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

Re: THP 1-00-484 SON

Dear Mr. Lukacic:

I write this letter on behalf of Friends of the Gualala River and the Redwood Chapter Sierra Club regarding the above-referenced THP. In a number of fundamental ways, the THP fails to satisfy the minimal standards of the California Environmental Quality Act (CEQA) and the Forest Practices Act (FPA).

Cumulative Impacts

Cumulative effects are defined as incremental or minor (less than significant) effects that become significant when combined with similar incremental effects from other past, present, and future activities, both on and off-site. The CEQA Guidelines set forth the minimum elements necessary for an adequate analysis of cumulative impacts: (1) a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; (2) a “summary of the expected environmental effects to be produced by those projects....,” and (3) a “reasonable analysis of the cumulative impacts of the relevant projects.” (Guidelines, § 15130, subds. (b)(2), (3).) In short, the essence of a cumulative impacts analysis is a list of projects, a *discussion* of their effects, and a *reasonable analysis* of their cumulative impacts.

The THP falls well short of these minimal requirements. It does not identify and summarize the incremental impacts from any past, present, or future projects on or off-site. And, as one would expect, without this information, the THP does not even attempt to analyze how these incremental effects may combine to deleteriously affect the environment.

Even the list of projects in the relevant assessment area is inadequate. It does not provide their location, let alone their location with respect to the present THP; and

it does not indicate whether they are past, present, or future projects. Indeed, one reading the THP is not informed whether there is a single future project planned for the relevant assessment area that the present project might interact with. Is there? The THP does not even analyze the potential cumulative impact from future seed tree removal. As DFG pointed out with some concern, seed tree seed step silviculture requires a second, future incursion to remove the seed trees and that such incursion occurs relatively soon. This is but one example of an obvious future project that is not identified, and whose incremental effects are neither summarized nor analyzed.

Despite the lack of analysis, the THP concludes: “As reported by different state resources agencies, no continuing significant environmental problems caused by projects within the last ten years were identified in the research of this cumulative impact assessment.” This conclusory statement is flatly contradicted by the lengthy reports filed by the Regional Water Quality Control Board and the Department of Fish and Game, both of which identify numerous cumulative impacts from past and ongoing projects within the assessment area. As but one example, consider Water Quality’s concern about the ongoing harm caused by the Ohlson logging, as well as the past Masonite and Louisiana–Pacific operations. Water Quality has called for an analysis of their cumulative impacts. Yet they are not even mentioned, let alone analyzed, in the THP.

In light of Water Quality’s and DFG’s statements to the contrary, the THP’s assertion that state resources agencies can find no cumulative impacts in the assessment area during the past 10 years is suspect. It would be helpful to the public and would engender trust in the process if CDF identified the state resources agencies consulted and the actual responses they provided.

Finally, it is well to note that CEQA does not limit a consideration of past impacts to the preceding 10-year period. Even assuming the previous 10 years were relatively benign, past incremental impacts, which are known to be considerable, must be considered in combination with the present plan.

The THP is also flawed because it assumes that cumulative impacts will be addressed through the mitigation of significant effects:

Following timber operations and the application of the current Forest Practice Rules there will not be a significant cumulative adverse impact to the watershed. The proposed silviculture prescription will provide sufficient amounts of residual vegetation that will act as a raindrop energy dissipater and sediment-filtering strip. Roads shall be drained, existing crossings shall be maintained, and temporary crossings removed prior to the winter period and upon completion of operations.

This rationale is wrong as a matter of law and fact. In *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal. App. 3d 604, the court of appeal concluded that CDF was not permitted to conclude that cumulative impacts are addressed by maximizing mitigation measures for the project at hand. Indeed even Technical Rule Addendum No. 2 recognizes that cumulative impacts are minor and incremental in nature and by definition frequently escape mitigation measures for significant on-site effects.

The consideration of cumulative impacts in this THP seems a step backwards. It is now well accepted by the regulatory and scientific communities that CDF fails to evaluate cumulative impacts on a THP-by-THP basis, leading to well-documented environmental harm. This is the conclusion not only of CDF's own task force, but of every independent scientific and agency evaluation of CDF's THP program. We attach many of these reports. They are remarkable for their common agreement that CDF's program fails to effectively measure cumulative impacts.

This THP continues that well-documented trend. It fails to adequately identify and describe other related projects in the region and on site that may combine with one another to cumulatively affect the environment. It fails to identify any of the potential cumulative effects from any of those projects. And it fails to analyze the potential cumulative effects of all of these projects in combination. The enclosed documents contain numerous criticisms of the THP process and catalogue its inadequacies in identifying, analyzing, and mitigating cumulative effects. The present THP is worse than the many that were studied and found wanting in the attached reports and documents. It does not include methodology for identifying and evaluating cumulative impacts, baseline data for measuring them, and adequate description of the current resource conditions. It assumes cumulative impacts will be eliminated by best management practices, a conclusion that has been forcefully refuted by any number of the enclosed studies.

In considering the proposed THP we ask you to consider the enclosed documents, not so much as criticism of CDF, but as evidence that cumulative impacts were not properly considered in the present case, and are likely to occur.

We attach the following documents:

Exh. A – Little Hoover Commission, *Timber Harvest Plan: A Flawed Effort to Balance Economic and Environmental Needs*

Exh. B – LSA Associates, *Final Report: Conclusions and Recommendations for Strengthening the Review and Evaluation of Timber Harvest*

Plans

- Exh. C – 61 Fed.Reg. 56138: *Endangered and Threatened Species: Threatened Status for Central California Coast Coho Salmon*
- Exh. D – July 28, 1997, Memorandum from Division of Mines and Geology to CDF re THP 1-97-232 HUM
- Exh. E – August 21, 1997, Memorandum From Division Of Mines And Geology To CDF re Bear Creek Drainage
- Exh. F – 1997 letter from Alexis Strauss, acting director of the Water Division of the United States Environmental Protection Agency to the California Board of Forestry
- Exh. G – October 17, 1997, letter from National Marine Fisheries Service (NMFS) to CDF
- Exh. H – September 11, 1997, article appearing in the Humboldt Beacon: *CDF Says Logging Has Adverse Effect*
- Exh. I – October 14, 1997, Memorandum from Department of Fish and Game to CDF re fish habitat conditions in Bear Creek
- Exh. J – November 25, 1997, article appearing in the San Jose Mercury News, *Critics scorch forestry agency*
- Exh. K – January 22, 1998, letter from NMFS to the Regional Water Quality Control Board
- Exh. L – February 11, 1998, letter from CDF to Pacific Lumber Co.
- Exh. M – April 7, 1998, letter from NMFS to CDF
- Exh. N – November 20, 1998, Water Quality Control Board, Executive Officer's Summary Report: *Cumulative Watershed Effects Assessment on North Coast Timberlands*
- Exh. O – January 21, 1999, letter from CDF to Pacific lumber Co.
- Exh. P – May 24, 1999, letter from Dr. Leslie Reid to Assemblyman Fred Keeley; Dr. Leslie Reid: *Forest Practice Rules and cumulative*

watershed impacts in California

- Exh. Q – May 26, 1999, article appearing in the San Diego Union-Tribune: *Logging regulation should be tightened, scientist says*
- Exh. R – Scientific Review Panel (June 1999): *Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat*
- Exh. S – *Cumulative Impacts Analysis: A Report of CDF Director’s THP Task Force* (July 1999)
- Exh. T – December 2, 1999, letter from NMFS to CDF
- Exh. U – 65 Fed.Reg. 36074: *Endangered And Threatened Species: Threatened Status for One Steelhead Evolutionarily Significant Unit in California*
- Exh. V – The University of California Committee on Cumulative Watershed Effects (June 2001): *A Scientific Basis for the Prediction of Cumulative Watershed Effects*
- Exh. W – August 2, 2001, Water Quality Control Board, Executive Officer’s Summary Report: *Timber Harvest Division Regulatory Coordination*
- Exh. X – The California Senate Office of Research, *Timber harvesting and Water Quality* (December 2002)
- Exh. Y – EPA, *California Nonpoint Source Program Findings And Conditions* (June 1998)
- Exh. Z – *Status Review of California Coho Salmon North of San Francisco* Report to the California Fish and Game Commission (April 2002)

Alternatives

Unfortunately, the THP’s consideration of alternatives fares no better than cumulative impacts.

The consideration of *feasible, less damaging* alternatives is one of the most important tasks under CEQA. Only by comparing them with the project can the decision-maker and the public appreciate the environmental consequences of the latter. An alternative is feasible even if it would impede to some degree the attainment of the project objectives, or would be more costly.

And as always under CEQA, the consideration of alternatives must be sufficiently *detailed* to provide decision-makers and the public with information to allow them to intelligently take account of environmental consequences. (*San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751.)

The THP's consideration of alternatives is woefully inadequate under these principles. First, at two pages it cannot begin to convey the information necessary to make an informed decision about the feasibility of less damaging alternatives and a comparison of them with the project as proposed. Moreover, much of the information conveyed is *argument* by the landowner justifying the present project. There is a lack of substantial evidence supporting the section's conclusions.

Second, the alternatives section fails to consider *feasible* and *less damaging* alternatives. As a result, a number of the alternatives are straw men, raised merely to be knocked down. Since they are neither feasible nor less damaging, they are irrelevant. For example, the alternative land uses of open pasture, residential, and developed agriculture, appear more damaging. They would constitute, in essence, permanent clearcuts. Consideration of more damaging alternatives subverts the CEQA process.

The THP also concludes that most other alternatives listed are not feasible. There are several problems with these conclusions. First, the lack of feasibility is often not supported by substantial evidence. Indeed, since much of the alternatives section is a polemic, rather than an environmental analysis alternatives, it leaves innumerable questions unanswered, leaving the public uninformed and CDF without the information necessary to evaluate the plan. For example, one can reasonably surmise that the murrelet surveys that the landowner has done encompass more than the 58 acres at issue. If so, the THP should consider the availability of other areas of the forest for harvesting. Are they on gentler slopes? Are they less likely to contribute sediment to Haupt Creek? If, on the other hand, the murrelet surveys have been strictly confined to the 58 acres of the THP, that should be explained.

Further, even if murrelet surveys are a constraint on the landowner, how much of a constraint are they? How long would the landowner have to wait to log another part of his property? And is the wait so long and so costly that it renders such an alternative infeasible? How much of the landowners remaining property is not subject to murrelet surveys and the wait they entail?

The same litany of questions can be applied to the other so-called alternatives considered in the THP. If helicopter yarding is expensive, is it so expensive as to render it infeasible? Why isn't a selection harvest, ordinarily considered less

damaging, feasible? Why aren't its environmental benefits laid out and considered?

In short, the THP does not identify a single feasible and less damaging alternative, let alone consider it. While an alternative site might be a feasible, less damaging alternative, the information provided is inadequate to allow such a determination.

Other feasible, less damaging alternatives readily suggest themselves, such as scaled-down versions of the logging operation. These include, for example, plans that are smaller, eliminate logging in the most troublesome areas, and eliminate the area slated for clearcutting. All would appear feasible and all would appear to satisfy the landowner's objectives. But none is considered.

CDF's Obligation to Respond to Agency Comment

We remind CDF that it is obligated to respond to *agency* comment touching on significant environmental issues, as well as comments by members of the public.

Under CEQA and the FPA, CDF must respond to significant environmental questions raised by the public and other agencies, as part of the review process. (Pub. Res. Code, §§ 4582.6, 21080.5, subd. (d)(2)(C), (D); *Gallegos v. State Bd. of Forestry* (1978) 76 Cal.App.3d 945, 952-955.) According to the FPA, CDF "shall invite, consider, and respond in writing to comments received from public *agencies* to which the plan has been transmitted and shall consult with those agencies at their request." (Pub. Res. Code, §§ 4582.7; accord § 4582.7, subd. (a); Cal. Code Regs., tit. 14, §§ 1037.4; 1037.8.) CEQA also requires CDF to respond in writing to the concerns of other agencies. (*EPIC*, 170 Cal. App. 3d at p. 612; Pub. Res. Code, § 21080.5, subd. (d)(2)(C), (D).)

With respect to this THP, a number of agencies, including Water Quality and DFG, have raised a host of significant environmental concerns that are not addressed in the THP. If CDF approves the plan, we request that it respond in writing as required by law to the agencies' environmental concerns. If CDF refuses, we hereby adopt those agencies' concerns and criticisms as our own and asked that they be addressed as public comments.

Incorporation by Reference

A number of other THPs, such as the Ohlson THP, studies, agency memoranda, and miscellaneous documents, are mentioned throughout the THP and related documents. Friends of the Gualala River reserves the right to incorporate these by reference into the administrative file at a later date, if necessary. I think all parties agree that duplicating them now and placing them into the administrative file at

this juncture is unnecessary and wasteful.

In light of the foregoing, the THP should be denied. Thank you for your consideration of this letter.

Very truly yours,

Paul V. Carroll