



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105**

2/11/2010

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Yreka, CA 96097

Subject: Draft Environmental Impact Statement for Authorization for Incidental Take and Implementation of Fruit Growers Supply Company's Multi-Species Habitat Conservation Plan (CEQ # 20090384)

Dear Ms. Roberts and Ms. Jones:

We appreciate the opportunity to review the subject Draft Environmental Impact Statement (DEIS) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA acknowledges the importance of protecting endangered species in the plan area and the difficulty of balancing species protection with the continued operation of commercial timberlands. We are pleased the Multiple Species Habitat Conservation Plan (MSHCP) includes protection for the Yreka phlox, which is not required by statute. We encourage the Services to involve the North Coast Regional Water Quality Control Board in preparation of the Final Environmental Impact Statement, because of its regulatory role in timber harvest. Additionally, we suggest the FEIS require road decommissioning and maintenance, which are sediment controlling activities, to be pursued concurrent with, if not in advance of, timber harvest and other sediment loading activities.

We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "*Summary of Rating Definitions*"). We have enclosed our detailed concerns about the DEIS, which pertain to water resources, watershed indicators, timing of road decommissioning and maintenance, response to flooding, financially sustainable forest management, air quality, and climate change.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one (1) hard copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Tom Kelly, the lead reviewer for this project. Tom can be reached at (415) 972-3852 or [kelly.thomasp@epa.gov](mailto:kelly.thomasp@epa.gov).

Sincerely,

/s/

Kathleen M. Goforth, Manager  
Environmental Review Office  
Communities and Ecosystems Division

Enclosed: EPA Detailed Comments  
EPA Ratings Summary

cc: Margaret Robinson, North Coast Regional Water Quality Control Board

**EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR AUTHORIZATION FOR INCIDENTAL TAKE AND IMPLEMENTATION OF FRUIT GROWERS SUPPLY COMPANY'S MULTI-SPECIES HABITAT CONSERVATION PLAN, SISKIYOU COUNTRY, CALIFORNIA, FEBRUARY, 2010**

## **Water Resources**

### *Modeling of Sediment Impacts*

The DEIS provides only a general indication of sediment impacts. For example, the DEIS describes the impact of the Proposed Action, on page 4-15, by stating, "it is anticipated that sediment delivery due to the applicant's activities under the Proposed Action would be reduced over time compared to the No Action Alternative." EPA cannot evaluate the accuracy of that statement without more detailed soil maps and clearly mapped locations of timber harvest and roads. A significant reduction in sediment delivery is necessary to protect the Scott River, which is listed by EPA and the California State Water Resources Control Board for sediment impairment.

The North Coast Regional Water Quality Control Board (RWQCB) has stated<sup>1</sup>, that "current sediment delivery (for the Scott River) is 167% of natural sediment delivery." Additionally, RWQCB and EPA have set a Total Maximum Daily Load (TMDL) for sediment into the Scott River, and its tributaries, of 125% of natural delivery, or 560 tons of sediment per square mile per year. This limit was set specifically for the protection of salmonid habitat. Therefore, the FEIS should provide modeling results capable of demonstrating full compliance with the TMDL allocation. If necessary, the FEIS should include additional mitigation measures to ensure compliance with the TMDL.

The RWQCB has also proposed to list Beaver Creek as impaired for sediment. So, similar precautions should be taken for Beaver Creek and its tributaries. Although the impairment status of Scott River is noted, the DEIS does not discuss the proposed impairment listing for Beaver Creek.

**Recommendation:** The FEIS should quantitatively model the impacts of the project alternatives on sediment delivery for compliance with the TMDL allocation of 560 tons of sediment per square mile per year.

### *Stream and River Classes*

The DEIS provides a waterbody protection system based on Class I (fish bearing), Class II (aquatic habitat), and Class III (no aquatic life present). This system is inconsistent

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<sup>1</sup> Staff Report for the Action Plan for the Scott River Watershed Sediment and Temperature Total Maximum Daily Loads, December 7, 2005  
([http://www.swrcb.ca.gov/northcoast/water\\_issues/programs/tmdls/scott\\_river/092005/sr/01titlepageandtableofcontents.pdf](http://www.swrcb.ca.gov/northcoast/water_issues/programs/tmdls/scott_river/092005/sr/01titlepageandtableofcontents.pdf))

with an approach to reduce sediment and temperature in impaired waterbodies. The FEIS should consider impaired waterbodies and their tributaries as Class I waters, or provide an alternative procedure adequate to ensure protection of the impaired streams.

### *Mass Wasting*

Although the DEIS identifies potential hazards related to mass wasting, insufficient information is provided to either qualitatively or quantitatively determine the scale of this hazard to water quality, protected species, or other sensitive resources.

**Recommendation:** The FEIS should contain a comprehensive analysis of the location of terrain with a moderate to high risk of mass wasting as it relates to the location of existing and planned roads and potential timber harvest locations. This analysis should describe the impact of the project on the potential for mass wasting.

### *Indicators of Watershed Condition*

Although EPA has recommended numerical modeling of sediment delivery, road density and road crossings are valuable secondary indicators of watershed condition. However, the discussions on road density (Section 3.1.2) and stream crossings (3.3.3.3) are incomplete because they do not provide an analysis nor draw conclusions from the data.

NOAA guidance<sup>2</sup> on water quality indicators lists “>3 mi/mi<sup>2</sup>, many valley bottom roads” as an indicator of a watershed that is not properly functioning. Similarly, a Forest Service evaluation<sup>3</sup>, considered a road density greater than three miles per square mile as high. The road densities in the Scott Valley exceed the 3.0 miles per square mile in 11 of 13 drainages. Six of these drainages are more than double the 3.0 miles per square mile. For instance, the road density in Beaver Creek, on applicant lands is 6.8 miles per square mile. Based on such high road densities, EPA suggests the FEIS consider additional mitigation measures to reduce erosion from roads. The DEIS notes on page 2-20, “where the applicant’s road-related activities have the highest potential for adverse effects on the aquatic Covered Species (Class A lands) would be prioritized for inventory and treatment within the first 10 years after issuance of the NMFS ITP.” EPA seeks clarification that the road related activities include decommissioning, and suggests that decommissioning and maintenance proceed at a pace to minimize the impacts of timber harvest.

The NOAA guidance, Forest Service evaluation, and numerous Forest Service Motorized Travel Management Plans consider the effects of roads on watershed health. In these documents, a variety of additional factors beyond road density are considered, such as road stream crossings, estimated potential of rain-on-snow and thunderstorm events,

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<sup>2</sup> Memo from William Stelle Jr. NWR Director to NMFS/NWR Staff, dated September 4, 1996 ([http://www.nwr.noaa.gov/Publications/Reference-Documents/upload/matrix\\_1996.pdf](http://www.nwr.noaa.gov/Publications/Reference-Documents/upload/matrix_1996.pdf))

<sup>3</sup> Herger-Feinstein Quincy Library Group Forest Recovery Act FEIS, Appendix N

vegetative recovery potential, land use disturbance, refugia and more. EPA suggests the FEIS evaluate these secondary indicators for a better analysis of watershed condition.

**Recommendation:** The FEIS should draw conclusions about the impact of Fruit Growers Supply Company (FGS) roads on watershed health. Based on the high road density on FGS land, the FEIS should consider additional measures to reduce sediment loading; particularly where RWQCB and EPA have already listed a stream impaired for sediment toxicity, or are in the process of doing so. The FEIS should also draw conclusions about watershed condition based on stream crossings, and consider additional indicators of watershed health, such as estimated potential of rain-on-snow and thunderstorm events, vegetative recovery potential, land use disturbance, and refugia.

#### *Road Redundancy*

Roads are one of the primary sources of sediment in forested areas, but the DEIS does not include a road map. The FEIS should include a road map and an evaluation of the potential to eliminate (and decommission) unnecessary roads. As implied on page 2-4, the current road inventory may not be complete, but the FEIS can provide the best available information and a brief discussion of uncertainties about the road network.

#### *Secondary Effects of Pollutants*

The FEIS should consider secondary effects of water pollutants. Although the Scott River is currently listed as impaired for sediment toxicity, sediment may also introduce nutrients and affect water temperature for which other rivers in the Klamath basin are listed (nutrients and temperature for the Klamath River and temperature for the Shasta River). The secondary effects of road crossings on streams also increase stream temperature.

#### **Timing of Road Decommissioning and Maintenance**

The MSHCP states, “[i]n general, FGS will finance the HCP with revenues from its ongoing operations. Accordingly, as harvesting is planned and carried out, it will provide funds needed to carry out the HCP’s measures to mitigate the impacts of the take.” Road maintenance and decommissioning should not be slowed or halted for lack of current operating funds. Companies frequently make up front investments in order to earn a profit later.

Appendix B contains a section on roads assessment, MSHCP page B-4, with procedures for identifying barriers to fish passage. This section contains no timetable beyond the ten year period to address Class I road maintenance.

**Recommendation:** The FEIS should require road decommissioning and maintenance, which are sediment controlling activities, to be pursued concurrent with, if not in advance of, timber harvest and other sediment loading activities. The FEIS should also include a specific timetable for removing barriers to fish passage.

### **RWQCB Waste Discharge Requirements for Timber Harvest**

In addition to approval from the California Department of Forestry and Fire Management, FGS will need Waste Discharge Requirements from the RWQCB for each timber harvest plan. The RWQCB is likely to require more robust sediment modeling and mitigation than is contained in the DEIS. In some cases, the RWQCB has used an MSHCP as a programmatic document from which to tier their Waste Discharge Requirements.

**Recommendation:** The FEIS should acknowledge the requirement to obtain Waste Discharge Requirements from the RWQCB prior to timber harvest. Additionally, NMFS should work with the RWQCB to incorporate into the FEIS and Record of Decision, measures necessary to receive Waste Discharge Requirements.

### **Response to Flooding**

The DEIS states that a “flood of such magnitude (greater than a 100-year recurrence interval) . . . is not reasonably foreseeable during the life of the Plan, and would be considered an “unforeseen circumstance.” The probability of a 100-year flood over fifty years is 50%, which is not unforeseen. Additionally, California specific climate change reports<sup>4</sup> have noted, “[w]hile some climate models predict an overall drying of California’s climate, at the same time there are also continued risks from intense rainfall events that can generate more frequent and/or more extensive runoff and flooding.”

**Recommendation:** The FEIS should recognize the 100-year flood as a reasonably foreseeable circumstance. Additionally, the FEIS should include a response plan for an exceedance of the 100-year flood.

### **Financially Sustainable Forest Management**

The MSHCP states, on page 9-12, “[a]dditional investment or even more restrictive measures would provide only a marginal increase in the level of protection and could compromise FGS’s ability to sustainably manage the forest stands on its ownership.

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<sup>4</sup> For Example: 2009 Climate Change Adaptation Strategy, California Natural Resources Agency (<http://www.energy.ca.gov/2009publications/CNRA-1000-2009-027/CNRA-1000-2009-027-F.PDF>)

Thus the Aquatic Species Conservation Program represents the maximum extent practicable for FGS to implement on its ownership.” A similar statement is contained in Section 9.2.2., Terrestrial Species Conservation Program (Northern Spotted Owl) on pages 9-15 and 9-16, although it clarifies that “restricting volume currently scheduled for harvest, FGS would be forced to harvest elsewhere. . . disrupt the planned harvest schedule . . . [and] reduce sustainable harvest level by reducing the size-class of the harvested stands.”

The MSHCP and DEIS may present all mitigation (or restrictive) measures that, in the Service’s opinion, provide more than a marginal increase in the level of protection; however, these documents have presented no information on FGS’s ability to sustainably manage the forest stands on its ownership. Such information would include the costs associated with timber harvest, required mitigation, and other activities associated with forest management. While the DEIS discusses financial targets for timber harvest (e.g. page 2-18) no justification of the targets is provided. Without making this additional information available, the FEIS should not contend that additional (reasonable) mitigation will compromise FGS ability to sustainably manage the forest stands on its ownership.

**Recommendation:** FGS’s ability to sustainably manage forest stands on its ownership should not be a basis for avoiding reasonable mitigation, unless the FEIS includes adequate supporting financial information.

## **Air Quality**

The DEIS mentions serpentine soils in the project area, which are favored by the Yreka phlox. Since serpentinite contains asbestos in many areas of California, the DEIS should clarify whether serpentinite in the project area contains asbestos. If so, FGS should be aware that airborne dust from earth moving activities, logging and vehicle travel in serpentine soils may pose a health risk for workers or others in the immediate vicinity. This risk, and measures to reduce it, should be disclosed in the FEIS.

## **Climate Change**

Although the DEIS considers the impact of the project on climate change, it does not consider the impact of climate change on the project. A number of studies specific to California have indicated the potential for significant environmental impacts as a result of changing temperatures and precipitation<sup>5</sup>, e.g., “[w]arming may promote [forest] growth, while drier conditions or earlier snowmelt may reduce growth and harvest potential.” Climate change effects and the need to adapt to climate change are emerging issues that should be considered in this action. A change in the timing and quantity of precipitation may also increase the vulnerability of native surface roads to erosion.

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<sup>5</sup> The Impact of Climate Change on California Timberlands, A Paper from: California Climate Change Center (<http://www.energy.ca.gov/2009publications/CEC-500-2009-045/CEC-500-2009-045-F.PDF>)