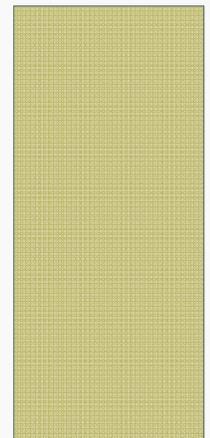


# LESS THAN 3-ACRE CONVERSION EXEMPTION PERMITS

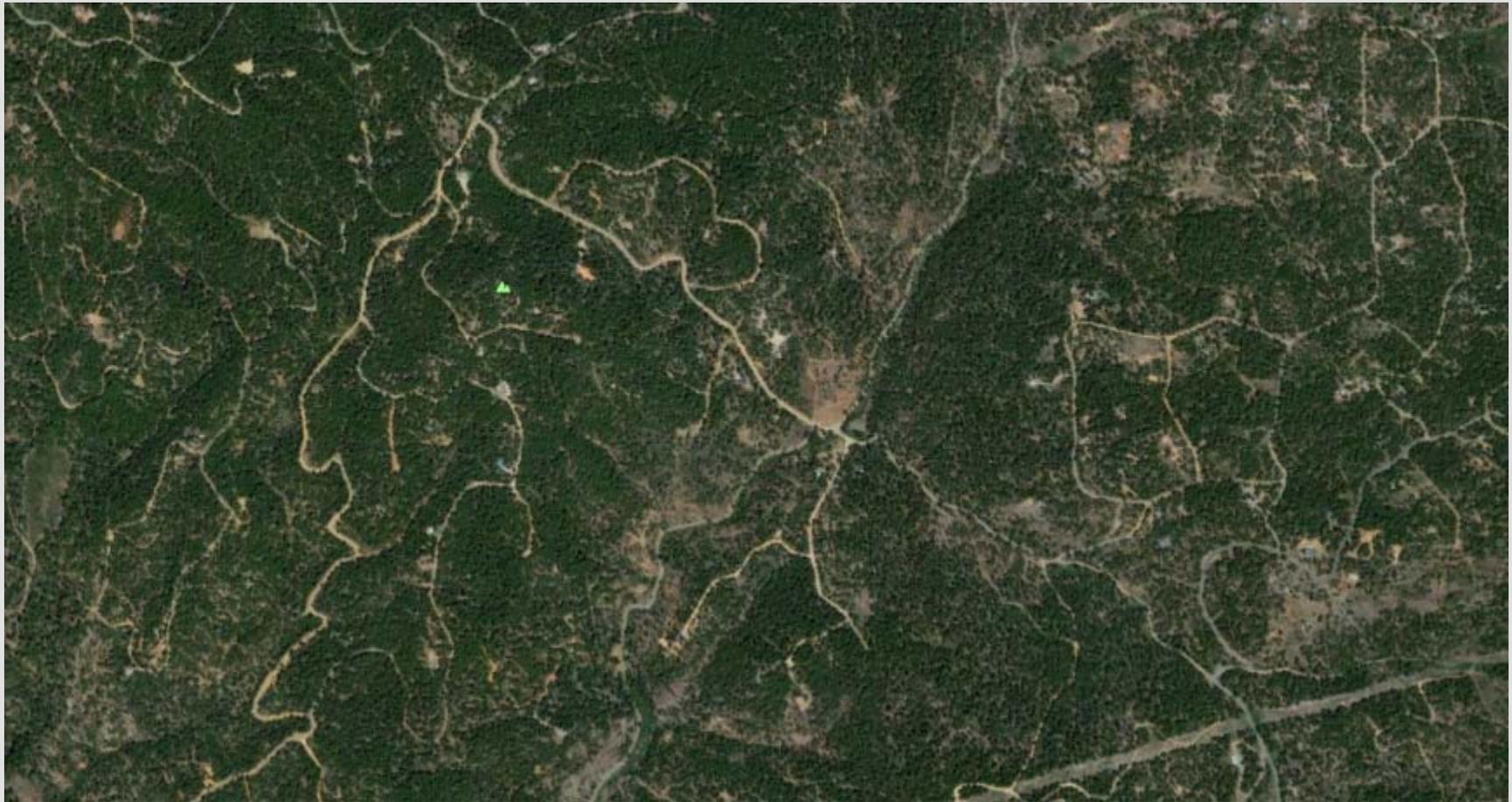
NATALYNNE DELAPP, EXECUTIVE DIRECTOR  
ENVIRONMENTAL PROTECTION INFORMATION CENTER



# CEQA

- A general rule for the application of a CEQA statutory exemption is “where it can be seen, with certainty, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”
- CEQA defines a significant effect on the environment as “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.”

# TRINITY PINES 2007



# TRINITY PINES 2016



# WHAT IS THE PROBLEM?

- Rampant abuse of the Less than 3-Acre Conversion Exemption.
- CalFire's Less than 3-acre Conversion Exemption is a ministerial process that does not trigger CEQA review.
- Because these are ministerial permits, CalFire does not apply discretionary review, or apply its professional judgment as to whether or not the conversion is consistent with Endangered Species Act, Clean Water Act, and/or Forest Practice Rules.

# WHO'S GUARDING THE HEN HOUSE?

- How much authority is CalFire abdicating by not determining whether or not the impacts from thousands of Less than 3-Acre Exemptions are in fact “de minimis” – not creating a significant effect on the environment?
- Who is overseeing that no rare, threatened or endangered plants or animals are disturbed, threatened or damaged, and no timber operations are occurring in essential habitat for a listed species?
- How much authority is CalFire abdicating by the Board not defining and constraining compatible use?

# CUMULATIVE IMPACTS

- Tens of thousands of conversions **have occurred** across the North Coast landscape, many of them without Less Than 3-acre Conversion Exemptions permits.
- For those that occurred using the Less Than 3-acre Conversion Exemption permits there was no review, oversight, planning, or cumulative impacts analysis.
- Who is responsible for figuring out whether or not there is a cumulative impact?
- How will **new** Less Than 3-Acre Conversions be addressed?

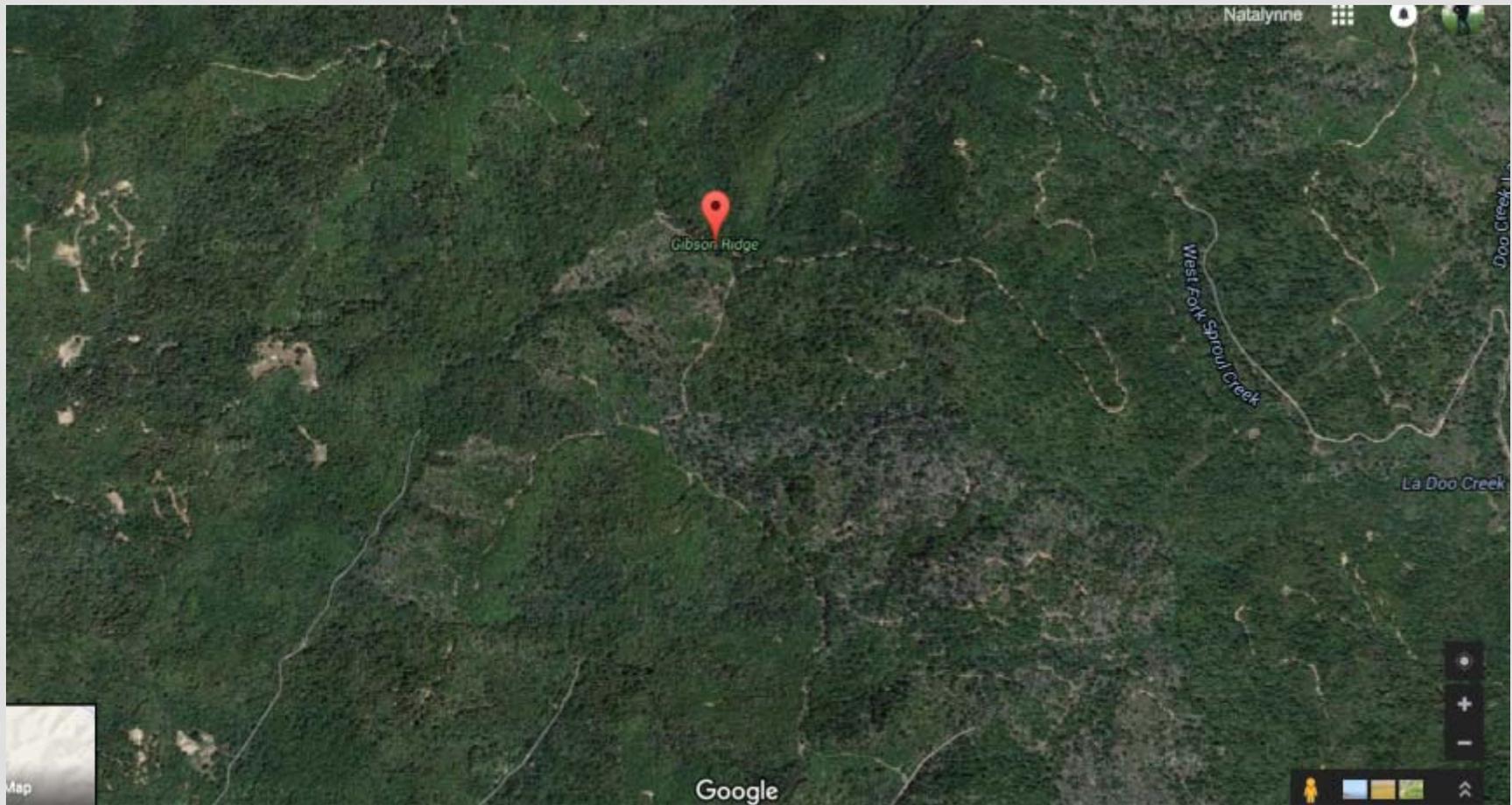
# CANNABIS CULTIVATION

- Commercial cannabis cultivation sites are limited by the State of California to 1-acre or less. A house, clearing for cannabis garden and necessary infrastructure can likely fit within a less than 3-acre footprint.
- Within the burgeoning commercial cannabis industry there is a financial incentive to push for new cultivation on forestlands.
- How will the State of California ensure the intent of the Timberland Productivity Act is followed?

# WHAT IS COMPATIBLE USE?

- California Timberland Productivity Act of 1982 provides, "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber."
- "Compatible Use" as defined in Gov. Code 51100 (h) does not exist.
- How can the Board decide what does or does not significantly detract from the growing and harvesting of timber?

# BOYLE FOREST



## **DOES CALFIRE HAS A ROLE IN FIXING THE PROBLEM?**

The Board of Forestry needs to give CalFire regulatory tools to create an effective and comprehensive system of regulations that it needs to protect timberland from abuse of the Less than 3-Acre Conversion Exemption.

## WHAT CAN CALFIRE/BOARD DO TO ADDRESS THE PROBLEM?

- New Less than 3-Acre Conversions could require discretionary review by CalFire;
- Define and constrain “compatible”;
- Create criteria for CalFire to determine whether or not the impacts are “de minimis;”
- Create criteria for CalFire to determine whether or not an individual activity rises to level that it would “significantly detract” from the growing and harvesting of commercial timber products; and
- Develop a monitoring and reporting program on how Less than 3-acre Conversion Exemptions are being used.