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Mr. Allen Robertson, Deputy Chief
Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

RE: THP 1-04-030 SON (TCP 04-530) Hansen/Whistler
THP 1-04-055 SON (TCP 04-533) Zapar (Roessler)
THP 1-04-059 SON (TCP 04-531) Sleepy Hollow (Martin)

Dear Mr. Robertson:

I write on behalf of Sierra Club Redwood Chapter, Friends of the Gualala River, and Coastal Forest Alliance regarding CDF's review of timberland conversions and their related THPs, including those listed above.

According to CDF's recent memorandum, *Timberland Conversion Permit CEQA Process Guidelines Summary*, "When CDF is lead agency for the project, TCPs and THPs will be prepared as joint documents, relying on the same supporting analysis and studies, coinciding in their review periods, and treating all comments similarly." Unfortunately, it appears that this goal is not being met in connection with several recent TCP/THPs.

For example, I am informed that public comment for the negative declaration for the Hansen/Whistler conversion has ended, even as environmental review and public comment of its THP continues. Such a procedure violates CEQA on any number of grounds. First, it presents the negative declaration for public comment prematurely, *before* the completion of environmental review and the determination as to what mitigations will be necessary. The THP review process, especially the outcome of second review, often results in numerous recommendations and mitigations. These mitigations are as much a part of the TCP as they are the THP. But if public comment for the negative declaration ends before these mitigations become part of it, the public is deprived of the opportunity to comment on the adequacy of the mitigated negative declaration. This violates CEQA on at least

two grounds. The public is deprived of a meaningful opportunity to comment on a complete and finite project in violation of Public Resources Code section 21091. And mitigations are added to the negative declaration after public comment has ended in violation of Public Resources Code section 21080, subdivision (c)(2), and CEQA Guidelines section 15070, subdivision (b)(1).

Having different periods of comment for the same project causes other less tangible, but nonetheless significant problems. Foremost among them, it confuses the public. It is difficult enough trying to track the changes to a THP as it passes through review. (Indeed, Judge Antolini found such changes themselves often violate CEQA unless they are renoticed for public review.) To add another layer of public comment at a different time for a different document makes the process impossible to follow.

The logical procedure for a THP alone or in combination with a TCP is to first determine when environmental review is complete, including when all mitigations have been proposed, and then to commence public review.

Accordingly, my clients respectfully request that you reopen public comment on the negative declaration for the Whistler/Hansen conversion. Its public comment period should not begin until environmental review for both the TCP and the THP is complete and mitigations have been proposed. My clients also request that you follow the same consistent and coherent procedure for all other TCP/THPs.

On a related note, the TCP/THP process is further complicated by the fact that the official TCP file is kept in Sacramento, while the THP file is kept in CDF's Santa Rosa office. To mitigate the problems and confusion caused by this practice, you recently agreed that a copy of the TCP file would be kept current in Santa Rosa to allow the interested public access to the TCP and THP files in one convenient location. I attach the letter I previously sent you memorializing our agreement.

We spoke by phone on Monday May 24, 2004, regarding the negative declaration for the Peter Michaels Winery. I pointed out that the Santa Rosa file for this conversion did not appear to contain certain relevant documents, such as CDF's findings in adopting the negative declaration. You confirmed this and stated that you did not intend to ensure that the Santa Rosa TCP file contained all the documents in the Sacramento file. Given our previous agreement, this was surprising and disappointing. I ask you to reconsider your position. In this era of fax machines, copiers, email, and efficient mail service, it is not difficult to ensure that what goes in one file goes in another. Otherwise, public confusion will continue, leading to more legal setbacks for your agency.

A response in writing to the requests set forth in this letter would be greatly appreciated.

Very truly yours,

Paul V. Carroll

cc: Bruce Crane, Esq.
Leslie Markham, CDF, Santa Rosa Office