



January 26, 2015

*VIA EMAIL*

Board of Forestry and Fire Protection  
Attn: Forest Practice Committee  
board.public.comments@fire.ca.gov

**Re: TRA #2 and Late Seral Forest**

Forest Practice Committee:

The Center for Biological Diversity submits the following comments regarding the 1-27-15 TRA #2 Plead in regard to late seral forest. The Plead thus far is still seeking to replace the term “late seral”, which exists in TRA #2, with the term “late successional forest stand,” which is defined in the FPRs at 895.1.

At first blush, it may appear to make sense to harmonize the terms “late seral” and “late succession forest stand”, given that, generally speaking, both terms seek to address similar aspects of forested areas. However, as I brought up several months ago at a Committee meeting, the terms “late seral” and “late succession forest stand” have one important difference that prevents them from being harmonized in the way the Plead proposes. As defined in 895.1, “late succession forest stand” means “stands of dominant and predominant trees that meet the criteria of WHR class 5M, 5D, or 6 with an open, moderate or dense canopy closure classification, often with multiple canopy layers, **and are at least 20 acres in size.**” (emphasis added). The term “late seral”, on the other hand, is **not** constrained by a 20 acre size restriction. Because the current Plead seeks to drop the term “late seral” and replace it with the term “late successional forest stands,” but without addressing the 20 acre issue, the Plead would undermine or prevent TRA#2 from addressing all remnant late seral stands, regardless of size, and therefore the Plead should take a different approach.

A different approach is also necessary in order to ensure harmony with a core CEQA principle: avoiding and/or mitigating significant environmental impacts. Because logging impacts to late seral stands that are less than 20 acres in size can potentially be significant (see, e.g., Mazurek and Zielinski 2004 [discussing how loss of even one legacy tree can be significant], attached as exhibit A), only a TRA#2 that continues to support, rather than preclude or undermine, analyses of such stands, will harmonize with CEQA.

The Plead could be amended in one of two ways: either 1) drop the 20 acre limitation that currently exists in the definition of “late succession forest stands” in 895.1, or 2) maintain two

separate terms so that cumulative effects analyses continue to be required to address stands that are less than 20 acres in size.

Option #1 makes the most sense from an ecological, as well as legal, perspective. Namely, there is no scientific basis for the blanket 20 acre limitation that exists in 895.1 (see, e.g., Mazurek and Zielinski 2004), and there is no legal basis for failing to divulge and address stands less than 20 acres in size when there exists any potential for significant impacts from the logging of such stands. Moreover, option #1 would bring clarity to the situation. Some persons still assume that the 20 acre limitation in 895.1 is all that applies to THPs, irrespective of TRA#2. By making clear that that is not so, all RPFs and agency personnel will be on the same page.

If Option #1 is not chosen, then the term “late seral” should not be replaced with “late succession forest stands”, and instead, it is important to maintain separate terms. It does not make sense legally, or from a clarity point of view, to use a term that is defined in the Rules, in a way that is different from how the term is defined. Therefore, if the Committee is unwilling to change the definition of “late succession forest stands” to remove the 20 acre limitation, it ought not to use that term in TRA#2 because TRA#2 should be clear on its face that any forested area, regardless of its size, needs to be divulged and analyzed any time there is any potential for significant impacts from the logging of such an area. For this reason, while the intent of DFW’s edits to the Plead are well meaning – to ensure that areas of all sizes are addressed – there nonetheless remains too much potential for confusion, both practically and legally, when a term is used in way that is different than how is it defined. For that reason, while we support the DFW intent, we still ask that a different approach be taken in order to make explicitly clear to all stakeholders what exactly must be done in order to comply with TRA#2.

Since 2009, the Center for Biological Diversity has asked that the 20 acre aspect of the definition of “late succession forest stands” be squarely addressed. It is important ecologically, legally, and practically to do so, and we hope the FPC will take it on now in order to clear up any misperceptions that are still lingering in the regulated community as to what is or is not required by TRA#2 and the FPRs. At a minimum, however, it is essential for TRA#2 to continue to protect all forested areas, irrespective of their size.

Sincerely,



---

Justin Augustine  
Center for Biological Diversity