and the plan was recirculated on February 26, 2021. The recirculation reopened the public comment period for an additional 30 days, and on March 29, 2021, two more public comments were received regarding the bridge (21PC-000000300 and 21PC-000000299). All three public comments mention the bridge and road, express concern about its use, and are from Fusi or her legal representatives. 21PC-000000299 included the RERMA which outlined specific terms of the agreement regarding use of the road and bridge in relation to commercial timber harvesting (see Sections 6 and 9 of the easement).

The Forest Practice Rules define Appurtenant Road as “a Logging Road under the ownership or control of the Timber Owner, Timberland Owner, Timber Operator, or plan submitter that will be used for log hauling.”

Section 6 of the recorded RERMA states that “a Party shall promptly repair and/or replace, as necessary any damage to the Easement Area...The Parties shall be collectively responsible to conduct such maintenance and repair of the Easement Area as they deem necessary or advisable to maintain the Easement Area in good condition and repair for its use and enjoyment. Each party agrees to contribute one fifth (1/5th) of all reasonable maintenance costs, excepting the repairs necessitated by damage caused to the Easement Area as described in the first paragraph of Section 6 above, or section 9, below”. Regarding the bridge, Section 9(d) of the RERMA states that “STEBBINS shall, at his sole cost and expense, promptly make any improvements necessary to put the bridge back to the condition it was in prior to the particular Timber Harvest Cycle”.

After consulting with CAL FIRE’s Legal Counsel, it is CAL FIRE’s interpretation that the term “control” in the definition of Appurtenant Road means that the timber owner, timberland owner, timber operator, or plan submitter possesses more than a simple legal right to cross over a road located on the property of another. A road is "controlled" by a timber operator, timber owner, timberland owner, or plan submitter if one of these parties holds the right or responsibility for construction, reconstruction, or maintaining the road in a passable condition.

CAL FIRE sent the RPF an email on April 30, 2020, requesting that the plan be revised to address the road and bridge identified in the RERMA as appurtenant.

On June 4th, 2021, the plan submitter agreed not to use the bridge or associated road, stating on revised page 37 (date June 3rd, 2021), “there shall be no timber operations of any kind on the Non-

Appurtenant Roads shown on the THP map except Hilton Ln.” The plan submitter will haul logs out an alternate route thus avoiding the bridge and road in question.

All public comments surrounding the use of the bridge and its associated road have been mitigated through avoidance. Additional concerns brought up in the public comments are addressed below.

SIGNIFICANT ENVIRONMENTAL CONCERNS AND RESPONSES

Concern 1: No copy of the timber harvest plan ever received.

CAL FIRE has no record of a copy of this Timber Harvesting Plan ever being requested. CAL FIRE does not send out THPs to the public unless a member of the public requests a copy.

A Notice of Intent (NOI) was posted near the plan area on or before September 16, 2020. The cost of receiving a copy of the plan from the CAL FIRE Review Team Office is provided on the NOI. The price is 37 cents for each page, \$2.50 minimum and \$64.75 for the entire plan. This plan was submitted on September 8, 2020 and on September 15, 2020 it was found acceptable for filing.

To access an online copy of the plan, please visit <https://caltreesplans.resources.ca.gov/caltrees/caltrees.aspx>

Once in the site, select “Search”, then click on the “Document Number” dropdown and query for: **1-20-00152%**

Select the document number correlating with the type “Timber Harvest Plan”. Navigate to the various attachments associated with the plan. The Public Comments are labeled under status type and are in pdf format. The plan is composed of five public sections and a sixth section that is confidential. These sections were uploaded and have been available on CalTrees since September 8, 2020.

If you need assistance with the CalTrees interface, the phone number provided on the Notice of Intent is (707) 576-2959 and will connect you appropriately.

Concern 2: Assurance of CDFW’s awareness of the clearcut.

This THP does not propose the clearcut silvicultural method of timber management. This plan proposes 58 acres of group selection silviculture. Clearcutting is an even-aged management method, while group selection is an uneven-aged management method.

Regardless of this misunderstanding, the multi-agency review process for THPs involves CDFW throughout. CDFW has made recommendations to this THP at First Review on September 15, 2020; the PHI on September 24th, 2020; and participated in Second Review on October 5th, 2020. The RPF responded to all the questions and concern raised by CDFW, submitted revised pages and these revisions were found to be appropriate. All of the RPF’s revisions and responses to concerns and recommendations by CDFW have been incorporated in the final version of the THP.

Concern 3: Suitability of the access bridge.

On June 3rd, 2021, the plan submitter agreed not to use the bridge or associated road, stating on revised page 37, “there shall be no timber operations of any kind on the Non-Appurtenant Roads

shown on the THP map except Hilton Ln.” The plan submitter will haul logs out an alternate route thus avoiding the bridge and road in question. All public comments surrounding the use of the bridge and its associated road have been mitigated through avoidance.

Concern 4: Water diversion at road point A.

The water diversion at road point A was discussed on the PHI and addressed specifically in item 77 in the PHI report dated September 24, 2020. CAL FIRE, CDFW and the landowner have all agreed to return the watercourse to its original diversion in order to alleviate and remove the issues created on the downstream landowner’s property from the 1-06-151-HUM THP. Additionally, the RPF has provided revised pages 50 and 50.1 in response to CDFW’s recommendation.

PUBLIC COMMENTS AND SPECIFIC RESPONSES

The following is a record of the comment letters received during the public comment period. Each public comment is listed below, followed by a response.

Public Comment # 20PC-00000377:

It has recently come to my attention that you are planning to log your property located at sec.15 & 22 TGN, R1E;HB&M, Humboldt County USGS Quad: Arcata North (8851 West End Rd. Arcata, CA}. As my properties are adjacent to yours, I have serious concerns concerning this endeavor.

An easement agreement is currently in place between me (Molly Fusi), Jeffery Stebbins, Lavern R., Vern Korbs, Elizabeth Cornwall and Zachary Fusi. (recorded2019-001038). I assume you have a copy of this contract.

To date, I have not seen or received copies of a Forestry Report nor a Harvest Plan pertaining this project. I will also need proof that Fish and Game has been notified as to the date of the clear cut (see sec. 9 and sec.12 on said agreement.)

In addition to these reports, you will need to have the wooden access bridge tested and approved to see if it will support a loaded logging truck, as well as proof of insurance that the bridge is covered in the event of collapse (see sec. 9).

Previously, when the senior Stebbins logged the property, a “temporary” culvert was installed with the understanding it would be removed upon the completion of logging. Instead it has been left in place for years, resulting in the flooding of Zachary’s section of our property, deeming it uninhabitable. Additionally, erosion caused by the resulting flooding has loosened the soil causing trees to uproot and damage structures.

In order to rectify these problems, the culvert needs to be removed and pavement will be required on said easement to prevent damage to the driveway coming down the hill from West End Road.

I have included a copy of the signed agreement.

Please contact my daughter, Ramona La Londe at 415-755-5441 to discuss this matter.

[Molly Fusi; September 4, 2020]

Response:

See the response to Concerns 1- 4 above.

Public Comment # 21PC-00000299:

This law firm, with the undersigned as principal attorney, represents Molly J. Fusi, who owns the property located at 8925 West End Road, Arcata, CA (APN 516-291-003). A small, narrow driveway extends from West End Road, through my client's property before it enters the property where the timber harvest is proposed under the abovereferenced THP. This driveway includes a small wooden bridge that crosses Warren Creek.

Mr. Stebbins, the property owner of the property proposed to be harvested, has an easement for residential ingress and egress over the driveway and the bridge. A copy of the Easement is enclosed with this letter. The Easement requires that Mr. Stebbins use the easement in a reasonable manner to not damage my client's property, including the bridge. The Easement authorizes the use of the bridge for timber harvesting purposes subject to the following conditions:

- (a) For each Timber Harvest Cycle (as defined below), STEBBINS shall provide at least 60-days' prior written notice to all Parties of his intent to use the Easement Area to transport timber. The notice shall provide all Parties the dates during which timber harvesting will be conducted and the date(s) timber may be transported through the Easement Area.
- (b) STEBBINS shall obtain and provide all Parties written approval from the Department of Fish and Wildlife, the County, and any other government agency having jurisdiction over the harvesting and transportation of timber to use the Road (including crossing the creek) for timber hauling purposes. STEBBINS shall provide the written approvals to the Parties prior to use of the Easement Area for timber hauling purposes.
- (c) Before each Timber Harvest Cycle, STEBBINS shall retain, at his sole costs and expense, a licensed engineer to inspect the bridge and provide his or her written opinion as to the structural integrity of the bridge to support timber hauling. If the retained engineer is of the opinion that the bridge is not capable of supporting such use, STEBBINS shall not use the bridge to haul timber unless and until structural improvements are made to the engineer's satisfaction at STEBBINS' sole cost and expense. STEBBINS shall provide all Parties the engineer's written opinions prior each Timber Harvest Cycle.
- (d) At the completion of each Timber Harvest Cycle, STEBBINS shall retain the same engineer used at the outset of the Timber Harvest Cycle to inspect the post-hauling structural integrity of the bridge. STEBBINS shall, at his sole cost and expense, promptly make any improvements necessary to put the bridge back to the condition it was in prior to the particular Timber Harvest Cycle.
- (e) During each Timber Harvest Cycle, STEBBINS shall maintain general commercial liability insurance covering the timber harvest operations, including the use of hauling trucks through the Easement Area in an amount not less than \$1,000,000.00 per occurrence. Said policy shall name

FUSI as an additional insured. Proof of such insurance shall be delivered to FUSI prior to commencing any timber hauling.

(f) During each Timber Harvest Cycle, STEBBINS shall employ reasonable dust control measures to reduce the amount of dust caused by the hauling of timber through the Easement Area and shall promptly repair any damage to the Easement Area caused by timber hauling in the Easement Area.

(g) For purposes of this Section 9, the term, Timber Harvest Cycle shall mean a period of time beginning on the date timber is first transported through the Easement Area and ending on the date that is six months from the start date. For purposes of example, if a timber is first hauled through the easement area on September 1, 2018, the Timber Harvest Cycle shall be September 1, 2018, through February 28, 2019. Thereafter, the next use of the Easement Area for timber hauling will commence a new Timber Harvest Cycle.

As of the date of this letter, Mr. Stebbins has not complied with the conditions listed above, including "a", "b", "c", and "d". My client will exercise her right to obtain injunctive relief in the event Mr. Stebbins commences timber harvesting using the easement without strict compliance with the conditions. My client is very concerned about the structural integrity of the bridge. The bridge was built for residential ingress and egress, not commercial purposes. The Arcata Fire Protection District will not cross the bridge, nor will the local garbage company. I urge Cal Fire to deny the THP or, at minimum, require full and complete compliance with the Easement, including strict compliance with the conditions listed therein. My client reserves all rights in this matter.

Note: The attachment submitted with this comment is included at the end of this Official Response.

[Ryan T. Plotz, March 29, 2021]

Response:

See the response to Concerns 1- 4 above.

Public Comment # 21PC-000000300:

Note: The comment included an attachment highlighting §503.2.6 of the 2019 California Fire Code, which states:

503.2.6 Bridges and elevated surfaces. Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with the American Association of State Highway and Transportation Officials (AASHTO) HB-17. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained when required by the Fire Code Official.

[Ryan T. Plotz, March 29, 2021]

Response:

See the response to Concerns 1- 4 above.

Please consider this letter as the Department's "Official Response to Significant Environmental Points Raised during Public Review of THP 1-20-00152 HUM." The plan was found in conformance with the Forest Practice Act on June 4, 2021 and approved on that date.

Attachments: Reciprocal Easement and Road Maintenance Agreement (RERMA) submitted with Public Comment # 21PC-000000299