

SALMON AND STEELHEAD RECOVERY COALITION
California Council Trout Unlimited, California Trout, Inc., Coast Action Group,
Environmental Protection Information Center, Northcoast Environmental Center,
Pacific Coast Federation of Fishermen's Associations,
Salmonid Restoration Federation, Smith River Alliance

February 27, 2006

California Board of Forestry
Post Office Box 944246
Sacramento, CA 94244-2460
Attention: Y.G. Gentry, Executive Officer

Jackson Demonstration State Forest
Draft Management Plan and DEIR

Dear Mr. Gentry :

On behalf of the Salmon and Steelhead Recovery Coalition (SSRC) we provide the following comments regarding the Forest Management Plan (FMP) for Jackson Demonstration State Forest and the draft Environmental Impact Report (DEIR) regarding the Management Plan. The SSRC is a coalition of fisheries, restoration, and environmental organizations that has worked together since 1996 to promote recovery of salmonid species. The SSRC includes the Pacific Coast Federation of Fisherman's Associations, California Trout, Trout Unlimited, Salmonid Restoration Federation, Northcoast Environmental Center, Humboldt Watershed Council, Environmental Protection Information Center, Coast Action Group, and the Smith River Alliance. We are the alliance that presented the petition on July 28, 2000 to the California Fish and Game Commission (Commission) to list coho salmon north of San Francisco as an endangered species under provisions of the California Endangered Species Act (CESA).

Under CESA, state agencies have a duty to help recover endangered species. Fish and Game Code section 2053 says: "... [S]tate agencies should not approve projects as proposed which would ...result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy."

Section 2055 provides that: "... [I]t is the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall utilize their authority in furtherance of the purposes of this chapter."

Section 2061 says: "'Conserve,' 'conserving,' and 'conservation' mean to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary." ...

To bring a species "to the point at which the measures provided pursuant to this chapter are no longer necessary" refers to the de-listing of a species, in other words, its recovery. We believe that in order to be in compliance with CESA, the FMP for Jackson must make a significant contribution to the recovery of coho in the Central California Coast ESU.

The DEIR has reproduced Goals and Objectives for the FMP. On Page 27, Goal #3 says: "Watershed and Ecological Processes: Promote and maintain the health, sustainability, ecological processes, and biological diversity of the Forest and watersheds during the conduct of all land management activities." Objective 3-2 says: "Maintain and recruit structural elements necessary for properly functioning habitats. In riparian areas, manage for late seral habitats, while allowing flexibility to conduct research on riparian protection zones. Create or naturally develop recovery habitat for listed species." We strongly support these goals and objectives. However, we do not believe the FMP has succeeded in providing for them and the DEIR has not proposed mitigations to achieve them.

Only Public Recovery Habitat in the Region

The JDSF DEIR correctly points out that the US Forest Service has almost no forest in the redwood region and that most of the region is held as private property:

"The Forest Service has a significant land base in all major forest ecosystem types except for coast redwoods. JDSF represents the most significant amount of acreage dedicated to long-term forest research. Results from research on JDSF are the best option to improve forest practices on private lands (85% of coast redwoods is in private ownership--this high percent is also unique when compared to other forest ecosystem types." [sic]

Most of the private forestland near and adjacent to Jackson is not only in private ownership, it is owned by two large timber companies that between them control almost half a million acres in the redwood region of Mendocino County. While the DEIR highlights the lack of public land in relation to the importance of JDSF's demonstration function, it fails to mention that this makes Jackson the only large forest in the area where public trust resources are not competing with private property rights issues or shareholder profits. This is a significant omission. That JDSF's resource base, including its forest stands and fish stocks, are in better shape than those on the neighboring industrial timberland reflects the longer-term view that JDSF has taken and we congratulate you for that. Your intention to continue with a relatively more conservative management approach than industrial timberlands is a plus, but our review of the FMP and DEIR suggest that rather than determining habitat protection based on the needs of listed and unlisted but declining species, that the approach has been to "do a little better" than standard rules. Considering that the standard rules are so poor, we do not believe this is an adequate approach for a public agency to take in relation to public land.

NMFS Guidelines

It is not only our opinion that the standard rules are not adequate to prevent harm to listed salmonids, which is in itself a much less protective standard than contributing to recovery. On June 21, 2000, the late Joseph Blum, then the Liaison to the State of California for the Southwest Region of the National Marine Fisheries Service (NMFS) executed a Declaration in support of Environmental Protection Information Center, et al, [plaintiffs] versus Andrea Tuttle et al, [Defendants]. According to the Declaration, Blum is “involved in issues pertaining to salmonid species protected under the ESA and the California Forest Practice Rules.” Blum’s Declaration says:

“4. NMFS recently reviewed the California Forest Practice Rules during its reconsideration and reversal of its 1998 decision that the Northern California ESU of steelhead did not warrant listing under the ESA. (65 FR 36,074 - Northern California ESU of steelhead listed as threatened on June 7, 2000.) NMFS' review included the Board of Forestry's interim revisions to the California Forest Practice Rules which become effective July 1, 2000 (and are due to expire on December 31, 2000). NMFS concluded that the California Forest Practice Rules with the recently adopted interim changes are inadequate to protect anadromous salmonids or provide for properly functioning habitat conditions. (65 FR 36,074, 36,084-36,085.) Specifically, the California Forest Practice Rules with the interim changes lack critical elements necessary to avoid, minimize and/or mitigate adverse site-specific and cumulative watershed impacts on salmonid populations.”

After discussing that NMFS was able to review less than 1% of the hundreds of Timber Harvest Plans, Blum’s Declaration continues:

“6. NMFS is aware of examples where timber harvest plans which were approved by CDF as in compliance with the California Forest Practice Rules have likely resulted in the take of listed salmonids or adverse modification of their critical habitat. 99% of the timber harvest plans submitted to the CDF are never reviewed by NMFS. Considering the fact that every timber harvest plan NMFS has reviewed would likely have resulted in the take of listed salmonids or adverse modification of critical habitat without NMFS' suggested modifications, it is likely that many of the remaining 99% which NMFS has not reviewed may result in take or adverse modification of critical habitat.

“7. In my official capacity as NMFS representative, I have testified before the Board of Forestry and/or it's Interim Committee, on no less than 10 occasions and explained that the California Forest Practice Rules are inadequate to protect and conserve salmonids. I have explained that timber activities under timber harvest plans approved under the California Forest Practice Rules are resulting in the destruction of salmonid habitat and are harming listed salmonids. I have presented the Board of Forestry with guidelines for forestry that, if followed, would reduce the likelihood of harming

salmonids and I have provided the Board of Forestry and CDF with approximately 100 scientific citations documenting risks to salmonids associated with timber harvest and related activities. Numerous times, before the Board of Forestry's Interim Committee and before the Board of Forestry itself, I have recommended that the Board of Forestry adopt the NMFS' Short-Term HCP Guidelines as interim rules while the Board of Forestry promulgates permanent rules that incorporate adequate salmonid protection. Further, in my official capacity, I have explained to the Board of Forestry and officials at CDF on numerous occasions that the state may be liable under the ESA for promulgating a regulatory scheme which they are fully aware results in take of listed salmonids and adverse modification of critical habitat. The only action the Board of Forestry has taken to address these issues is the adoption of the inadequate interim changes to the California Forest Practice Rules.

“Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the following information is true and correct.

Executed this 21st day of June, 2000. in Sacramento, California.

[signed by:]

Joseph Blum”

It should be noted that the Interim [Threatened and Impaired Watershed] Rules referred to in the Declaration have been re-authorized by the Board of Forestry (BOF) on a year to year basis and are currently in effect.

It is in the context of the overwhelming extent of industrial timber holdings in the region combined with existing inadequate logging rules that we believe the managers at Jackson need to do much more than “a little bit better” than standard rules.

The DEIR fails to clearly state that timber operations adjacent to and near JDSF have caused significant adverse effects to listed species not only historically, but in recent years and until the present time. The DEIR has also failed to correctly identify that implementation of the FMP will combine with past and ongoing impacts on industrial forestlands to create a cumulative negative impact on listed species including, but not limited to, listed salmonids.

Throughout the FMP and DEIR, language asserts that the riparian zones will be managed to achieve late succession forest conditions. This is a laudable goal. However, the 240 square foot conifer basal area leave standard is not adequate to guarantee a trend toward late succession conditions. Some good sized trees close to the watercourse could fulfill the basal area requirement, leaving the outer part of the already-too-narrow riparian zone dependent on the 70% canopy cover standard. As written, that canopy need not consist of conifers. Without designation of conifers and hardwoods that will be allowed to grow old, die, and decompose as they would in a natural forest, and without specific requirements for conifer distribution and dense understory retention, it is highly unlikely that the riparian area will develop the complex condition that is characteristic of late succession forest.

The size of the riparian zones will also prevent development of late succession conditions. First, the size of the Class II Watercourse and Lake Protection Zones (WLPZs) can vary between 50 and 100 feet and there is no information about the conditions that will trigger these varying numbers. Establishing a dark, moist, and cool zone in a 100-foot strip is not feasible. In a 50-foot strip, roughly the length of a small house trailer, achieving these conditions is even more improbable.

As the NMFS Declaration makes clear, they have provided specific guidance supported by numerous scientific references. These were presented to the Board of Forestry on December 3, 1999. They recommend the following Aquatic Protection and Management Zones (emphasis added):

For *both* Class I and Class II waters:

“The outer APZ boundary will be delineated and marked on the ground equal to one site-potential tree height, 180 feet, 50 feet beyond the break in slope at the top of the inner gorge, 50 feet beyond the upper extent of any unstable area that extends down to within 180 feet of a Class I or II water or 50 feet beyond the break in slope for all slopes 50% or greater adjacent to the APZ, whichever of these distances is *greater*....

“All distances are measured horizontally from the edge of the channel migration zone (CMZ), if one exists, or from the outer edge of the bankfull channel on each side of the waters.

“Timber operations or other management activities *will not be conducted*, except road-related activities, as described below, within this APZ and within the adjacent bankfull channel. The following restrictions apply within APZs [partial list]:

- “Equipment exclusion zone (EEZ)
- “No salvage....
- “No burning or mechanical site preparation
- “If ground-based yarding will be used on slopes greater than 50% adjacent to the APZ, or if roads are within 100 feet of an APZ, the EEZ will be increased by 100 feet, measured horizontally from the outer edge of the APZ.”

The FMP and DEIR virtually ignore Class III watercourses even though these have been repeatedly shown to be very significant sources of sediment into Class I and II watercourses. The NMFS guidance document makes the following specific recommendations:

For Class III waters:

“The outer AMZ boundary will be delineated and marked on the ground equal to 100 feet, up to the break in slope for slopes that exceed 50%, or 50 feet beyond the upper extent of any unstable area that extends down to within 100 feet of a Class III water, whichever of these three distances is *greater*....

“This AMZ may be partially entered for timber management purposes.

“Within all Class III water AMZs, the first 30 feet closest to the channel, or 50 feet beyond the upper extent of any unstable area that extends down to within 30 feet of a Class III water, whichever distance is greater, will be delineated and marked on the ground. Timber harvest or other management activities will not be conducted except road-related activities as described, within this inner buffer.

“Between the inner 30 feet buffer closest to the channel and the outer AMZ boundary, the following management restrictions apply:

- “The conifer basal area will not be reduced to less than 50% of the potential of a fully stocked stand.... No harvest within the AMZ will occur except concurrent with commercial thinning or single tree selection in adjacent stands and under the same timber harvest plan, immediately after which, at least 100 square feet basal area per acre will be retained in these adjacent stands.
- “Equipment exclusion zone (EEZ).
- “No Salvage....
- “No burning or mechanical site preparation....
- “If ground-based yarding will be used on slopes greater than 50% adjacent to the AMZ, or if roads are within 100 feet of an AMZ, the EEZ will be increased by 100 feet....”

In other words, the NMFS recommends protection measures for Class III watercourses that are more protective than what the FMP and DEIR propose for Class II. The NMFS document provides guidance on additional subjects as well.

It cannot be emphasized enough that the NMFS standards were developed specifically *for application on private land* as regulated by the California Board of Forestry, although they would apply at Jackson if they were in place as state regulations. Presumably, public land should be treated *more protectively*.

A riparian strategy that was conceived with public lands in mind is published as the Aquatic Conservation Strategy of the *Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl*, adopted in April 1994 by the US Forest Service, and the Bureau of Land Management and their parent agencies. This strategy is generally more protective than the NMFS guidance document. The latter was designed only in relation to the needs of listed salmonids. The US Forest Service standard was designed as a multi-species approach for managed timberland. Its recommendations apply to the same eco-region as Jackson and are the most appropriate, comprehensive, and well-researched guidance document of its kind.

Without going into these standards at great length, we will nevertheless point out that for Class I streams, the riparian management zone is recommended to be at least two site potential trees heights in width, with management limited to advancement of late succession conditions. As much of the Western, Northern, and Southern Watershed Assessment Areas within JDSF are Site II, according to the California Forestry Handbook, each site potential tree height would be approximately 180 feet. Therefore the riparian management zone for Class I streams would be a minimum of 360 feet on each side of the stream under this US Forest Service standard.

Why should we do less at Jackson?

Based on the well-researched recommendations of the NMFS, the US Forest Service, and the Bureau of Land Management and their parent agencies, we believe that the FMP would, at a minimum, cause significant adverse impacts to water temperature, sedimentation, large woody debris recruitment to Class II and Class III streams, channel geomorphology, and riparian habitat. Additionally, based on the above-referenced federal recommendations, we believe that the FMP is highly likely to reduce the number or restrict the range of coho salmon, a listed species. The DEIR has incorrectly identified the implementation of the FMP regarding all of the above to be “less than significant” or “less than significant with mitigation.” We disagree.

We support implementation of the US Forest Service Aquatic Conservation Strategy as articulated in the *Standards and Guidelines*, referred to previously, as the best means for JDSF to comply with its mandate under CESA to make a significant contribution to the recovery of coho salmon.

Additional Concerns

There are additional flaws in the FMP and DEIR, including missing or incomplete information and failure to identify significant adverse impacts. We will touch on only a few of them, and briefly.

It is impossible to determine from the information provided, how much late succession forest currently exists at Jackson, where it is located, and how much of that forest is likely to be eliminated by the proposed timber management plan. The DEIR maps do not include a category that is a reasonable surrogate for late succession forest. Eighty to 100 years is often cited as the absolute minimum age of maturity for redwood, with individual trees that can and do survive for 2000 years. Given the emphasis that the FMP claims to place on late succession forest, these omissions are significant.

A comparison of the FMP Figure 8 “Forest Vegetation” map with the Figure 6 “Five Year Timber Harvest Projection Estimate” map leads us to conclude that much of the existing older second growth forest, that which is most likely to mature into late succession forest soonest, is designated to be logged. This is not discussed in the DEIR and is a significant omission. If our conclusion is correct, given the lack of mature forests in the Mendocino County region, eliminating more than a very small number of the oldest second growth trees at Jackson would be a significant adverse impact both in and of itself and in combination with past and reasonably foreseeable Timber Harvest Plans (THPs) on adjacent and nearby industrial timberland. THPs, state permits to log, are recognized as projects under the California Environmental Quality Act.

The old growth retention policy seems to indicate that some old growth trees will be cut if they are inconvenient for planned timber operations. Old growth trees are a non-renewable resource and their elimination for the sake of convenience is a significant adverse impact that is not identified as such in the DEIR. We recognize that occasionally a particular tree is such a hazard to human life as to potentially require removal. In the rare instance where this would be true, we recommend determining whether topping the tree to create a snag would eliminate the hazard instead. Only as a last resort should an old growth tree be removed. Every old growth tree should be granted a buffer from timber operations that might damage it, or better yet, aggregated with others nearby into a late succession development area.

Road rehabilitation is another concern. The preferred alternative appears to take a rather slow approach to fixing the many miles of admittedly substandard roads at Jackson. The Board should make sure that adequate funding is directed to maintenance of Jackson's resources, particularly road rehabilitation.

It would have been helpful if the DEIR was explicit about staffing at Jackson. The DEIR makes many promises about how the forest is to be managed, but there is no way to assess whether staffing at Jackson is adequate to implement the plan. For instance, it is our understanding that Jackson does not have a staff biologist. If this is still true, we believe it is highly likely that the goals and objectives of the FMP will not be properly implemented. Staffing needs should be discussed in the DEIR.

Conclusion

It is in the nature of reviewing a Draft Environmental Impact Report to focus on the negative. In spite of our remarks here, we wish to again recognize the managers of Jackson Demonstration State Forest for the effort that has been expended on putting together the new Forest Management Plan. It is clear that a lot of thought has gone into important aspects of the plan. The Board now has the opportunity to augment the draft EIR so mitigations are adopted that address the concerns raised by so many segments of the public. In conclusion, we urge the Board to continue your efforts by increasing your focus on demonstrating forest management that promotes the survival and recovery of species that depend on older forests, including salmonid species.

Sincerely,

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