



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
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San Francisco, CA 94105

7/26/99

David Peters, Project Manager  
USDA Forest Service  
Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project  
P.O. Box 11500  
Quincy, CA 95971

Dear Mr. Peters:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project** (Quincy Pilot). Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA previously provided scoping comments on this project in a letter dated January 19, 1999.

The Herger-Feinstein Quincy Library Group Forest Recovery Act (the Act) was approved as a rider to the Department of the Interior and Related Agencies Appropriations Act on October 21, 1998. The Quincy Pilot project is designed to demonstrate the effectiveness of specific resource management activities including a strategic system of fuelbreaks (Defensible Fuel Profile Zones or DFPZs), small group and individual tree selection, and a riparian restoration plan. The Act directs the Forest Service to conduct the pilot project on Federal Lands within the Lassen and Plumas National Forests and the Sierraville District of the Tahoe National Forest.

The Forest Service has, at the draft stage, identified two preferred alternatives for implementing the pilot, Alternatives 2 and 4. Alternative 2 is based on the resource management activities, treatment (i.e. timber harvest) acreage, and land allocations described in the Act and its legislative history. Alternative 4 is also based on the goals and strategies described in the Act and its legislative history, though it proposed lower treatment acreages than Alternative 2, provides additional acreage of late successional forest, emphasizes area fuel treatments, and reduces impact on suitable habitat of the California spotted owl and Pacific fisher, both Forest Service sensitive species. The DEIS also analyzes an alternative based on Alternative 2 with a greater emphasis on area fuels treatments (Alternative 3); and a conservation alternative (Alternative 5) which further reduces treatment

levels, focuses fuels reduction activities on the urban-wildlands interface, protects additional old forest and roadless areas, and implements the riparian conservation strategy outlined in the Sierra Nevada Ecosystem Project (SNEP) report.

Based on our review, EPA has rated the Quincy Pilot DEIS **EO-2 (Environmental Objections--Insufficient Information)**. EPA's rating reflects our independent analysis of potential project impacts and the adequacy of the NEPA documentation prepared for the project, with a particular focus on the two preferred alternatives identified by the Forest Service. Please see the enclosed document entitled A Summary of EPA Rating Definitions@ for a complete description of our rating categories. With respect to the environmental impacts of the project, EPA's objections are based on potential water quality impacts related to road construction; the adequacy of old forest protection in Alternative 2; potential threats to species viability for California spotted owl and Pacific fisher stemming from management activities within suitable habitat; increased habitat fragmentation; and the potential for noxious weed proliferation. With respect to the adequacy of the NEPA documentation, EPA has identified serious issues related to project purpose and need, coordination with the ongoing Sierra Nevada Framework process, and the fixed deadline for completion of the Record of Decision (ROD). Our detailed comments on the DEIS are enclosed.

EPA is extremely concerned that the August 17, 1999 decision deadline mandated by the Act will not allow sufficient time for the Forest Service to adequately respond to comments from agencies and the public, resolve the issues which form the basis for our rating, prepare revised environmental documentation as necessary, and review the administrative record in advance of making a decision. Ideally, the legislatively mandated ROD deadline will be extended so that the Quincy Pilot can be coordinated with the Sierra Nevada Forest Plan Amendment, which has yet to be completed. As outlined in our detailed comments, we believe it is critical for the Quincy Pilot to incorporate key elements of the Sierra Nevada Forest Plan Amendment concerning old forest protection, old forest dependent species, aquatic and riparian protections, and noxious weeds.

Although we object to implementation of the project as currently described and analyzed in the DEIS, we believe that the Apilot@ concept has merit and should be further explored in the context of the Sierra Nevada Forest Plan Amendment and the Sierra Nevada Framework. Once a decision has been made on a range-wide management strategy for the Sierra covering old forest, aquatic/riparian, fire and fuels, and noxious weeds issues, the Forest Service will have an opportunity to identify appropriately-scaled pilots to test alternative management strategies. Such pilots could potentially include the fuels treatment and timber harvest strategies outlined in the Quincy Pilot DEIS.

EPA appreciates the opportunity to review this DEIS, and looks forward to working with the Forest Service to resolve the issues identified in this letter. Leonidas Payne of the Federal Activities Office will contact you in the near future to set up a meeting for this purpose. Meanwhile, should you have any questions, please contact me at (415) 744-1566 or Mr. Payne at (415) 744-1571.

Sincerely,

Deanna Wieman, Deputy Director  
Cross Media Division

Summary of EPA Rating Definitions  
Detailed comments  
Senator Dianne Feinstein  
Senator Barbara Boxer  
Congressman Wally Herger  
Mike Dombeck, Chief, USDA Forest Service  
Bradley Powell, Acting Regional Forester

project # MI-3287

## Detailed Comments

### Purpose and Need/Alternatives

40 CFR 1502.13 states that EISs shall briefly specify the underlying purpose and need to which the agency is responding in producing the alternatives including the proposed action. In our scoping comments, we stated that passage of legislation to implement and fund the Quincy Pilot does not, in and of itself, establish a purpose and need for the project. Identifying project purpose and need is an independent NEPA requirement that must be satisfied by the lead agency. In our scoping comments, EPA recommended that the FS issue a revised Notice of Intent (NOI) for the Quincy Pilot which clearly articulates a purpose and need for the project, but this recommendation was not followed.

In our view, the purpose and need statement provided in the DEIS fails to specify the underlying purpose and need for the action. By casting the purpose and need primarily in terms of implementing the legislation, the Forest Service has failed in its obligation to accurately portray the issues (such as fire risk, community stability, etc.) which the project is designed to address. Drafting the purpose and need statement in this fashion effectively prevents agencies and the public from commenting on the reasonableness of the legislation itself, and has the potential to prompt a decision which is little more than a self-fulfilling prophecy. This runs contrary to the purpose and intent of NEPA. Accordingly, we recommend that the FEIS include a revised purpose and need statement.

To the Forest Service's credit, the alternatives developed do not appear to be constrained by a narrow interpretation of the Act and its requirements. The Forest Service has included three additional action alternatives in the DEIS, two of which (Alternatives 4 and 5) depart dramatically from the harvest levels anticipated in the Act. In recognition of the lack of information regarding viability of old forest dependent species, the Forest Service has identified an additional preferred alternative, Alternative 4. We view this as a signal that the Forest Service shares our concerns with the scope of management activities required under the Act.

### Coordination with the Sierra Nevada Forest Plan Amendment

In our scoping comments, we identified the importance of conducting the NEPA processes for the Quincy Pilot and the Sierra Forest Plan Amendment project on parallel tracks, with coordinated decision dates and appeal periods. The likelihood that a decision on the Quincy Pilot will take place prior to the release of the Sierra Nevada Forest Plan Amendment DEIS presents particular problems to reviewing agencies and the public. There is a broad consensus among interested stakeholders that the current Forest Plans (including the CASPO amendment) are out of date, and must be

updated to incorporate the findings of the Sierra Nevada Ecosystem Project (SNEP), yet both preferred alternatives rely heavily on CASPO prescriptions and riparian protection guidelines developed for the Northwest Forest Plan area to achieve environmental protection, rather than the strategies outlined in SNEP. This raises a serious issue as to whether the preferred alternatives identified by the Forest Service are consistent with the best available science.

We also continue to recommend that the Quincy Pilot EIS include a brief description of the alternatives developed for the Sierra Nevada Forest Plan Amendment EIS. This information is necessary so that the public can compare the environmental protection strategies described in the Act with the protections proposed for the entire range, including potential land allocations designed to protect specific resources. As it stands, agencies and the public lack an appropriate context within which to assess the potential environmental impacts of the Quincy Pilot. Until the Forest Service identifies its preferred alternative for the Sierra Nevada Forest Plan Amendment, it is impossible to know whether the Quincy Pilot is consistent with emerging Forest Service land management policies for the Sierra, or should be considered environmentally retrograde. Based on our Agency's involvement in the Sierra Nevada Framework thus far, we believe the latter to be the case.

EPA believes it is critical that the old forest and riparian protections being discussed in the context of the Sierra Nevada Forest Plan Amendment EIS be integrated into all pilot projects envisioned in the Sierra, including the Quincy Pilot. At a minimum, we recommend that the Quincy Pilot decision incorporate the map-based emphasis areas and standard and guidelines discussed in Sierra Nevada Forest Plan Amendment Alternative 6, and the variable width riparian buffer areas described in SNEP and Sierra Nevada Forest Plan Amendment Alternatives 2, 4, and 5.<sup>1</sup> In addition, we recommend that implementation of the pilot be deferred in all areas identified as Areas of Late Successional Emphasis (ALSEs) in SNEP. Incorporating these additional protections into the Quincy Pilot will help ensure that the pilot is consistent with the emerging management framework for the Sierra and the findings of SNEP.

#### Road Management/Water Quality

EPA objects to the level of proposed road construction in both preferred alternatives. The road mileage proposed in the DEIS represents a significant increase in new road construction in the Pacific Southwest Region. New roads will increase road densities and road-related erosion in an area which already has many watersheds at or near the threshold of concern for cumulative watershed effects.

Rather than comparing the proposed DFPZ network and proposed treatment areas to the existing road network, the DEIS calculates road construction

using a simple mathematical equation based on treatment acres. We believe this methodology fails to yield an accurate picture of potential road construction scenarios for the various alternatives, and may understate or overstate the potential need for new road construction, depending on the alternative. Table 3.6 at Page 3-23 must be modified to reflect a more detailed analysis of the interplay between fire treatments, timber harvest, and road construction. Any new information developed through this evaluation should be integrated into the analysis of water quality issues in the DEIS.

The Forest Service must also consider whether construction of DFPZs is feasible in light of its commitments to meet the targets for road decommissioning as outlined in Action Item #20 of the Clean Water Action Plan (CWAP).<sup>2</sup> Actions taken to meet the CWAP targets will establish a baseline amount of road decommissioning<sup>3</sup> for all of the alternatives, including no action. This baseline level of road decommissioning would not count toward mitigation of impacts from project-related road construction. It is unclear at this point whether the Forest Service's projections for road relocation and decommissioning are tied to CWAP or were intended to specifically mitigate environmental impacts associated with the road construction anticipated in the various alternatives. EPA encourages the Forest Service to meet with key stakeholders, including EPA, to develop an appropriate mitigation strategy once it has completed the analysis work described in the preceding paragraph.

### Riparian Buffers

Both of the preferred alternatives identified for the Quincy Pilot propose to adopt a riparian buffer strategy based on the Scientific Analysis Team (SAT) guidelines developed for the Northwest Forest Plan. Alternative 5 is the only alternative which proposes to adopt the riparian buffer strategy described in SNEP.

The Forest Service is currently evaluating both riparian buffer strategies in conjunction with the Aquatic Conservation Strategy proposed as part of Sierra Nevada Forest Plan Amendment. This issue has generated a great deal of scientific discussion, and is currently unresolved.<sup>4</sup> EPA believes it is critical for the Aquatic Conservation Strategy to be applied consistently throughout the Sierra Nevada. Accordingly, we recommend that the Record of Decision for the Quincy Pilot include language stating that the Aquatic Conservation Strategy that is approved in the Sierra Nevada Forest Plan Amendment ROD will apply to the Quincy Pilot area during the pilot period.

### Species Viability

The DEIS acknowledges at Chapter 3-Page 120 that an analysis of the alternatives raises concerns regarding the long-term viability of the California spotted owl and Pacific fisher, and that the Forest Service does not have sufficient information to make a conclusive determination as to the impacts of

such habitat modification on each species as a whole.@ Potential impacts to suitable habitat of the California spotted owl and Pacific fisher are cited as primary reasons for identifying Alternative 4 as a preferred alternative in addition to Alternative 2.

Information regarding species viability is a critical information gap in the DEIS, and raises a fundamental issue of whether the Quincy Pilot is consistent with applicable law.<sup>5</sup> EPA objects to both preferred alternatives on this basis. Under the circumstances, we believe a conservative approach emphasizing protection of these species and their habitat is warranted. We encourage the Forest Service to incorporate all relevant recommendations of the Fish and Wildlife Service relevant to this issue.

#### Old Forest Protection/Old Forest Dependent Species/Habitat Fragmentation

Alternatives 2 and 4 propose different levels of old forest protection. EPA believes that the level of old forest protection proposed in Alternative 2 is insufficient, and supports full protection for Areas of Late Successional Emphasis (ALSE) as proposed in Alternative 4. EPA is also concerned about increased habitat fragmentation resulting from construction of DFPZs and other fuels treatment actions described in the DEIS which could result in detrimental impacts to Forest Service sensitive species such as the California spotted owl, Pacific fisher, and American marten. Construction of the DFPZ network, in particular, may conflict with the strategy to protect old forest dependent species currently being developed as part of the Sierra Nevada Forest Plan Amendment. EPA has learned that the Forest Service intends to modify Alternatives 3 and 4 to address this issue, but we have not had an opportunity to review the revised alternatives. To ensure protection of suitable habitat and habitat connectivity, EPA recommends that the Quincy Pilot Record of Decision include language which states that all land allocations and other protections designed to protect old forest and old forest dependent species which are approved as part of the Sierra Nevada Forest Plan Amendment will apply to the Quincy Pilot area during the pilot period.

#### Noxious Weed Proliferation

The DEIS identifies the potential for introduction and spread of noxious weeds as a result of project activities, and identifies Alternative 2 as having the greatest potential for weed spread due to the extensive DFPZ network and the fewest excluded areas. In our view, the potential for noxious weed proliferation calls into question the advisability of relying on DFPZs as a primary fuels management strategy. We object to Alternative 2, and to a lesser degree Alternative 4, on this basis.

EPA is concerned that construction of the DFPZ network may conflict with the range- wide noxious weeds strategy currently being developed in the context of the Sierra Nevada Forest Plan Amendment. There is a general consensus that Sierra Nevada is at a critical juncture concerning the spread

of noxious weeds, and that actions taken by land managers in the next few years will determine the severity of the weed problem in the future. Under the circumstances, we believe it would be highly inappropriate to effectively exempt the Quincy Pilot area from the range-wide plan to prevent the introduction and spread of noxious weeds. Accordingly, we recommend that the Quincy Pilot ROD include language stating that DFPZ construction activities tied to the Quincy Pilot ROD will only proceed to the degree they are consistent with the range-wide noxious weeds strategy approved as part of the Sierra Nevada Forest Plan Amendment ROD.

### Community Stability

The Act identifies specific treatment acreage and timber output levels designed to promote economic stability. In the DEIS, economic stability is defined in terms of timber outputs. Chapter 2--Page 11 of the DEIS states that AAlternative 2 treats 300,000 acres of vegetation. Alternative 2 provides approximately 60 percent more merchantable timber outputs than current management. Increased merchantable outputs enhance economic stability by increasing income, employment, and revenue in communities in the planning area.@ Given the information provided in the DEIS, we are unconvinced that Aeconomic stability@ issues are of such importance in this geographical area that they would justify actions which could jeopardize water quality, further fragment the landscape, increase the proliferation of noxious weeds, and potentially threaten the viability of sensitive species.

The Forest Service has recently embarked on a new management program based on the principles of ecosystem management and sustainability. A focus on outcomes rather than outputs is a key focus of this strategy. The Committee of Scientists report, which is being used as a basis for re-drafting the Forest Service=s planning regulations, recommends that ecological sustainability provide a foundation upon which the management for national forests and grasslands can contribute to economic and social sustainability. Chief Dombeck has made similar points in a recent series of speeches.<sup>6</sup> The Quincy Pilot project, with its focus on outputs, appears to be out of step with the latest science and current Forest Service direction.

### Record of Decision Deadline

In our view, the imposition of a fixed deadline for the completion of the Record of Decision for this project is inconsistent with the NEPA and the CEQ regulations. We refer you to 40 CFR 1501.8 for relevant authority on this issue. The CEQ regulations lists factors that agencies may consider in determining time limits at 1501.8(b), including the potential for environmental harm, the size of the proposed action, the degree to which relevant information is known, the degree to which the action is controversial, and other time limits imposed on an agency by law. After considering all of these factors, we believe that an extension of the decision date is appropriate in



this case.

In this letter, EPA has identified numerous instances where additional information must be developed to provide an adequate basis for making an informed decision on the pilot. Under a fixed deadline scenario, it is highly unlikely that the Forest Service will be able to compile the necessary information and release it to agencies and the public for comment prior to the decision. In addition, we are concerned that the fixed deadline will not allow sufficient time to resolve our environmental objections to the project. This issue is complicated further by Forest Service regulations which deny appeal standing to federal agencies such as the Fish and Wildlife Service and EPA, effectively denying interested federal agencies an opportunity to seek an administrative review of a decision which may result in significant environmental impacts. EPA would prefer to reach an agreement with the Forest Service on the key issues raised in this letter before the NEPA process concludes prematurely.

### Response to Comments

As discussed at our meeting on July 16, we strongly recommend that the Forest Service photocopy this letter for inclusion in a AResponse to Comments@ appendix and respond directly to each of the comments herein rather than grouping our comments with similar comments from other interested parties. We believe that a similar approach should be used in responding to comments from a number of key stakeholders, including but not limited to the Fish and Wildlife Service, the Quincy Library Group, and the Sierra Nevada Forest Protection Campaign.

<sup>1</sup> The Sierra Nevada Forest Plan Amendment EIS has not yet been published, but information on the alternatives and applicable standards and guidelines has been provided to EPA at interagency meetings as part of the Sierra Nevada Framework for Conservation and Collaboration. This comment is not intended to convey EPA=s support for any particular alternative in the upcoming Sierra Nevada Forest Plan Amendment EIS; rather it is intended to establish a baseline level of protection suitable for the five year Quincy pilot period.

<sup>2</sup> CWAP identifies forest roads as trails as primary sources of sediment runoff on federal lands, and directs federal agencies to substantially increase maintenance of forest roads and trails on federal lands, and relocate and decommission roads and trails according to specific numeric targets. See Clean Water Action Plan: Restoring and Protecting America=s Rivers, Pages 33-34.

<sup>3</sup> Our preliminary calculations show this baseline to be more than 200 miles during the pilot period. This information should be incorporated into Table 3.6 at Page 3-23.

<sup>4</sup> The Sierra Nevada Science Review includes a discussion of the issue in an appendix. The debate has also manifested itself in the alternatives which have been developed for the Sierra Nevada Forest Plan Amendment EIS--some alternatives (Alts. 6 and 7) propose to adopt a

riparian buffer strategy based on the Northwest Forest Plan, while others (Alts. 2, 4, and 5) propose to adopt the riparian buffer strategy outlined in SNEP. EPA has recommended that the Forest Service determine the best option from a scientific standpoint and incorporate the preferred strategy into all of the Sierra Nevada Forest Plan Amendment alternatives.

<sup>5</sup> Review of species viability issues to ensure compliance with the National Forest Management Act (NFMA) is being conducted under the auspices of the Sierra Nevada Forest Plan Amendment.

<sup>6</sup> See AA Gradual Unfolding of a National Purpose: A Natural Resource Agenda for the 21st Century@; A Words to Action: Conservation Leadership for the 21st Century@; and A Protecting and Restoring a Nation's Land Health Legacy@.