

FORESTS FOREVER

1936 University Ave. #160, Berkeley, California 94704
phone: 415/974-3636 mail@forestsforever.org
www.forestsforever.org

April 12, 2021

California Department of Forestry and Fire Protection
135 Ridgway Ave
Santa Rosa, CA 95401

RE: Comments Regarding Timber Harvest Plan 1-20-00173MEN, “Little North Fork Big River,” Jackson Demonstration State Forest

Dear CAL FIRE Director:

The following comments are prepared and submitted on behalf of the Forests Forever Foundation. These comments are specific to Timber Harvest Plan (THP) 1-20-00173-MEN, “Little North Fork Big River,” submitted by the California Department of Forestry and proposing timber harvesting activities on the Jackson Demonstration State Forest.

Please provide a written response to all points and concerns raised in these comments prior to issuance of the Notice of Conformance for the “Little North Fork Big River” THP.

Summary

Approval of the “Little North Fork Big River” THP as currently proposed would constitute a prejudicial abuse of CAL FIRE’s discretion. A prejudicial abuse of discretion occurs when CAL FIRE does not base a decision to approve a THP on substantial evidence in light of the whole of the record, or if CAL FIRE fails to proceed with the review and approval of a THP as otherwise prescribed by applicable laws.

The “Little North Fork Big River” THP lacks clear, unambiguous, enforceable post-harvest stocking retention standards. The THP also fails to present critical forest stratification information and information about how the selection silviculture will be distributed within the extant stata.

The “Little North Fork Big River” THP also lacks substantial evidence in support of numerous claims made in justification of aspects of the proposed-harvest activities to demonstrate how significant adverse individual or cumulative impacts on the environment will be avoided or lessened to the point of insignificance. The evidence presented in the “Little North Fork Big River” THP to the extent it exists at all, is simply insufficient to allow CAL FIRE to approve the THP without a resultant prejudicial abuse of discretion.

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Additionally, the “Little North Fork Big River” THP fails to make a good faith effort at a genuine analysis of alternatives to the project as it is proposed, and fails to make a good faith effort at a genuine evaluation and accounting of potentially significant adverse individual and cumulative impacts that would result from implementation of the project as proposed.

The absence of a genuine alternatives analysis and a genuine cumulative impacts analysis in the “Little North Fork Big River” THP renders the THP insufficient to meet the standards of applicable laws, most notably the California Environmental Quality Act (CEQA) and its implementing regulations. The “Little North Fork Big River” THP does not comply with the intent of CEQA and its implementing regulations due to the lack of a good faith effort at meaningful analysis of alternatives and potentially significant adverse individual and cumulative impacts. Approval of the THP as currently proposed by CAL FIRE would thus also constitute a prejudicial abuse of discretion on the basis that the THP fails to comply with all applicable legal requirements.

Finally, the CAL FIRE review proceedings for the “Little North Fork” THP failed to capture and address deficiencies in the submitted plan in the appropriate phase of review. Numerous deficiencies in the submitted THP that should have caused a Return-Hold as unacceptable for filing were not identified or required to be addressed until the day of the Second Review Team Meeting. CAL FIRE, other trustee agencies, and the public were left to read and review a THP that was incomplete, incorrect, and not in proper order. The other trustee agencies and the public were deprived of the opportunity to conduct a proper review and to make meaningful comments because the THP circulated and available contained inaccuracies, incompleteness, and was not in proper order.

Baseline, Setting, and Timber Harvest Activities as Proposed

The “Little North Fork Little River” THP comprises a total of 484 acres of proposed timber harvest and associated activities. The THP is located in the Berry Gulch and Mouth of Big River State Planning Watersheds.

The THP is located on the Jackson Demonstration State Forest, managed by the California Department of Forestry and Fire Protection (hereafter “CAL FIRE”). The THP boundary is bordered by the Mendocino Woodlands Outdoor Center and the Big River Unit of the Mendocino Headlands State Park.

The silvicultural prescription being proposed for the “Little North Fork Big River” THP consists entirely of single-tree selection and construction of road right-of way to facilitate access to the proposed harvest area. According to the THP, the forest area proposed for timber harvest consists of second growth stands dominated by coast redwood, Douglas fir, grand fir, and a mixture of hardwood tree species. (THP Section III, p. 103) The THP also states that the harvest area in question has not been subjected to commercial timber harvest activities since between 1900 and 1920, over 100 years ago. (*Ibid.*)

The “Little North Fork Big River” THP area drains to the Little North Fork and the mainstem of Big River. The Little North Fork Big River and the mainstem Big River in the vicinity of the THP are both Class-I, perennial fish-bearing streams. Big River is listed by the Environmental Protection Agency as water quality impaired on the 303(d) list. Water Quality impairments in the Big River watershed are attributed to excessive sedimentation and elevated temperatures and thermal loading.

SIGNIFICANT ENVIRONMENTAL AND PROCEDURAL CONCERNS

Post-harvest Retention Standards for Selection Silviculture are Unclear and Unenforceable

The silvicultural prescription proposed for application in the “Little North Fork Big River” THP is unclear and unenforceable should the harvest proceed. Section II, Item #14, page 10 of the THP indicates that 482.5 acres of the plan area are proposed to be harvested using the selection method. Section II, Item #14(b), page 11 of the plan provides the intended post-harvest stocking standards. The plan indicates in Bullet #1 that per 14 CCR 913.2 (a)(2)(A)(2), at least 75 square-feet of conifer basal area shall be retained based on site class designation of II and III. Bullet #4 that “the expectation is that conifer harvest will be <30% of the stands basal area.”

Bullet #4 then goes on to state that, “current conifer basal area is approximately 350 Sq. ft./acre, of which an average of 245 Sq. ft./ac of conifer basal area will be retained across the plan area, far exceeding the minimum standards above.” (Section II, Item #14(d), p. 11)

There are several issues of concern here. First, the minimum standard of 75 square feet of basal area per-acre is stated as the enforceable standard. The pre-harvest conifer basal area per-acre is presented by the RPF in this section as an estimate or approximation. The RPF then states that less than 30 percent of the “stands” basal area will be harvested. What is a “stand” in this context?

It is unclear based on what the RPF presents in the THP whether the post-harvest enforceable standard, regardless of the basal area, is to be enforced by-acre or by “stand,” or averaged over the entirety of the plan area. Additionally, the RPF states that the desired basal area retention standard of 245 square feet per-acre is only an “average.” This implies that basal area retention on an acre-by-acre basis could actually be more or less than 245 square feet.

It is also unclear based on what is presented how the objective to harvest less than 30 percent of the “stands” basal area will be applied given that the RPF only provides an approximation of the average basal area per-acre prior to harvest. By stating that the pre-harvest basal area per-acre is “approximate,” the RPF implies that the basal area on any given acre in the plan area could be higher, or lower than 350 square feet.

The RPF appears to be using the terms “per-acre,” and “stands” interchangeably, but whether or not this is actually what is intended is entirely unclear.

Clearly, a “stand” is generally not considered to be contained on a single given acre. Mixing and seeming interchangeable use of these terms by the RPF is one issue of concern. Mixing a minimum basal area per-acre retention standard and a desired “average” standard, with a minimum percentage of basal area harvest per “stands” is another concern. How can this be reliably evaluated or enforced if necessary post-harvest?

The silvicultural prescription’s proposed post-harvest retention standard as presented is unclear, confusing, and unenforceable. It seems impossible that a forest practice inspector would be able to either verify or rebut whether the harvest on any given acre actually met the intent or the standards specified short of the minimum 75 square feet of basal area per-acre as written.

Absence of Stand Stratification Information about Age, Height, and Size Classes Invites High-Grading

The THP lacks adequate information to demonstrate how the selection silviculture and the proposed post-harvest retention stands will be applied within different tree diameter, height, and age classes for commercial conifer trees proposed for harvest.

In Section III, page 103 of the plan, the RPF presents the pre-harvest and anticipated post-harvest board feet per-acre basal area per-acre, and percentage of stand composition by tree species site occupancy. This information does little to inform the reviewer of how the silvicultural prescription will be applied within the different age, diameter, and height classes of these individual tree species. The THP lacks information about the stratification characteristics of the forest stands to be harvested, and lacks information to inform how the selection silviculture will be applied with the various extant strata.

Not all basal area or volume on any given forested acre is created equally. Basal area per-acre is defined as, “the sum of the cross-sectional areas at breast height of the tree stems of commercial species per acre.” (*See*: California Public Resource Code 4528(a)) A basal area measurement sums and lumps the diameter at breast height of the largest trees on a given acre together with the diameter at breast height of the smallest trees.

Why is this important? Because presenting only the basal area, volume, and percentage of site occupancy by tree species without also presenting age, height, and diameter size classes within those tree species allows for a selection harvest that invites high-grading.

The harvest could target the largest, oldest, most voluminous trees, leaving smaller less vigorous trees, while still meeting the minimum post-harvest stocking standards.

The THP fails to present information on the distribution of age, height, and diameter size classes of commercial tree species. The THP also does not present information on how the harvest will be distributed within the age, height, and diameter class strata, creating space for high-grading and depletion of the most valuable and critical elements of the forest needed for future development.

While the RPF does include a maximum limit of 34" DBH limit for harvesting hardwoods and Douglas fir trees in the THP, the RPF provides no such upper diameter harvest limit or restriction for conifer such as redwood.

Harvest operations could preferentially target the largest, oldest, most voluminous, redwood trees on any given acre for removal, leaving the smallest, less vigorous trees, and still attain the desired basal area retention of 245 square feet per-acre, or the minimum basal area stocking standards of 75 square feet per-acre.

Although the silvicultural prescription does state that the goal is to retain trees of 150 years and older, determining the age of a tree is not a simple exercise. The absence of an upper maximum diameter harvest limit for redwood trees means that larger, older, trees than intended could be harvested while still meeting the post-harvest stocking objectives.

The "Little North Fork Big River" THP as proposed could result in a significant adverse cumulative impact on the environment if implemented utilizing the vague standards and incomplete information presented by the RPF.

THP fails to Consider the Cumulative Impacts of Proposed and Future Harvests on Forest Resources

Section III, page 103 of the Plan under Harvest History notes that the Plan area has not been subjected to timber harvest since between 1900-1920, and that the current dominant tree age is between 100-120 years old. The "Little North Fork" THP proposes to enter the area for the first time in over 100 years for commercial timber harvest.

Section III, page 111 of the Plan, the "Late Seral Development Table" for the THP discloses a re-entry interval for future harvest will be every 15-20 years. A forested area that has not been subjected to commercial timber harvest prior to operations of the "Little North Fork Big River" THP will be subjected to this harvest, plus another harvest every 15-20 years thereafter if the Plan is approved.

The compartmentalized reductionist mindset of CAL FIRE and the Rules of the Board of Forestry fail to account for the cumulative impacts to the forest resource itself and its long-term productivity that will result from the dramatic change. A forest not managed for over 100 years suddenly will be subjected to commercial harvest every 15-20 years.

The THP contains no discussion of how this shift will impact the forest resource and its productivity cumulatively into the future. The California Department of Parks and Recreation in its Pre-Harvest Inspection Report rightly questions whether or not harvest in the Plan area can further recruit or develop Late Seral or Late Successional Forest characteristics into the future:

"The plan proposes limited harvesting to promote late successional development to increase tree diameter, which will eventually lead to canopy growth. However given the stands current age, the trees, understory and mycorrhizal fungi, it is arguable that it currently functions as a late

successional forest stand and to further develop wildlife structure (epicormic branches and hollows) would require disturbance such as fire or extreme weather. Some plants like Trillium are very susceptible to timber harvesting and can take 115 years to reach old growth densities. Approximately 85 percent of redwood habitat in Mendocino County is zoned TPZ (including JDSF) with an estimated 2% protected public lands and therefore, protected habitat similar to the 484-acres in the LNF THP is rare in Mendocino County.” (Internal citations omitted). (California Department of Parks and Recreation Pre-Harvest Inspection Report, December 28, 2020, at p. 2 of 11)

The cumulative impacts assessment contained in Section IV of the “Little North Fork Big River” THP is entirely devoid of discussion that would suggest that the RPF and plan submitter, CAL FIRE, have considered whether or not significant, adverse, cumulative impacts to the forest in its current state of growth, succession, and productivity will occur either from this harvest if approved, or from subsequent future harvest activities to be conducted every 15-20 years hereafter.

The RPF has modified the THP in response to a California Department of Fish and Wildlife Pre-Harvest Inspection recommendation to acknowledge that Late Successional Forest Stands will be subject to timber harvest pursuant to this THP, if approved. The “Little North Fork Big River” THP does not contain information demonstrating how the proposed timber harvest activities will maintain or enhance Late Successional Forest Stand function and characteristics.

Merely marking large trees for retention in the sample mark for the PHI does not ensure that the proposed harvest activities will not significantly or adversely impact the current growth, successional stage, or function of the forest proposed for harvest. Further, merely marking large trees for retention in the sample mark for the PHI does not in and of itself suffice as a surrogate for conducting a genuine analysis of the potential significant adverse and cumulative impacts to the forest resource that may occur from this harvest, if approved, or subsequent harvests when combined with the proposed harvest.

The forest stands proposed for harvest in the “Little North Fork Big River” THP represent extremely rare circumstances and characteristics as explained by the California Department of Parks and Recreation in its PHI Report. Failure of the RPF to consider the immediate and cumulative future consequences of the proposed harvest activities on the forest itself renders the “Little North Fork Big River” THP incomplete, inaccurate, and inadequate to ensure avoidance of potentially significant, adverse, and cumulative impacts.

The California Forest Practice Rules at 14 CCR 895.1 define a Significant Adverse Impact on the Environment to mean, “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”

What could be more of a substantial adverse change in a forested environment than harvesting, then subsequently subjecting to harvest every 15-20 years thereafter, a forest that has gone unmanaged and been left to grow and develop of its own accord for over 100 years?

The RPF makes a perfunctory assumption that timber harvesting as proposed is necessary for stand development and will be beneficial, but provides no evidentiary basis to support that proposition. Simply falling back on the fact that timber harvest is designated as the primary use on JDSF does not in and of itself provide sufficient evidentiary basis to justify or support the claims made that timber harvest is necessary for stand development and that such harvest will have a beneficial impact on the forest.

The evidence available in the whole of the THP record points toward the contention that if approved, the timber harvest activities proposed in the THP are likely to result in significant, adverse, and cumulative impacts on the forest resource itself, its growth, its productivity, and its successional development.

Failure to Conduct a Genuine Analysis of Feasible, Less Damaging Alternatives to the Project as Proposed and Failure to Present Evidence to Support Findings

The Analysis of potentially equally-feasible, less damaging alternatives to the Timber Harvest Plan activities and project as proposed presented in Section III, pp. 105-110 of the “Little North Fork Big River” THP does not offer a genuine, good faith effort at the analysis or present substantial evidence in support of the findings of the RPF with respect to other alternatives. The RPF takes great pains to present a recitation of relevant sections of the California Public Resources Code and the California Code of Regulations that point to the fact that the Legislature and the Board of Forestry intend that timber production should be the primary land use on Jackson Demonstration State Forest in framing the alternatives analysis in Section III of the THP.

What the RPF seems to miss and fails to consider or discuss, however, is that just because timber production is mandated as the primary use on the forest, this does not mean that timber harvest must occur on every given acre each time it is proposed or contemplated.

While there can be little dispute based on statute and regulations that timber production is intended as the primary land use on JDSF, this mandate does not establish a perfunctory obligation to log every acre every time logging is contemplated or proposed. The mandate that timber production should be the primary land use also does not mean that timber production must occur even if it will be at the expense or cause detrimental harm or significant adverse impacts to other designated and compatible land uses on the forest.

In discussing the “No Project Alternative,” the RPF states that, “This alternative is clearly inconsistent with codified forest management policies,” which establish that timber production is to be the primary land use on JDSF. (THP Section III, p. 107) Here again, the RPF errs in assuming that because timber production is established as the primary land use on the forest that a mandate exists that logging must occur on every acre every time it is contemplated or proposed.

There is nothing inconsistent about choosing not to carry out a project once it is contemplated or proposed on lands designated for timber production on lands for which timber production is mandated as the primary use. What the RPF presents is an overly simplified logical fallacy, not a genuine attempt at analysis of potentially equally feasible, less damaging alternatives to the project as proposed--an analysis which is also codified and required in statute and regulations.

In enacting the California Environmental Quality Act (CEQA), the California State Legislature made clear its intent that projects should not be approved by state agencies if there are feasible, less-damaging alternatives to the project as proposed that will either avoid or substantially lessen potentially significant, adverse environmental impacts, stating:

The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. (California Public Resources Code 21002)

The RPF lists, but does not discuss, compare, or demonstrate through narrative or other substantial evidence, generic potentially significant adverse individual and cumulative environmental impacts that “might” occur if the “Little North Fork Big River,” THP is carried out as proposed, stating:

The No Project Alternative would avoid potential environmental impacts that might occur in connection with the proposed timber operations. For example, any individual or cumulative impacts on fish and wildlife, water quality or stand health vigor would not occur if the THP were not carried out. (THP Section III, p. 106)

This statement in the THP begs the question of what impacts might occur to fish and wildlife, water quality, or stand health and vigor the RPF refers? Furthermore, the statement made by the RPF begs the question of whether or not, based on what methods, and utilizing what resources and evidence, if any, the RPF conducted the analysis of the potential environmental impacts of the THP as proposed on these listed-resource areas and compared those potential impacts to those that might or might not occur under the No Project Alternative.

Concerns regarding potentially significant, adverse individual and cumulative impacts to the forest resource itself, and the overall health and vigor of the stands proposed for harvest under the “Little North Fork Big River” THP have been previously raised in these comments. The RPF alludes to the fact that significant, adverse, individual and cumulative impacts to stand health and vigor “might” occur if the THP is carried out, but does not discuss what those impacts might be deemed to be. The RPF also does not present any mitigation anywhere in the THP that would either substantially lessen or avoid impacts to stand health and vigor that “might” occur.

Not only is the analysis of the No Project Alternative disingenuous and predicated upon an oversimplified logical fallacy, but it also fails to contain substantial evidence in light of what is presented in Section III or the whole of the rest of the record that an analysis was conducted. The analysis presented also does not demonstrate that the findings presented are based on substantial evidence gleaned from the outcome of conducting the analysis.

Based on what little evidence and discussion is presented in Section III and elsewhere in the THP and the rest of the record for the THP, it appears that the RPF and plan submitter have treated the codified statutory mandate to conduct an analysis of feasible, less-damaging alternatives to implementation of the THP as proposed, including the “No Project Alternative,” as a perfunctory paper exercise. It appears that the preferred alternative and the desired outcome were predetermined and that the qualitative logically fallacious narrative was constructed for no other purpose than to support the selection of the predetermined preferred alternative and outcome.

In discussing the requirements for state agencies during the preparation of Environmental Impact Reports, the California Environmental Quality Act guidelines are clear that interest in, or inclination to support, a project by a state agency does not commit the agency to approval:

While mere interest in, or inclination to support, a project does not constitute approval, a public agency entering into preliminary agreements regarding a project prior to approval shall not, as a practical matter, commit the agency to the project. For example, an agency shall not grant any vested development entitlements prior to compliance with CEQA. (14 CCR 15004(b)(4)).

The CEQA regulatory guidelines also state that when a state agency has interest in, or an inclination to support, a project, this fact does not bind any party, or commit to any definite course of action, prior to CEQA compliance. (14 CCR 15004(b)(4)(b))

Finally, the CEQA regulatory guidelines provide that a state agency having interest in, or an inclination to support, a project does not restrict the ability of the agency to consider feasible mitigations and alternatives to a project, including the No Project Alternative. (14 CCR 15004(b)(4)(C))

In concluding the discussion of the No Project Alternative in the THP, the RPF falls back on the argument that the harvest activities proposed in the THP will generate revenue for JDSF management and maintenance activities, completely ignoring the previously-cited passage indicating that selection of the No Project Alternative would avoid potentially significant adverse environmental impacts that “might” occur as identified by the RPF.

The RPF makes no claim or contention that significant adverse individual or cumulative impacts that “might” occur have been considered, and mitigations to ensure that such impacts are avoided or substantially lessened have been incorporated.

Given the highly unique and valuable current baseline condition of the forest stands proposed for harvest under the “Little North Fork Big River” THP as proposed, and the likelihood that harvest

activities “might” result in significant individual and cumulative impacts to forest resources, including stand health and vigor, there seems to be no dispute that adopting the No Project Alternative would be the environmentally superior choice.

If it is the case, as alluded to by the RPF, that the reason for choosing the project as proposed instead of the No Project Alternative comes down to simple economics and revenue generation, and that the generation of such revenue is deemed necessary in spite of the potentially significant adverse individual and cumulative environmental impacts that “might” occur, then the preparation of Statement of Overriding Considerations must be prepared and adopted with the Notice of Conformance for the “Little North Fork Big River” THP.

The analysis of alternatives presented in Section III of the “Little North Fork Big River” THP is incomplete, inadequate, and the findings are not supported by substantial evidence in light of the whole of the THP and the THP record. The analysis presented violates the spirit and intent of CEQA in this manner, constituting a prejudicial abuse of discretion should CAL FIRE approve the THP.

CAL FIRE Review Process and Procedure was Flawed and Failed to Ensure the THP was Complete, Accurate, and in Proper Order Upon Submission

The CAL FIRE review process for the “Little North Fork Big River” THP was flawed and conducted improperly, resulting in a prejudicial abuse of discretion based on failure to comply with provisions of the California Forest Practice Rules. CAL FIRE’s failure to return the THP as unacceptable for filing upon submission on the basis that it was not complete, accurate, or in proper order has prejudiced the ability of other trustee reviewing state agencies and the general public to review and provide meaningful comment on a correct Timber Harvest Plan.

The “Little North Fork Big River” THP was accepted for initial intake by CAL FIRE on October 1, 2020. The THP was then accepted for filing and the scheduling of the Pre-Harvest Inspection by CAL FIRE on 10/8/2020.

The initially attempted scheduling date for the second review team meeting for the “Little North Fork Big River” THP was 3/4/2021. At the second review meeting, the CAL FIRE review team chair identified 14 individual deficiencies with the THP that constituted incompleteness, incorrectness, and a lack of proper order of the contents of the THP.

Pursuant to the California Forest Practice Rules at 14 CCR 1037, the CAL FIRE director, “shall determine if the plan is accurate, complete and in proper order, and if so, the plan shall be filed.” However, 14 CCR 1037 also provides, “When the Director finds a plan inaccurate, incomplete or otherwise not in proper order, the plan shall be returned to the submitter with written specifications of the deficiencies.”

The identification of 14 separate deficiencies with the THP and its contents at the initial attempt at second review demonstrates that CAL FIRE erred in accepting the THP for filing and scheduling the PHI.

Issues identified on 3/4/2021 by the CAL FIRE review team chair that constitute incorrectness, inaccuracies, and a lack of proper order of the THP include:

#1 Failure to list acreage of the Special Treatment Area for the Mendocino Woodlands in the silviculture table in Section II, Item #14, page 10 of the THP; #5 checking the box “yes” but failing to list or outline provisions to protect wildlife species not otherwise previously discussed at Section II, Item #35, page 82 of the THP; #6 Failure to include the 1,000-foot no weekend or holiday operations buffer for the Mendocino Woodlands Campground on the THP maps and failure to include the hours of operations restrictions agreed to with the Mendocino Woodlands Association in Section II, Item #38, page 85 of the THP; #8 failure to include all roads to be used for log hauling under the control of the timberland owner in Section II, page 91, Appurtenant Roads Map; #9 and #10 failure to include reasonably probable foreseeable future project THP 1-20-00115-MEN that is adjacent to the “Little North Fork Big River” THP on the east on Conservation Fund Land and failure to include the “Railroad South” THP on JDSF that has a 2020 submittal date in Section IV, pages 131 and 132 of the THP; #13 failure to include the JDSF boundaries on the past projects maps in Section IV, pages 191-195 of the THP.

Each of the examples cited here, as well as each of the 14 total individual deficiencies with the THP that were not identified until second review, lead to the conclusion that the THP was not complete, accurate, or in proper order upon submission and should have been returned as unacceptable for filing pursuant to the requirements of 14 CCR 1037.

CAL FIRE’s error in failing to do its due diligence to conduct a thorough inspection of the THP upon its submission and its failure to return the THP as unacceptable for filing is not without significant adverse consequences. According to the CalTrees record for the “Little North Fork Big River” THP, 237 individual public comment letters had been submitted on the THP between its submission on 10/1/2020 and the date of the initial second review team meeting on 3/4/2021.

The RPF responses constituting correction of the 14 deficiencies identified on 3/4/2021 were received by CAL FIRE on 3/26/21. According to the CalTrees record for the THP, a total of 246 individual public comments had been received as of 3/26/21. CAL FIRE then reconducted the second review team meeting on 4/1/2021, recommending the THP for approval. The public comment period closed on 4/12/2021.

The version of the THP available to other trustee state agencies and the 246 members of the public that wrote comments between its submission on 10/1/2020 and 3/26/2021 was not correct, complete, or in proper order, depriving all of the ability to review and provide meaningful comments and to meaningfully engage in the review and approval process of the “Little North Fork Big River” THP.

The “Little North Fork Big River” THP that was available for over five months of the review team process was incomplete, inaccurate and not in proper order, whereas once the RPF responses were received, the public and other state agencies were afforded a total of 17 actual days to provide comments on a presumably true and correct version of the THP before the public comment period closed on 4/12/2021.

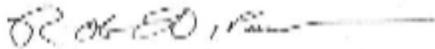
CAL FIRE has abused its discretion by failing to faithfully discharge its duties as specified in the Forest Practice Rules as the lead review team agency for the “Little North Fork Big River” THP by accepting the “Little North Fork Big River” THP for filing instead of returning it to the RPF as incomplete, inaccurate and not in proper order. This abuse of discretion has harmed other trustee reviewing state agencies and the public at large by depriving them of the ability to meaningfully inspect, review, and comment on a complete, accurate, and properly-ordered document until the last possible moment and phase of the THP review process.

Conclusion

The “Little North Fork Big River” THP is incomplete, inaccurate, and presents inadequate information to demonstrate based on substantial evidence in light of the whole of the record that significant adverse individual and cumulative impacts will be avoided or mitigated to a point of less than significant. The “Little North Fork Big River” THP fails to conduct a good-faith cumulative impacts analysis or a good-faith analysis of alternatives. Finally, the “Little North Fork Big River” THP review process as conducted by CAL FIRE has deprived other trustee reviewing state agencies and the reviewing and commenting public of the ability to meaningfully engage in the review and approval process of the THP.

CAL FIRE must deny the THP on the basis that it is incomplete, inadequate, and fails to provide substantial evidence to support issuance of a Notice of Conformance. Additionally, CAL FIRE must deny the THP because the THP itself and its review process have failed to comply with applicable legal requirements of CEQA and the Forest Practice Rules. Approval of the THP by CAL FIRE in its current condition would constitute a prejudicial abuse of discretion based on evidence in the whole of the record as presented herein.

For the Forests Forever Foundation,



Rob DiPerna