

**We stopped a logging plan in
California, and you can too!**

Ethan Arutunian, Feb 26, 2024

Agenda

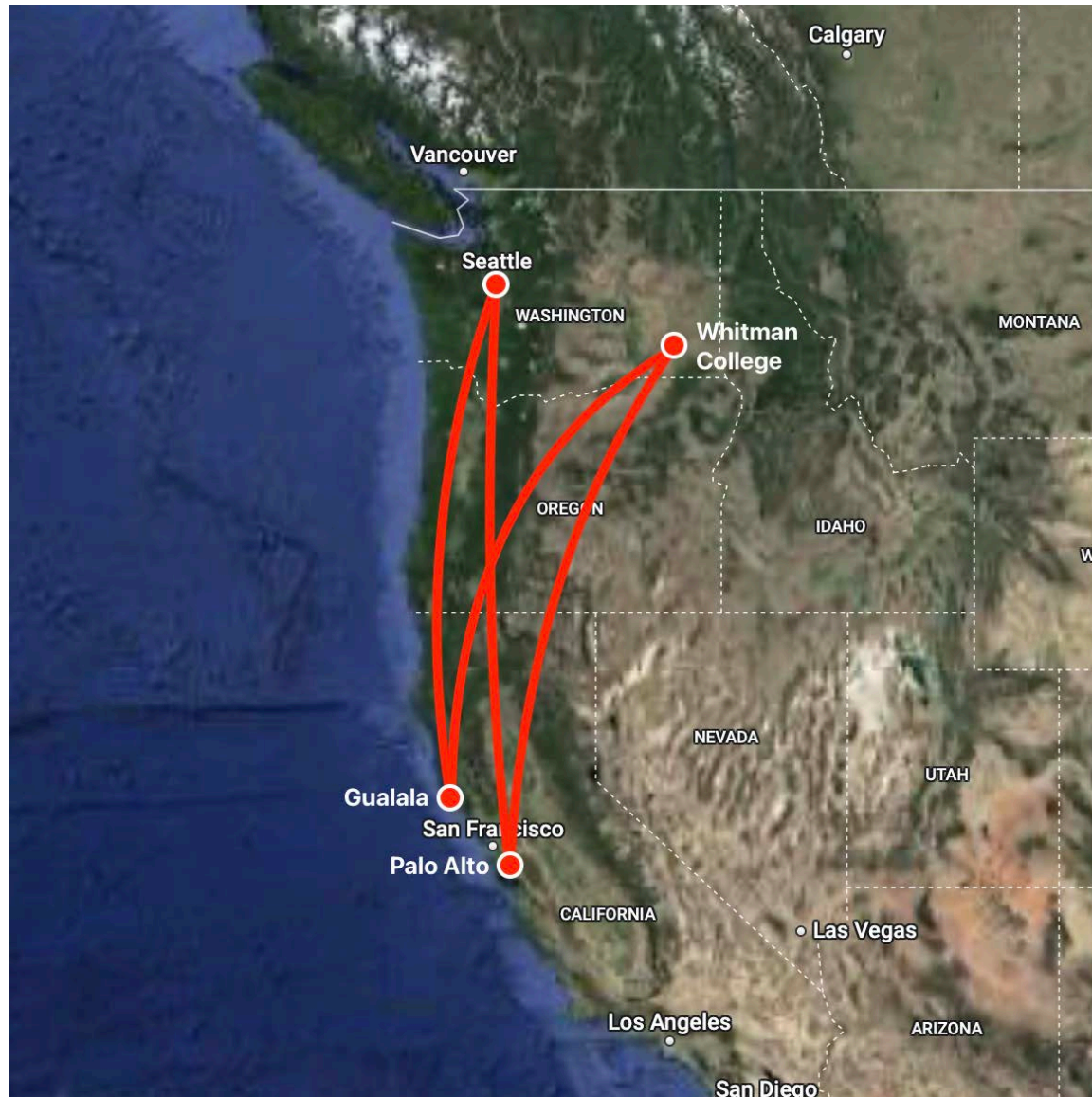
PART 1

- My background
- Californian logging past 30 yrs
- The “calwater” watershed system
- Checkerboard logging
- What is “sustainable”?
- Equivalent Clearcut Area
- Modeling biomass
- Middle South Fork Gualala

PART 2

- Acronyms and actors
- Timber Harvest Plan Approval
- THP structure
- Public comments
- Official Response to comments
- Filing a CEQA lawsuit
- Invoking CEQA
- Legal examples from Bootleg
- Key takeaways

My background



Ethan Arutunian

- originally from Palo Alto (Silicon Valley)
- moved to WA for college
- BA's in Physics, Math, Computer Science
- career in tech
- Seattle for grad school (MSEE) at UW
- raised a family
- back-and-forth for years
- finally settled near Gualala

I-5 - Mt. Shasta Corridor



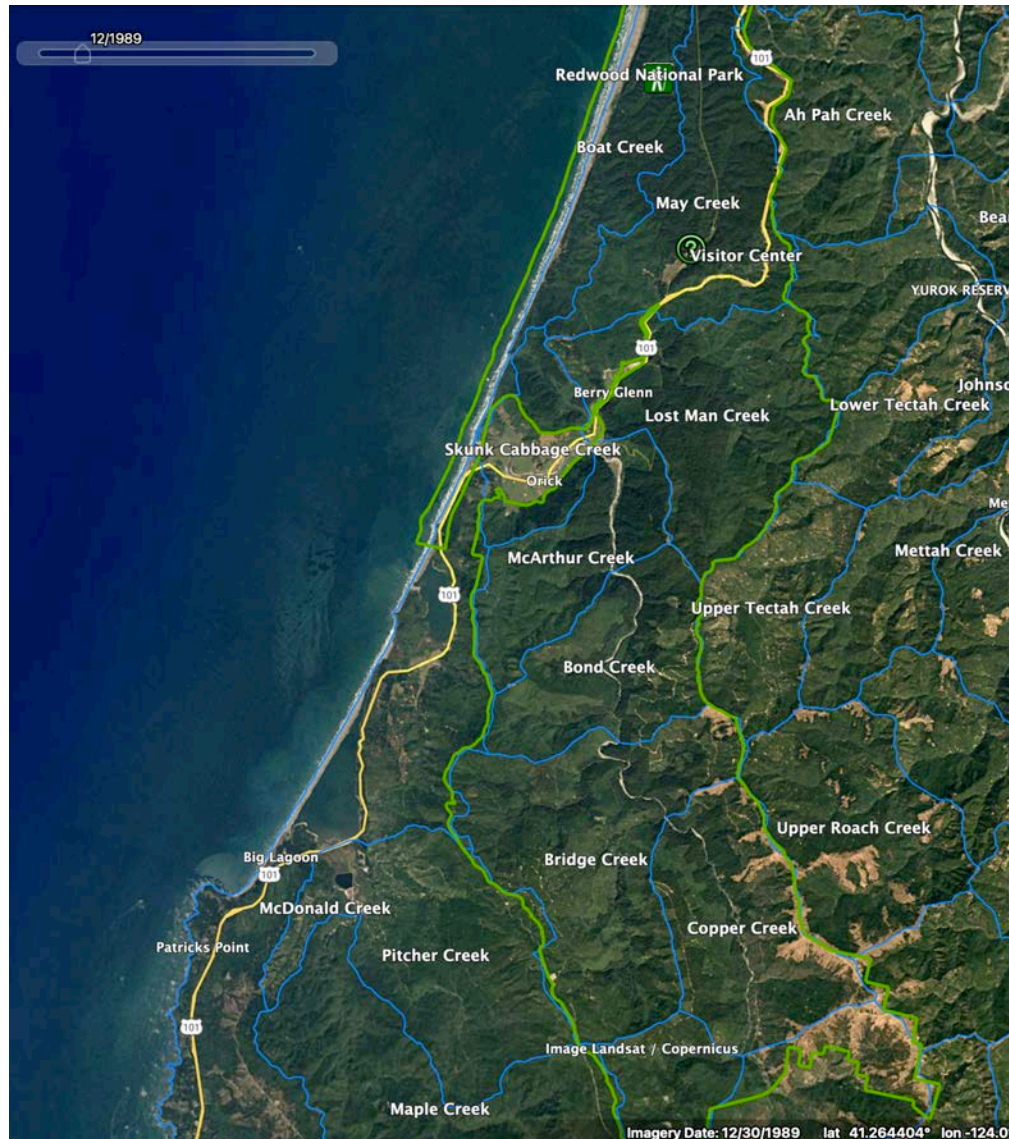
1989

I-5 - Mt. Shasta Corridor



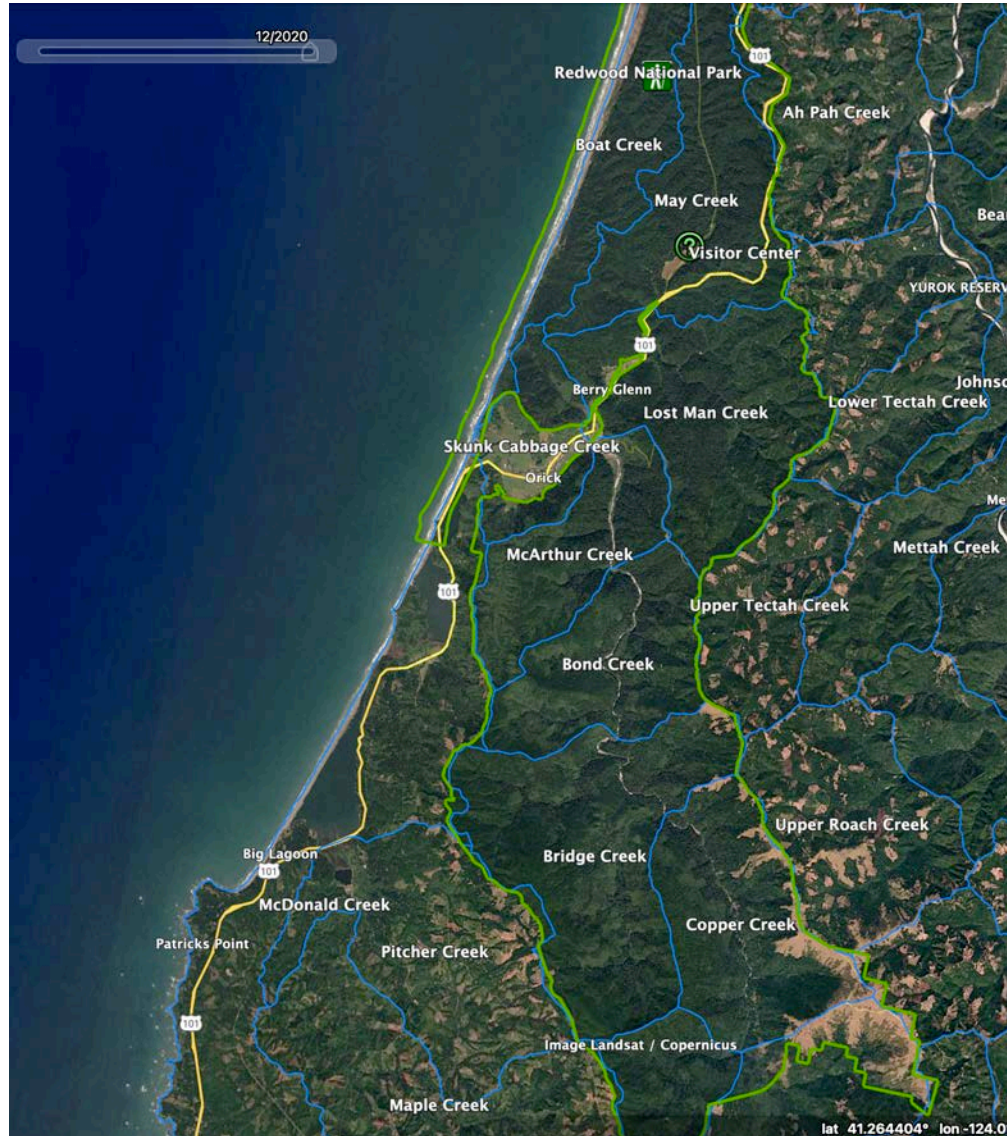
2020

Hwy 101 - Redwoods National Park



1989

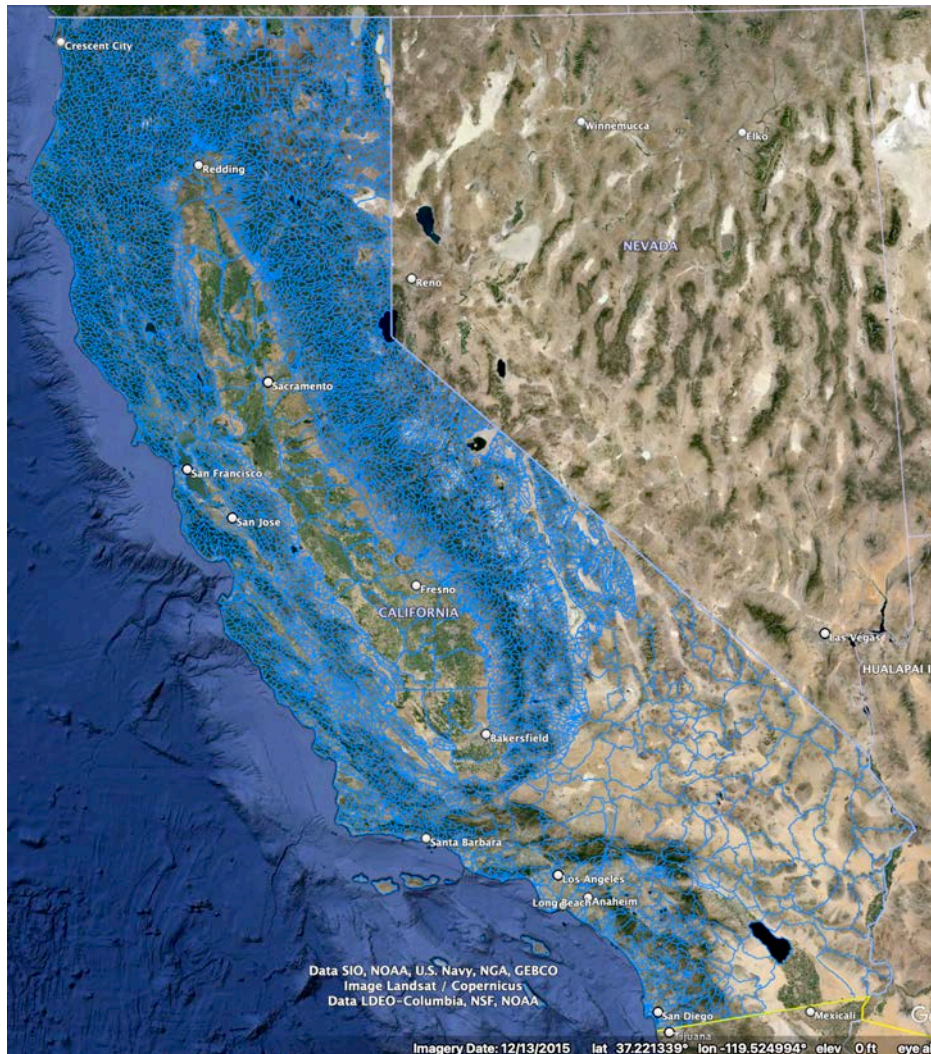
Hwy 101 - Redwoods National Park



2020

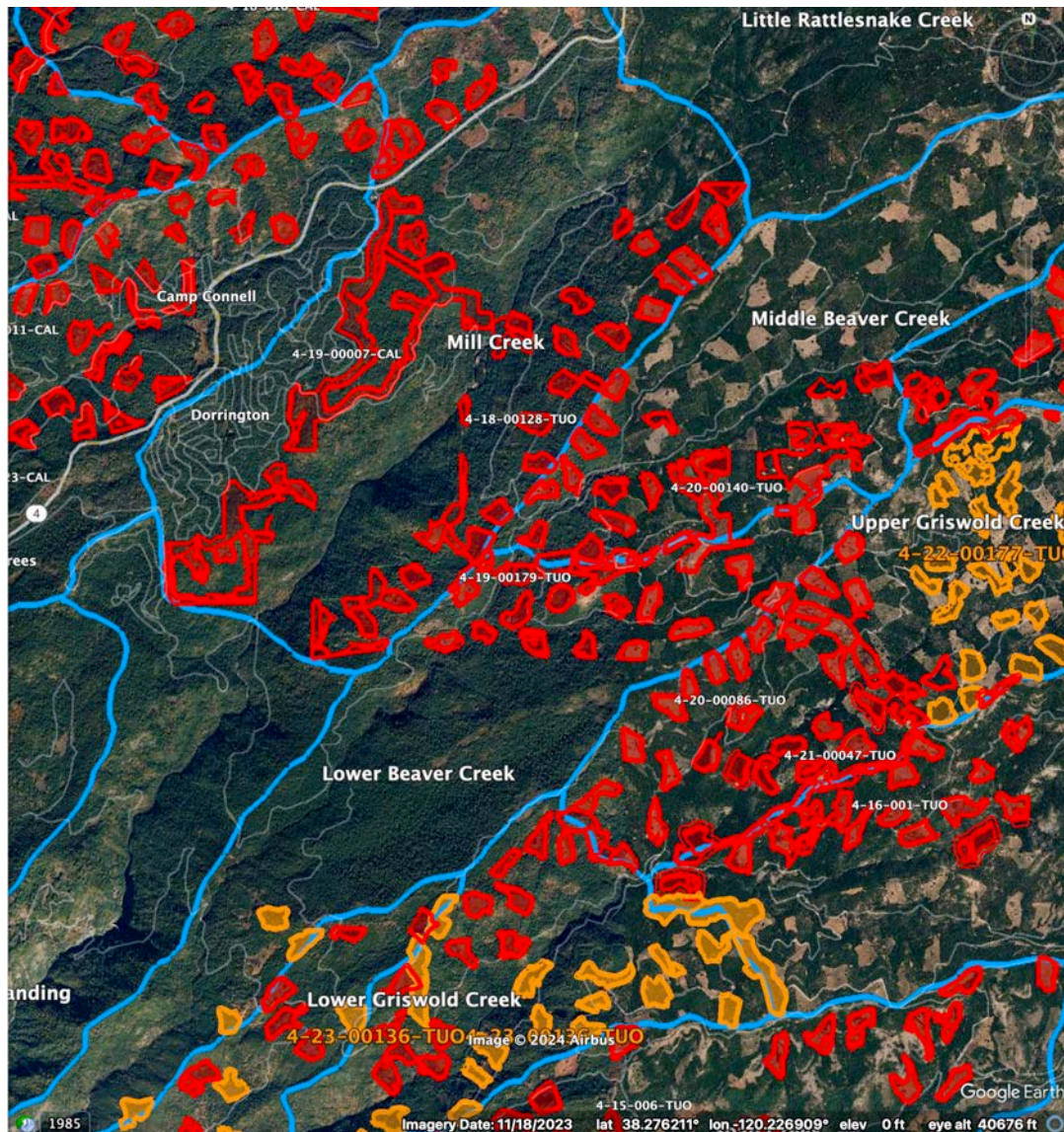
What is going on?

Introducing... “watershed planning areas”



- created in 1999 to standardize between agencies
- 7,035 “mini” watersheds
- between 3,000-10,000 acres
- [calwater v.2.2.1]

Checkerboard logging



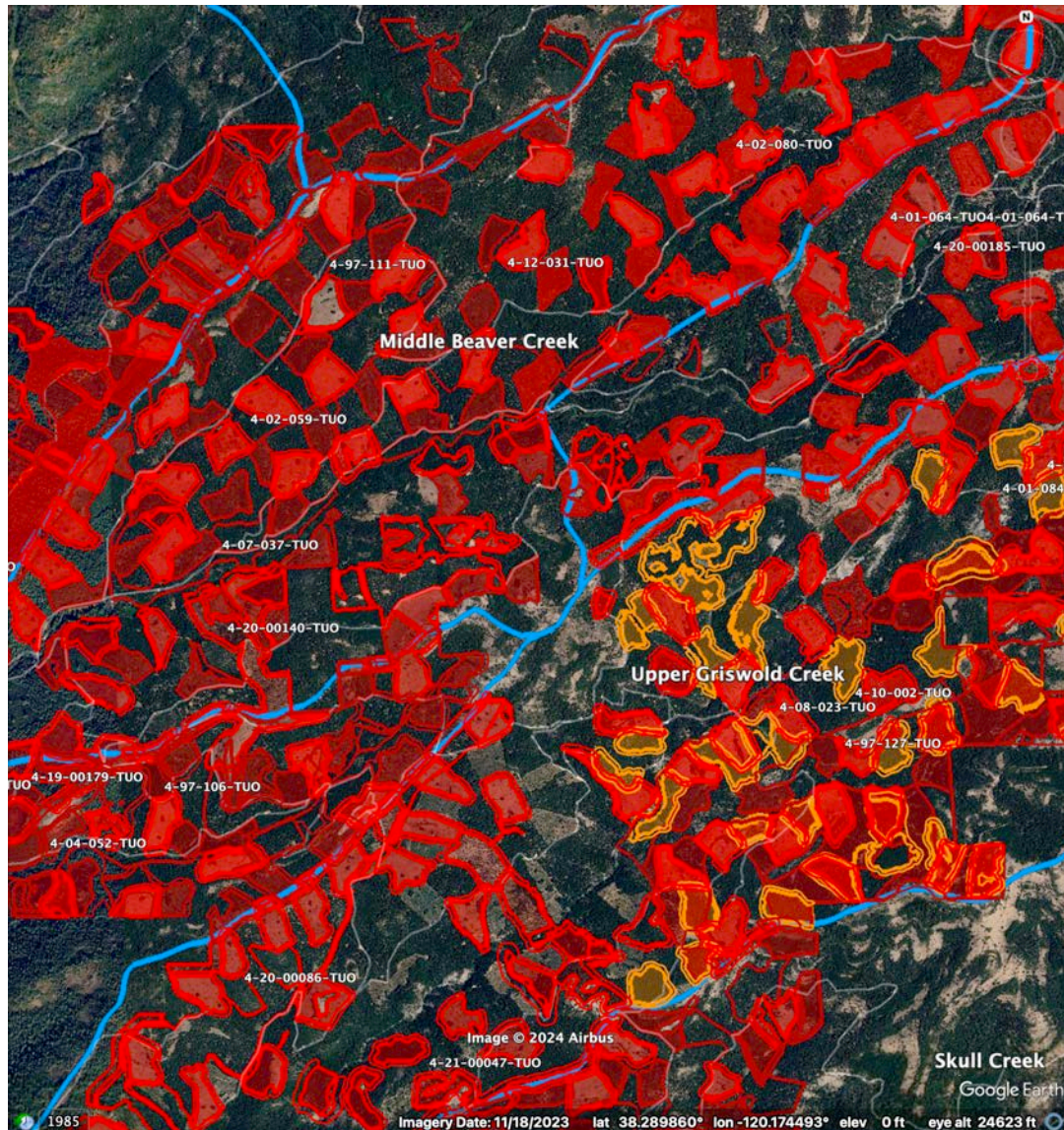
Forest Practice Rules:

- An agency *only* needs to consider the small watershed planning area when analyzing environmental impacts of a Timber Harvest Plan!
- Doesn't need to consider effects downstream.

and...

- *Only* needs to consider impacts **in the past 10 years!**

Is this sustainable?



sus·tain·a·ble
/sə'stānəb(ə)l/
adjective: sustainable

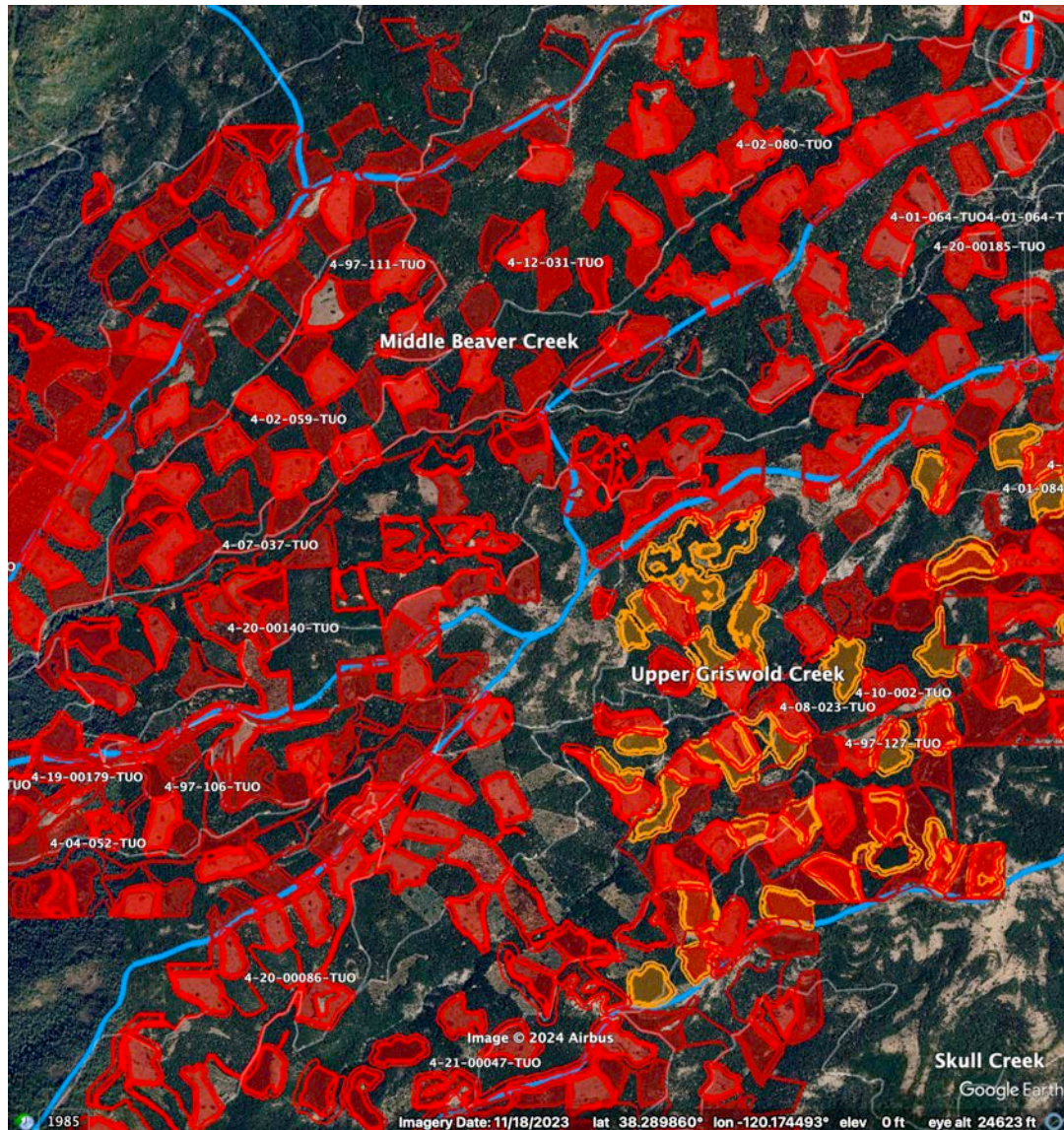
Oxford:

“able to be maintained at a certain rate or level.”

Merriam-Webster:

“of, relating to, or being a method of harvesting or using a resource so that the resource is not depleted or permanently damaged.”

Is this sustainable?



How do we measure sustainability?

We don't!

- reluctance to quantify
- watersheds are different
- “looks good to me!” mentality

Ways to measure sustainability

Equivalent Clearcut Area

$$ECA = \frac{\# \text{ clearcut acres}}{\# \text{ watershed acres}}$$

$$\frac{100 \text{ clearcut acres}}{10,000 \text{ watershed acres}} = 1.0\% \text{ ECA}$$

$$\frac{200 \text{ clearcut acres}}{10,000 \text{ watershed acres}} = 2.0\% \text{ ECA}$$

$$\frac{200 \text{ "selection" acres}}{10,000 \text{ watershed acres}} = 1.0\% \text{ ECA}$$

Types of Harvest

- Clearcut (100% ECA)
- Group (75% ECA)
- Selection (50% ECA)

Ways to measure sustainability

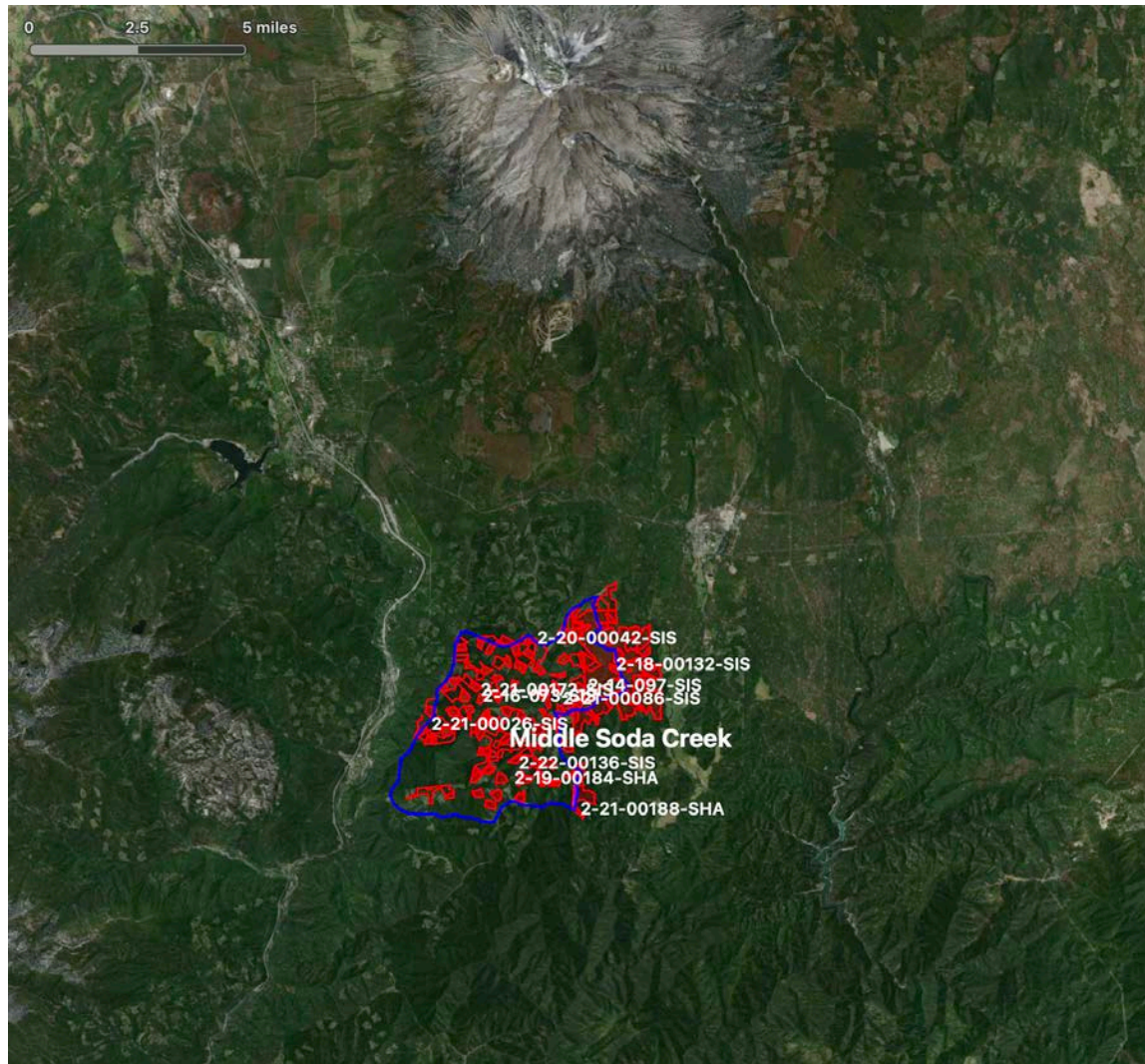
Equivalent Clearcut Area

Problems with ECA

- no established thresholds or limits
- doesn't consider existing conditions
- ignores cumulative effects
- includes open spaces, urban areas, airports, etc.
as timberland
- ignores wildfire damage

Ways to measure sustainability

Equivalent Clearcut Area

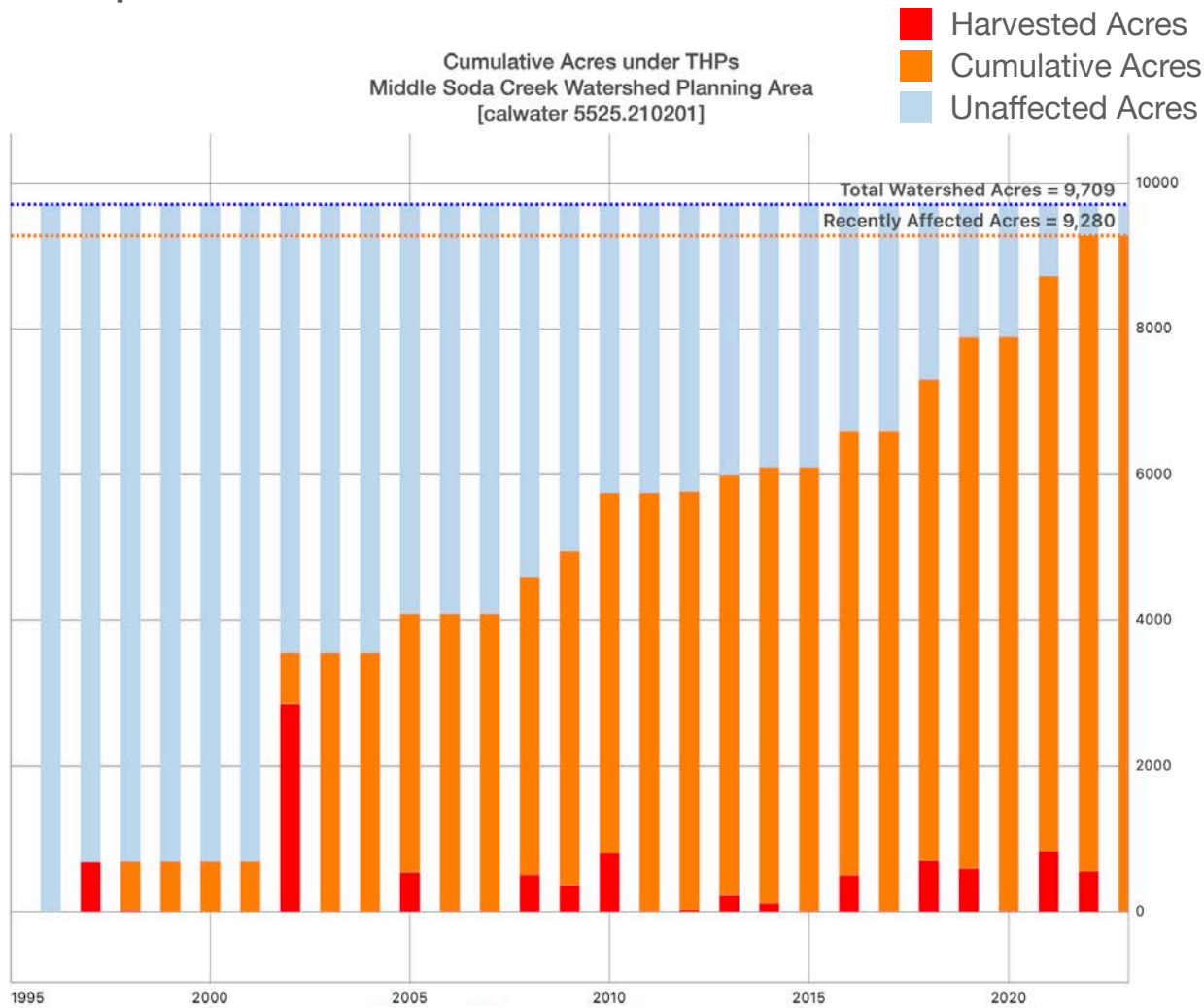


Middle Soda Creek (25 yrs)

THPs 2014-2024			
2-22-00136-SIS		2022	556.01
2-21-00188-SHA	DAIRY CREEK	2021	25.04
2-21-00172-SIS	WEST SODA	2021	418.64
2-21-00086-SIS	EAST SODA THP	2021	386.89
2-21-00026-SIS	BLACKBERRY	2021	1.26
2-20-00042-SIS	SODALINE	2020	5.85
2-19-00184-SHA	SE Soda	2019	584.7
2-18-00132-SIS	Dry Lake	2018	698.83
2-16-073-SIS	SODA FOUNTAIN	2016	499.92
2-14-097-SIS	GIRARD DOGWOOD	2014	112.28
SUBTOTAL 2014-2024			3289.42
THPs pre-2014			
2-13-103-SHA	PONYKEG	2013	220.28
2-13-066-SIS	KNOTTMOTT	2013	0.44
2-12-081-SHA	DAIRY CABIN	2012	25.04
2-12-053-SIS	NORTH BLACKBERRY	2012	2.3
2-10-060-SIS	QUARTZ	2010	795.59
2-09-015-SIS	GIRARD PORTAL	2009	356.47
2-08-055-SIS	MIDSODA	2008	507.1
2-05-159-SIS	TOY	2005	4.2
2-05-033-SHA	KEGGER	2005	529.19
2-02-246-SIS	SEVEN UP	2002	2856.68
2-98-210-SIS	SNOWPIG	1998	10.06
2-97-325-SIS	TWIN PEAKS	1997	683.22
SUBTOTAL pre-2014			5990.57

Ways to measure sustainability

Equivalent Clearcut Area

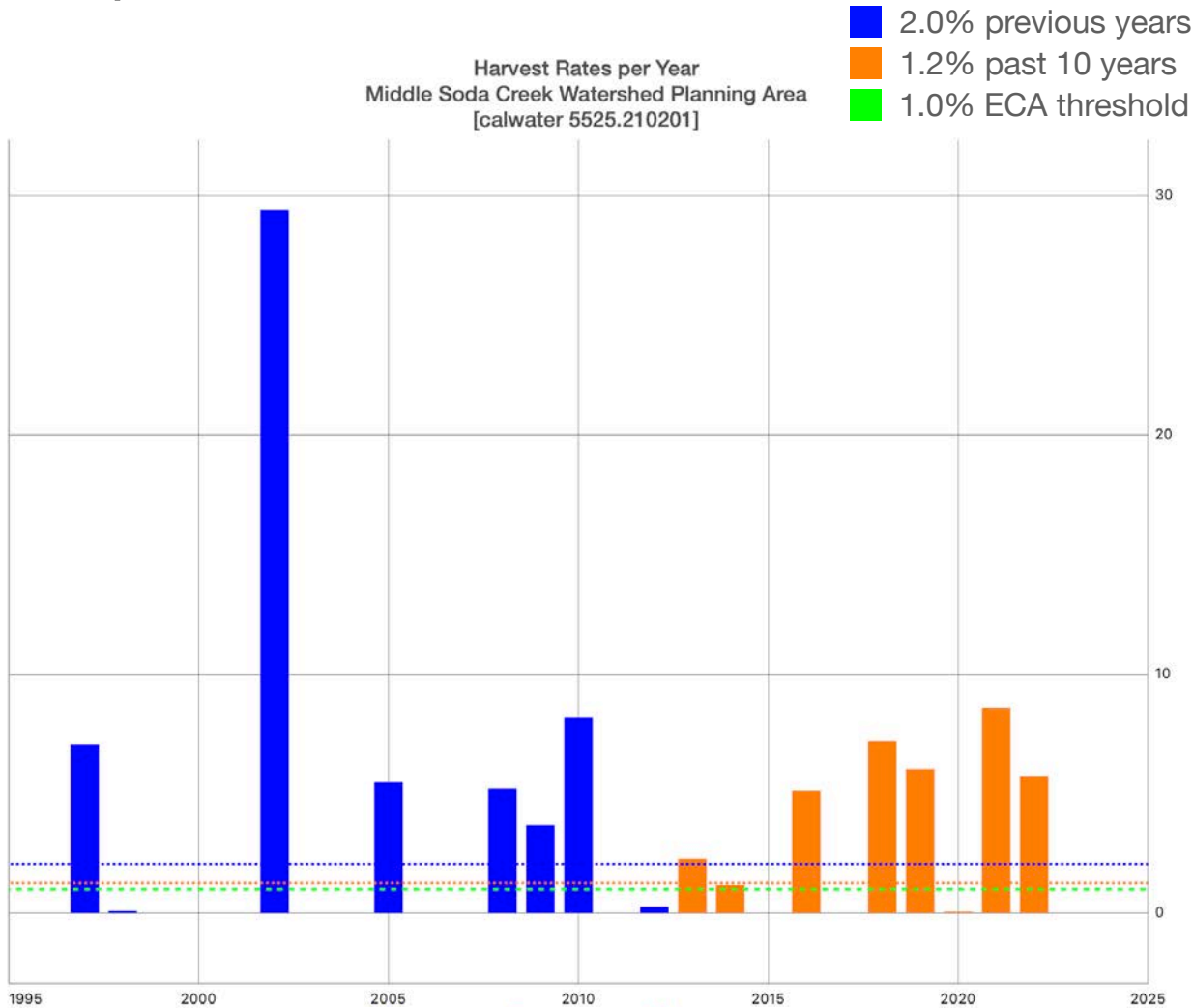


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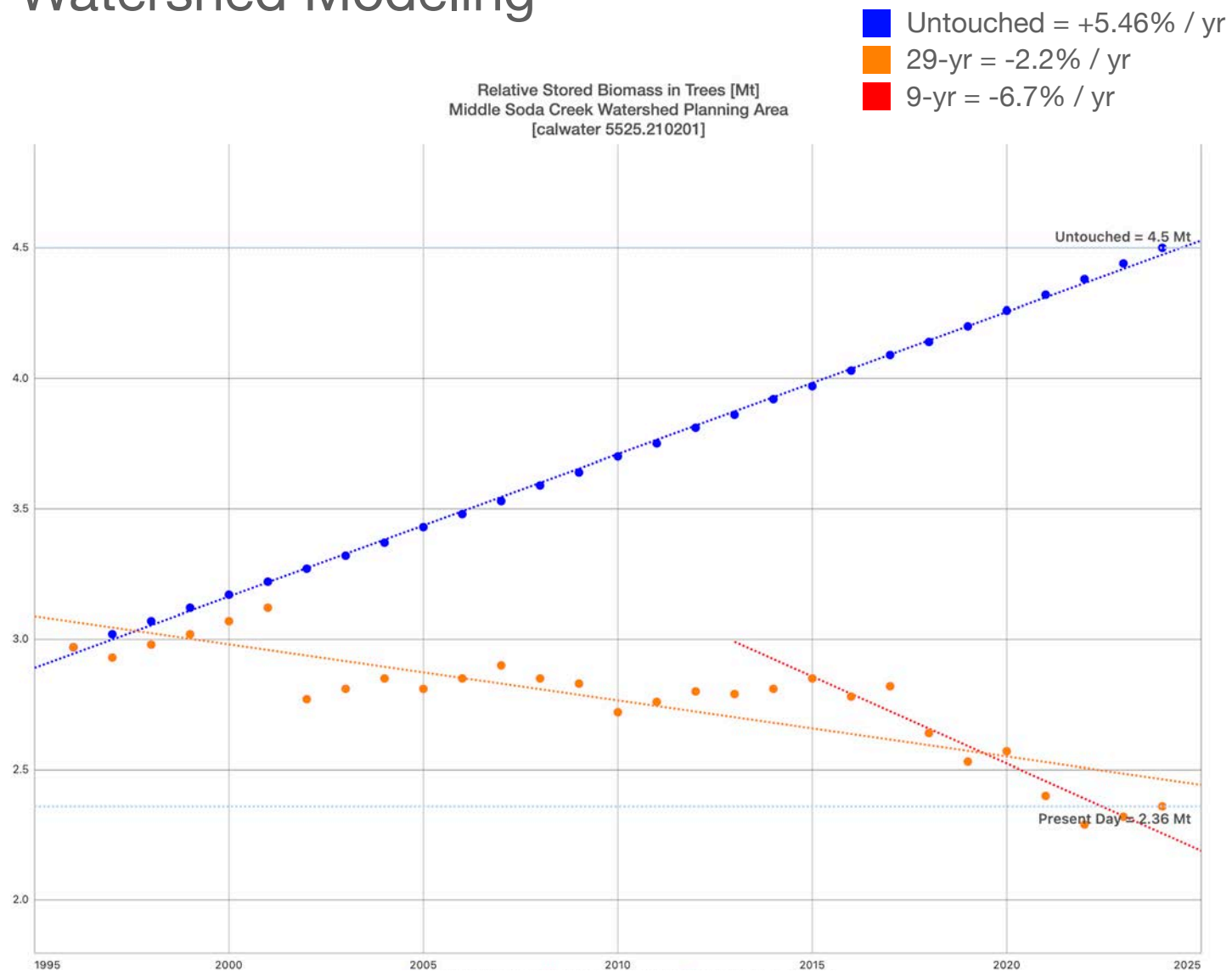
Ways to measure sustainability

Watershed Modeling

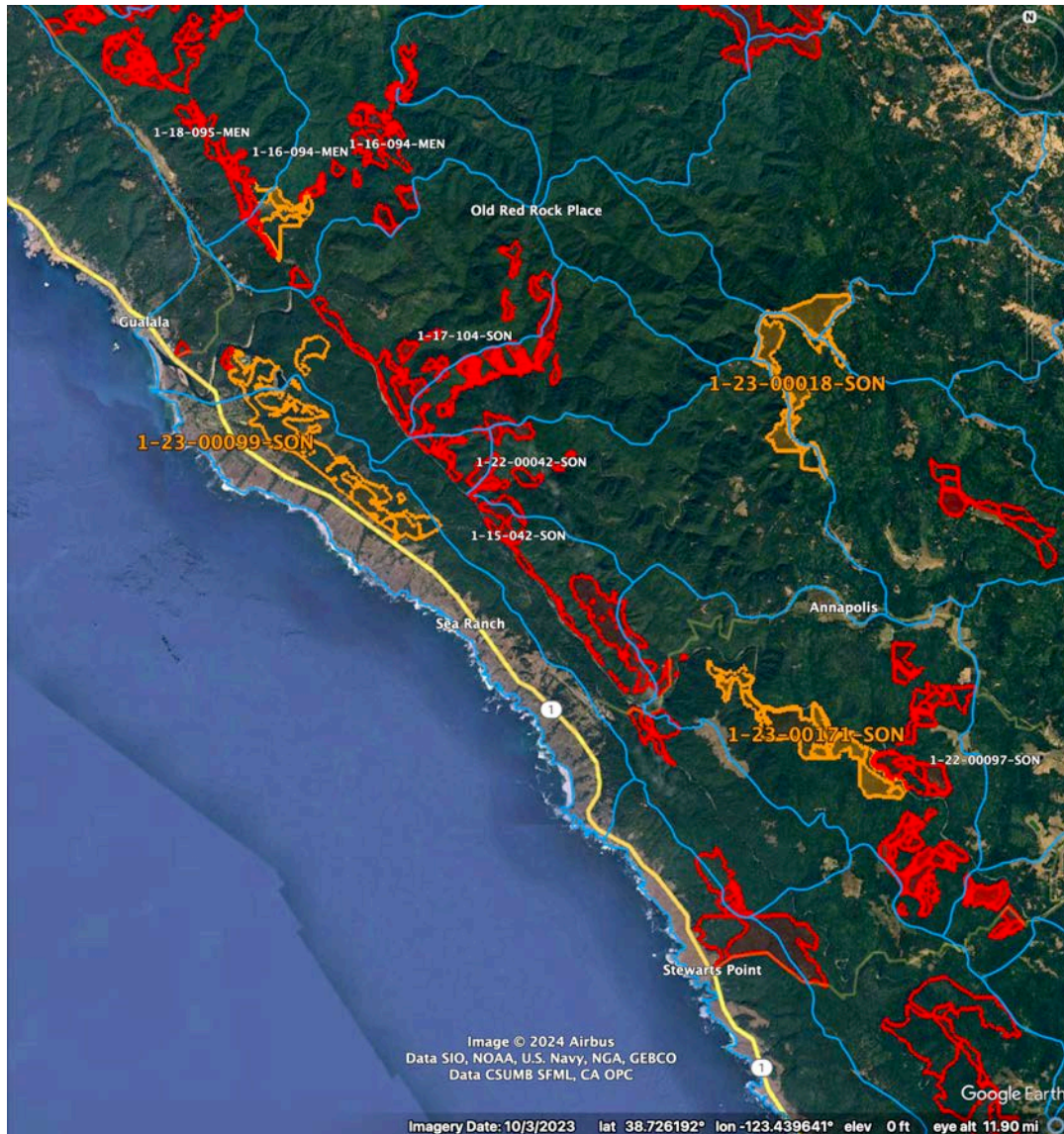
- biomass model
- a computer program that simulates tree growth and harvesting over time
- starts with initial estimate of the number and the ages of trees already in the watershed
- uses published scientific formula for growth rates
- applies each timber harvest plan

Ways to measure sustainability

Watershed Modeling



Gualala River Watershed Basin



- consists of **29** planning watershed areas
- relatively small watershed by Californian standards
- **15** currently active THPs!

Middle South Fork Gualala



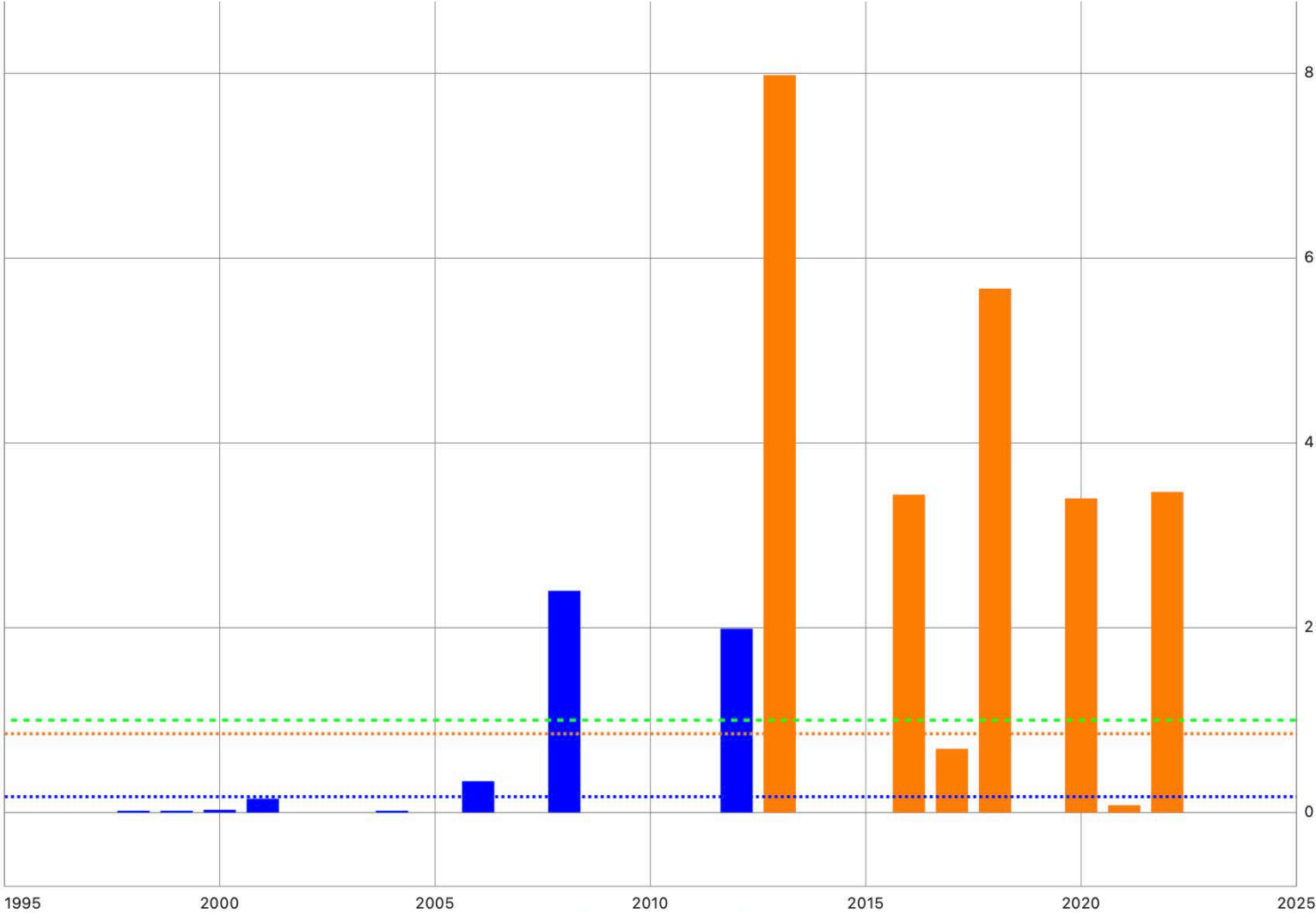
	Project Name	THP Year	THP Acres
1-20-00203-SON	Bootleg THP	2020	269.11
1-18-082-SON	STEWARTS POINT THP	2018	200.93
1-18-076-SON	OX BOW	2018	247.56
1-17-011-SON	3 PARTNERS	2017	54.78
1-16-034-SON	MILL CREEK	2016	271.99
1-13-062-SON	60 BEST THP	2013	440.39
1-13-002-SON	ITALIAN GULCH THP	2013	190.81
1-12-059-SON	HAUSER BRIDGE	2012	157.71
1-08-193-SON	CLIPPER MILLS	2008	190.14
1-06-106-SON	VEAL FLAT	2006	26.59
1-01-427-SON	ROBERTS 2002	2001	11.58

- 7,904 total acres
- 20% open space
- 30% harvested in 10 years

Middle South Fork Gualala

Harvest Rates per Year
Middle South Fork Gualala Riv Watershed Planning Area
[calwater 1113.850103]

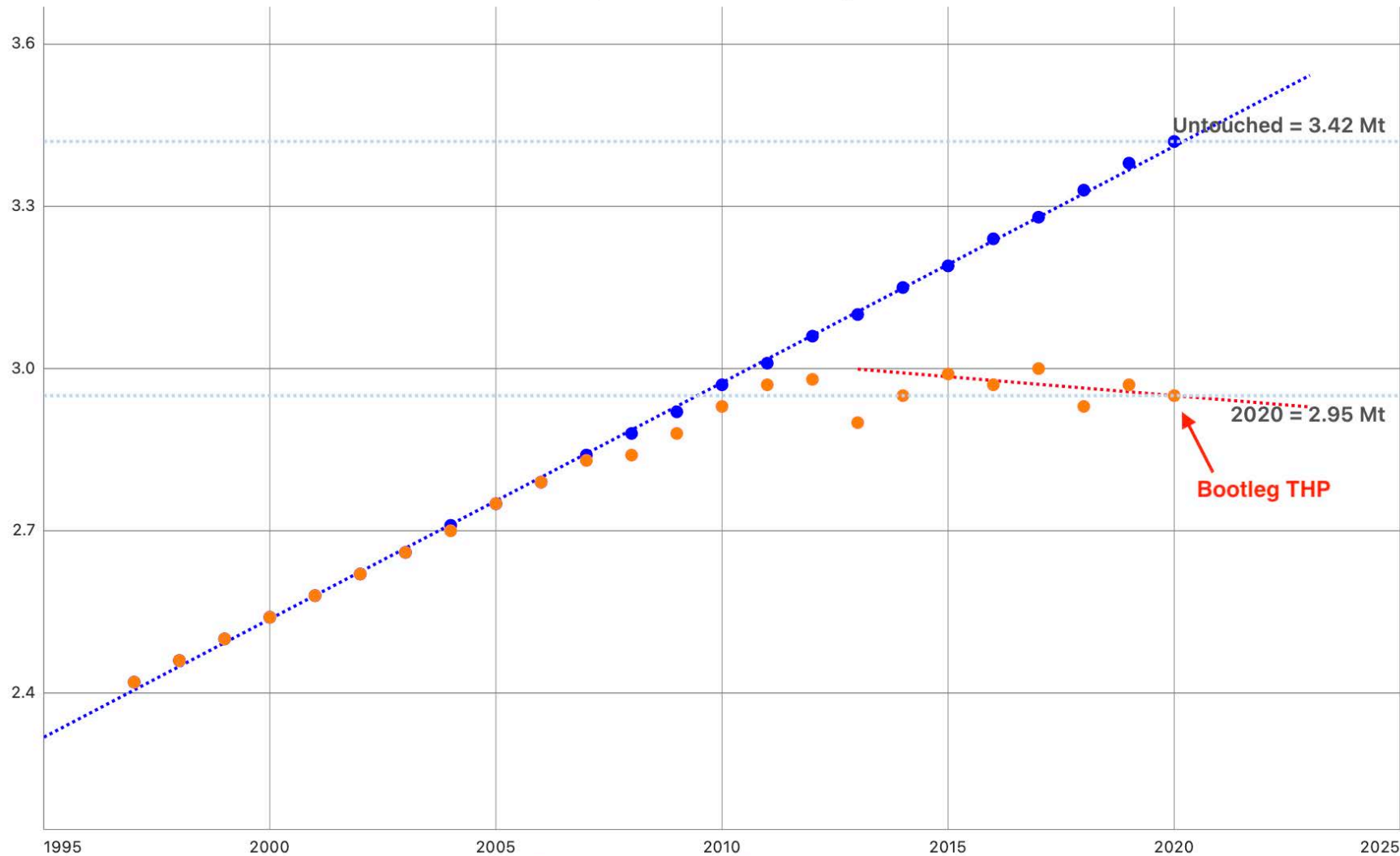
- 0.2% previous years
- 0.9% past 10 years
- 1.0% ECA threshold



MSFG Biomass Model (2020)

Relative Stored Biomass in Trees [Mt]
Middle South Fork Gualala Riv Watershed Planning Area
[calwater 1113.850103]

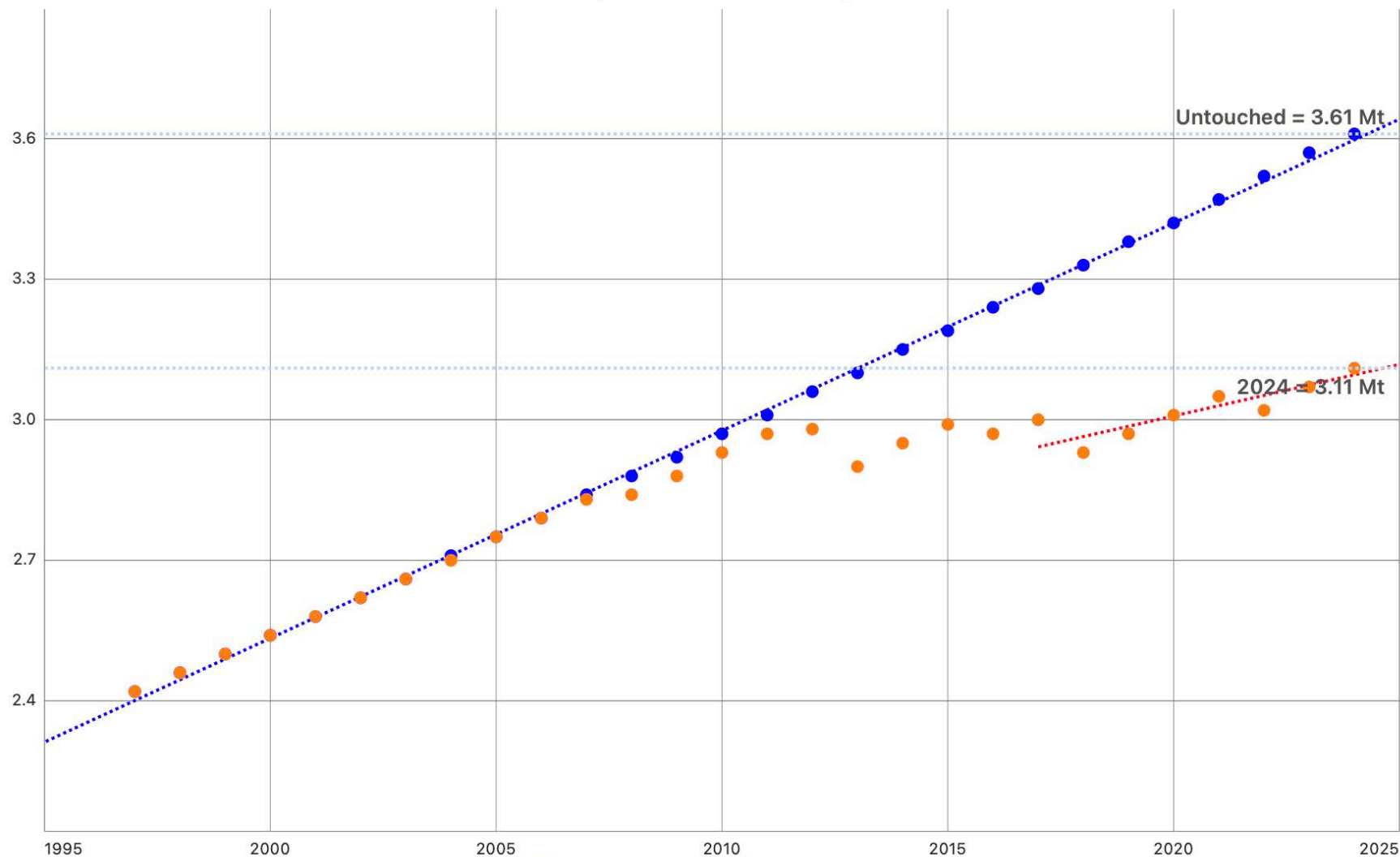
- Untouched = +4.37% / yr
- 5-yr = -0.7% / yr



Spoiler: MSFG Biomass Model (2024)

Relative Stored Biomass in Trees [Mt]
Middle South Fork Gualala Riv Watershed Planning Area
[calwater 1113.850103]

■ Untouched = +4.43% / yr
■ 5-yr = +2.2% / yr



Part II - How to take on a Timber Harvest Plan

Acronyms

**California Environmental
Quality Act** (1970) = **CEQA** (see-qwa)

Forest Practice Act (1973) = **FPA**

implemented by the

Forest Practice Rules = **FPRs**

requires preparation of a

Timber Harvest Plan = **THP**

considered equivalent to an

Environmental Impact Report = **EIR**

Actors

Registered Professional Forester = **RPF**

Licensed Timber Operator = **LTO**

Landowner

Lead Agency

California Dept of Forestry and Fire Protection = **CALFIRE**
(missing the “Forestry”)

Other Agencies

California Dept of Fish and Wildlife = **CDFW**

Regional Water Quality Control Board = **RWQCB**

California Geological Survey = **CGS** (provided by CALFIRE)

Archaeologist (provided by CALFIRE)

Understand the THP structure

Attachments	
To sort the Attachments list click on the column header of your choosing to toggle between ascending and descending order.	
The maximum file size allowed is 250 MB.	
Attachment Name	Attachment Type
20230808_1-23-00099SON_1stReview-CDFW.pdf	First Review Attachment
23PC-000000026-PC2.pdf	Public Comment Attachment
20231108_1-23-00099-SON_Resub_Sec6.pdf	Harvest Document Image
20231108_1-23-00099-SON_Resub_Sec3.pdf	Harvest Document Image
20231108_1-23-00099-SON_Resub_Sec4.pdf	Harvest Document Image
20231108_1-23-00099-SON_Resub_Sec2.pdf	Harvest Document Image
20231108_1-23-00099-SON_Resub_Sec5.pdf	Harvest Document Image
20231108_1-23-00099-SON_Resub_1stMemo.pdf	First Review Attachment
20231108_1-23-00099-SON_Resub_NOI.pdf	First Review Attachment
1-23-00099-SON_Resub20231109.zip	Pre-Approval GeoReferenced Map
CALFIRE_FPGIS_RTQ-1.PNG	First Review Attachment
20231108_1-23-00099-SON_Resub_Sec1.pdf	Harvest Document Image
/Reports/NOF_20231116_164636.pdf	Notice of Filing
/Reports/FirstReviewReport_20231116_164425.pdf	RPF Questions
20231207_1-23-00099-SON_1stRTQs_RespRPF.pdf	RPF Responses

CalTrees web portal:

caltreesplans.resources.ca.gov/Caltrees/

What is a Timber Harvest Plan?

- A document that outlines every detail of the logging operation (can be several hundred pages long)
- serves as the functional equivalent to an Environmental Impact Report
- submitted by a “Registered Professional Forester” who is licensed by the state
- has a defined structure: **6 sections**
- every document is scanned and uploaded into CalTrees *separately*

Understand the Approval process

Timber Harvest Plan

Record Status: Public Comment

Record Info ▾

Processing Status

✓ ▶ Intake

✓ ▶ Distribute NOI

✓ ▶ First Review

✓ ▶ Distribute NOF

✓ ▶ Pre-Harvest Inspection

✓ ▶ Schedule Second Review

✓ ▶ Pending RPF Response

✓ ▶ Second Review

⌚ ▶ Public Comments

Due on 02/29/2024
Marked as TBD on TBD

✓ ▶ WQ Concurrence Period

✓ ▶ CGS Concurrence Period

✓ ▶ Outside Agency Concurrence Period

✓ ▶ CDFW Concurrence Period

Denial Process

Director Decision

Agency Appeal

Public Appeal

Completion and Stocking Report

Closure

Follow status on CalTrees:

caltreesplans.resources.ca.gov/Caltrees/

Steps in the process:

- First review
- Pre-Harvest Inspection (PHI)
- Second Review
- **Public comments due (10 days)**
- **Approval**

Understand the Public's role

Processing Status	
✓ ▶	Intake
✓ ▶	Distribute NOI
✓ ▶	First Review
✓ ▶	Distribute NOF
✓ ▶	Pre-Harvest Inspection
✓ ▶	Schedule Second Review
✓ ▶	Pending RPF Response
✓ ▶	Second Review
⌚ ▼	Public Comments
Due on 02/29/2024 Marked as TBD on TBD	
✓ ▶	WQ Concurrence Period
✓ ▶	CGS Concurrence Period
✓ ▶	Outside Agency Concurrence Period
✓ ▶	CDFW Concurrence Period
	Denial Process
	Director Decision
	Agency Appeal
	Public Appeal
	Completion and Stocking Report
	Closure

Public Comments

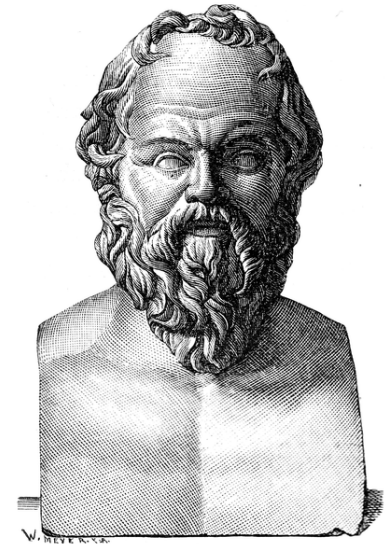
- comments can be submitted anytime during the process
- **deadline is 10 days after Second Review**
- **must cite significant environmental concerns!**
 - traffic & noise
 - sedimentation/erosion
 - wildfire risk
 - protected species
 - sustainability & cumulative effects
 - viewshed
 - legal (were alternatives considered?)
- can slow down the process
- don't get your hopes up: only responded to, not acted upon
- THPs are *always* approved!

CALFIRE Official Response

- “CAL FIRE has considered all pertinent evidence and has determined that no significant adverse cumulative impacts are likely to result from implementing this THP. This determination is based on the framework provided by the FPA, CCR’s, and additional mitigation measures specific to this THP.”
- “ALL CONCERNS RAISED WERE REVIEWED AND ADDRESSED. ALONG WITH THE FRAMEWORK PROVIDED BY THE FOREST PRACTICE ACT AND THE RULES OF THE BOARD OF FORESTRY, AND THE ADDITION OF THE MITIGATION MEASURES SPECIFIC TO THIS THP, THE DEPARTMENT HAS DETERMINED THAT THERE WILL BE NO SIGNIFICANT ADVERSE IMPACTS RESULTING FROM THE IMPLEMENTATION OF THIS THP.” [emphasis added]

Apply Critical Thinking

- Disciplined thinking that is clear, rational, open-minded, persistent to truth, and informed by evidence.



Credited to Socrates, who realized “the unreliability of Authority and of Authority figures to possess knowledge and consequent insight”;

“that for an individual man or woman to lead a good life that is worth living, that person must ask critical questions and possess an interrogative soul, which seeks evidence and then closely examines the available facts, and then follows the implications of the statement under analysis, thereby tracing the implications of thought and action.”

Every section has flaws

Section 1, Item #13

ITEM #13	Statement of Environmental Impact
After considering the rules of the Board of Forestry and Fire Protection and the mitigation measures incorporated in this THP, I the Registered Professional Forester, have determined that the timber operations (mark all that apply)	
a. <input type="checkbox"/>	WILL HAVE A SIGNIFICANT adverse effect on the environment. Provide a statement of reasons for overriding considerations in SECTION III.
b. <input checked="" type="checkbox"/>	WILL NOT HAVE A SIGNIFICANT adverse impact on the environment.
<input checked="" type="checkbox"/>	I certify that I, or my supervised designee, personally inspected the THP area, and this plan complies with the Forest Practice Act, the Forest Practice Rules and the Professional Foresters Law.

Statement from the RPF

"This Timber Harvest Plan, as prepared and regulated by the Forest Practice Act (FPA) and the Forest Practice Rules, will not have a significant adverse environmental impact. Implementation of the measures proposed in this THP, along with responsible logging practices within the framework of the rules of the FPA, will eliminate any significant adverse effects."

Challenge CALFIRE in Court

- A lawsuit is the only way to challenge CALFIRE's decision
- form a group of concerned citizens (3 or more)
- submit public comments from the group
- find a CEQA attorney
- strategize for funding
- file a CEQA lawsuit ASAP, including a Preliminary Injunction and Temporary Restraining Order with declarations from experts
- lawsuit must be filed within **30 days** from the date of approval!

Invoke CEQA

THPs must meet the standards of CEQA

From the Bootleg ruling,

“At the hearing, CALFIRE and RPF contended that the analysis is sufficient because it complies with the FPA and FPR. They argued that the THP shows that there will be no significant impacts, or otherwise includes adequate analysis, and the THP states that it complies with FPR requirements. They specifically raised this argument with respect to the THP’s discussion of environmental impacts, cumulative impacts, and alternatives.

However, they ignore the fact that a THP must also meet the standards of CEQA.”

Invoke CEQA

THPs must meet the standards of CEQA

From the Bootleg ruling,

“under CEQA, there must be substantial evidence and sufficient analysis to provide the “analytic route” which the agency applied in reaching its conclusion, the route from the evidence to the conclusion.

CALFIRE and RPF therefore may not explain away a document’s lack of information or analysis by claiming that it is sufficient for complying with the FPA and FPR. If that were possible, then the clear mandate that such documents must comply with CEQA would be meaningless.

Accordingly, ... a THP such as this must also satisfy CEQA. It must provide the level of substantial evidence and analysis which CEQA requires.”

A THP functions as an EIR

Legal Precedent

To be legally adequate under CEQA, the analysis in an EIR must facilitate “informed decision-making and informed public participation.”

An adequate discussion of environmental impacts also must include a disclosure of the “analytic route the agency traveled from evidence to action”.

CEQA Arguments & Examples

Sedimentation / Biological Resources

- The THP fails to provide sufficient information and analysis to enable meaningful public review of the impacts of the proposed timber harvesting on sedimentation and biological resources – which renders it legally inadequate.
- The THP does not “disclose the analytic route... traveled from evidence to action.” Rather, it simply states that, with mitigation, such impacts will be of a less-than-significant magnitude.
- It is not possible to gain a meaningful understanding of the Project’s erosion, sedimentation, and effects on endangered salmonids and amphibians armed only with the THP’s vague promises.

Sedimentation / Biological Resources

Court Ruling

- “It is also on its face a generic form document, partly a checklist, with no details on the efficacy of the measures whatsoever or what in fact they will actually achieve. It is not even apparent whether the description of the measures set forth are specific to this Project or merely a stock generic list of measures as set forth pursuant to the FPA or CALFIRE’s own standard rules and requirements. Nothing here that the court sees provides the required analysis.”
- “That something merely “appears” to be the case is not evidence that it actually is the case, there is no explanation of what “appears” means or the methodology or criteria used, or anything else clear and concrete. In short, this is not substantial evidence and it is not meaningful analysis of anything. There is no evidence that the risk of increased sediment actually is “relatively low.” Moreover, there is no explanation of what is meant by stating that the risk of increased sediment is “relatively low.” This does not state what it is relative to or how, or why this demonstrates that there will be no significant impacts. Other sections are no different.”

CEQA Arguments

Cultural/Archaeological Impacts

- The public was prohibited – with no statutory basis – from obtaining specific information about those surveys and their results, making a meaningful understanding of the Project's impacts all the more impossible to obtain.

Cultural/Archaeological Impacts

Court Ruling

- “Excluding from the public record information regarding cultural resources which was not shielded from public disclosure clearly made “informed self—government” impossible in this regard and defeated the policies of CEQA. Absent authority which actually justifies the failure to make this information public, this constitutes a failure to proceed in the manner required by law and violates CEQA.”

CEQA Arguments

Cumulative Impacts

- The THP's analysis of cumulative impacts violates CEQA and the FPA for the same reason that the THP's analysis of individual environmental impacts violates CEQA and the FPA – it contains no meaningful information at all. Instead, the THP contains only a series of circular statements that the Project will not cause any significant cumulative impacts solely because it (supposedly) will not cause any significant *individual* impacts.

Cumulative Impacts

Court Ruling

- “This section of the THP addresses this issue in an exceedingly unclear manner evidently concluding, without substantial evidence or analysis, that the Project will not cause significant impacts merely because it complies with the FPA and FPR, and then reasoning, to the extent the reasoning is even evident, that because the Project or other projects will each not cause any significant impacts, there cannot be any cumulatively significant impacts.

This discussion misses the point entirely.

As explained above, the analysis must consider whether the impacts of this and other activities, even if individually less than significant, will be cumulatively significant.”

CEQA Arguments

Alternatives Analysis

- The THP fails to analyze a reasonable range of alternatives. Although the THP purports to “consider six alternatives for discussion,” it rejects all but one of these alternatives as infeasible. Five of the six alternatives were dismissed based on a failure to meet project objectives. But it is contrary to CEQA to limit the range of alternatives considered by utilizing unduly narrow project objectives.

For this reason, the THP’s decision to dismiss every alternative except the proposed project on the basis of an asserted incompatibility with the landowner’s objectives cannot be sustained.

Alternatives

Court Ruling

- “The analysis is devoid of details or clear information and explanation sufficient to allow informed decision-making. The entire section devoted to alternatives analysis amounts to just under four pages. As noted, the THP essentially dismisses all alternatives out of hand without more than about 1/3 of a page of analysis for one of the alternatives while the others are even more terse, all limited to a single short paragraph and one with as little as three sentences.

The discussion of all is conclusory and generalized.”

Key Takeaways

- California's watersheds are rapidly disappearing
- This is not "rocket science"
- All THPs are flawed; Bootleg THP is not unique
- CALFIRE's approval process violates CEQA
- We won on 5 completely different arguments!
- Thank You supporters and donors
- Anyone can do this
- CALFIRE is not going to change how they do things
- Everyone *should* do this!