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Via Facsimile, Mail, and Email

Mr. William Snyder
California Department of Forestry and Fire Protection
135 Ridgeway Ave.
Santa Rosa, CA 95401

Re: THP 1-04-260 MEN

Dear Mr. Snyder:

I write on behalf of Coast Action Group, Friends of the Gualala River, and Albion River Watershed Protection Association regarding the Option A document for the above-referenced timber harvest plan.

CDF has violated CEQA and the Forest Practice Rules on several grounds in its handling of the Option A. First, CDF has circulated its own internal criticism of the Option A after second review, rather than before. And second, it has failed to subject the Option A to independent CEQA review.

CDF Violated the Forest Practice Rules by Circulating a Criticism of the Option A after Second Review

After second review, CDF provided notice that new information had been added to the file. The new information included several hundred pages of CDF documents, many of them internal communications that criticized the Option A. This procedure violated CEQA and the Forest Practice Rules: Significant new information must be circulated *before* second review to ensure interdisciplinary decisionmaking.

Under CEQA, CDF is a certified regulatory agency. As such, it is required to use an “interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decisionmaking.” (Pub. Res. Code, § 21080.5, subd. (d).) To ensure such decisionmaking, CDF is required, among other things, to provide rules

that ensure the “orderly evaluation of proposed activities.” (Pub. Res. Code, § 21080.5, subd. (d)(2)(B).)

The Forest Practice Rules in turn set forth the criteria for review teams and mandate the procedures that they must follow. “Interdisciplinary review teams shall be established by the Director to review plans and assist the Director in the evaluation of proposed timber operations and their impacts on the environment.” (FPR, § 1037.5.)

Most importantly, for purposes here, a review team must have the *entire* THP before it when it meets: “After the preharvest inspection and before the Director’s determination on a plan, the review team shall meet to review *all the information on the plan* and develop a recommendation for the Director.” (FPR, § 1037.5, subd. (g)(2), italics added.) CDF is responsible for scheduling the meeting when the THP is complete: “The Director...is responsible for establishing and scheduling the meeting of a review team to perform the necessary review of plans for the Department.” (FPR, § 1037.5, subd. (d).)

These requirements make obvious sense. Unless the review team has all of the documents comprising the THP when it meets, it cannot fulfill its function “to assist the Director in determining if plans are in conformance with Board rules and to evaluate the potential environmental impacts of timber operations.” (FPR, § 1037.5, subd. (b).)

CDF has contravened these rules, especially Rule 1037.5, subdivision (g)(2). It added hundreds of pages of information critical of the landowner’s Option A to the THP after, rather than before, second review. The error is particularly egregious here because the new information—contradicting the claims made in the Option A—raises an issue of significant environmental concern. Yet the information was never provided to the review team in a timely manner.

Accordingly, the interdisciplinary review and orderly evaluation required by CEQA and implemented by the Forest Practice Rules have been thwarted. A review team meeting should be rescheduled once “*all the information on the plan*” is available for review. It is my understanding that the Regional Water Quality Control Board has requested just such a meeting.

CDF Has Failed to Evaluate the Option A in Accordance with CEQA

Although timber harvest plans are exempt from CEQA’s EIR requirement, Option A documents are not. Unlike timber harvest plans, Option A documents are not

part of the California Department of Forestry's certified regulatory program, which is exempt from CEQA's EIR requirement.

CDF's regulation of timber operations was certified as a regulatory program under CEQA in 1976. The certification is expressly limited to CDF's review of timber operations through the filing, review, and approval of timber harvesting plans. The certification does not cover Option A documents, which were not known at the time of certification.

CDF's certification states: "This program regulates *timber operations* by requiring the filing, review and approval of *timber harvesting plans* (THPs) prior to conducting any such operations." (Emphasis added.) The Forest Practice Act defines both "timber operations" and "timber harvesting plans." A timber operation is basically the cutting of timber from timberlands together with all of the work necessary to effectuate the cutting, such as the construction of roads and stream crossings. (Pub. Res. Code, § 4527.) No person may conduct a timber operation "unless a timber harvesting plan prepared by a registered professional forester has been submitted for such operation...." (Pub. Res. Code, § 4581.)

CDF thus obtained its certification as a regulatory program, because each timber operation must be described, reviewed, and approved through a timber harvesting plan, and every timber harvesting plan must satisfy certain CEQA requirements.

The Option A document, by contrast, is not a timber harvest plan, nor does it regulate the manner of timber operations. It is in essence a programmatic land use plan covering a vast landscape and a multitude of operations. Since it is not covered by CDF's certification, it requires its own CEQA review by way of an EIR.

But even assuming an Option A document could receive adequate CEQA review in a THP, that has not occurred here. For example, there is no consideration of feasible alternatives to the Option A as proposed. CEQA analysis, and in particular a consideration of alternatives, is important in this case, because the Option A as proposed has met with considerable skepticism from a number of quarters, including CDF's own MSP experts. If alternatives were proposed, they could evaluate MSP based on different assumptions about growth rates and related variables. This would assist the decisionmaker in appreciating the consequences of the Option A, especially if—as many seem to believe—it is based on wildly optimistic assumptions about growth.

In sum, CDF is in the process of violating CEQA by adding significant information to the THP after second review; and by failing to conduct CEQA

review of the Option A document

Thank you for your consideration of this letter.

Very truly yours,

Paul V. Carroll