



California Native Plant Society

East Bay Chapter
Conservation Committee

May 31, 2016

California Board of Forestry and Fire Protection
Attn: Edith Hannigan, Board Analyst
Email: VegetationTreatment@bof.ca.gov

(As duplicated in part, with permission from California Chaparral Institute comment letter, submitted 5/24/16, please also reference their thorough list of resources cited.)

Re: Comments on Draft Programmatic Environmental Impact Report For The Vegetation Treatment Program of the California State Board of Forestry and Fire Protection

Dear Ms. Hannigan and Members of the Board,

It is with a deep sense of disappointment to find that the current Draft Programmatic Environmental Impact Report (DPEIR) for the state's proposed Vegetation Treatment Program contains many of the same errors (some with the exact wording), contradictions, and failures to identify environmental impacts that were pointed out in previous versions.

Many of the productive suggestions provided to the Board of Forestry on how they could improve the draft DPEIR were ignored, including those from the California Legislature's required review by the California Fire Science Consortium, the Department of Fish and Wildlife, fire scientists, and environmental groups.

Potential impacts are dismissed by the DPEIR without support, mitigations of impacts are unenforceable and unmeasurable, the treatment of northern chaparral is justified by non sequitur reasoning, and the research of several scientists continues to be misrepresented (despite corrections being submitted). The lack of transparency remains a significant issue – using a local newspaper to inform the public about projects is no longer adequate. One of the most egregious examples of the DPEIR's failure is the continued use of outdated and inadequate spatial data that provides the foundation for the entire Program. Although updated data is available from Cal Fire itself, **the DPEIR ignores this rich resource** and depends instead on questionable information from decades ago.

As a consequence, the current DPEIR fails to meet the requirements of the California Environmental Quality Act (CEQA).

The DPEIR also reveals **a significant number of inconsistencies** as the document initially references current science to only qualify or ignore it later in order to support the

Program's objectives. By using contradictory statements, undefined terms, and legally inadequate mitigation processes, the document is a testament in ambiguity. It appears to be a program in search of confirming data rather than one developed from examining the actual problem.

The most concerning issue, however, relates to the failure of the document to provide a key component of a programmatic EIR - providing a more exhaustive consideration of effects and cumulative impacts than could be accomplished at the project level (14 CCR § 15168).

Instead, volumes of repetitive text are punctuated with the unsupported claim that determining impacts is impossible, pushing it off to project managers to determine with a checklist and standard project requirements that depend on subjective judgments. How does the DPEIR justify ignoring a thorough examination of impacts as required by CEQA? The document vacillates between claiming the Program is too large and complex to analyze, or the treatment areas are too small to have an impact.

As a consequence, the current DPEIR

- fails to provide adequate support for concluding that the proposed program will not have a significant effect on the environment
- fails to provide adequate guidance to prevent significant environmental harm
- fails to adequately support Cal Fire's mission to protect life, property, and natural resources

Briefly, the reasons for these failures include:

1. Circumventing CEQA

- impacts determined to be less than significant by the "Fallacy of Authority" (our conclusions are true because we say so – no evidence provided)
- lack of detail as required within a programmatic EIR
- passing on responsibility to project managers to determine potential impacts
- inadequate mitigation measures
- Significance Criteria to determine impact to biological resources dismissed without support

2. Substandard Research

- misrepresenting cited scientific literature
- dependence on anecdotal evidence
- contradictory statements
- ignoring information in the record
- cited references missing, non sequiturs

3. Inadequate Data

- outdated fire hazard analysis model/data unsuitable for project level planning
- utilizing coarse-scale maps that cannot provide sufficient detail for competent



analysis

- WUI assessments based on 26-year-old information
- dependence on maps that no longer reflect current conditions

The DPEIR also fails to properly address the impacts the Program may have on **carbon emissions and the loss of carbon sequestration** by the clearance of native habitats. A list of **Suggested Improvements** will follow the evaluation below.

Our Hope

Having worked on the Vegetation Treatment Program since 2005, our experience with this process allows us to offer a uniquely informed evaluation of the DPEIR.

Despite addressing the same problems over and over again, after all the well-informed feedback, all the legal battles, and all the delays caused by failures to meet requirements of environmental compliance, we remain hopeful that a quality Vegetation Treatment Program will emerge in a collaborative manner.

For a quality Program to develop, however, the process must focus on **“How do we protect lives and property from wildfire?”** rather than the current priority, “How do we manage fuel?” These are different questions with very different solutions.

1. Circumventing CEQA

Failure to Determine Impacts

The lack of detail in the DPEIR is a clear violation of the California Environmental Quality Act’s requirements for a programmatic EIR.

Throughout the document, the DPEIR completely ignores the necessary detail needed to determine if the Program will have significant impacts. Instead, it defers to managers at the individual project level because the Program is either too “large and complex” to consider the true environmental impacts within the DPEIR (4-116 among others), or too small because the projects average 260 acres (5-44 among others). By using the “Fallacy of Authority,” the DPEIR claims without providing supporting evidence, *Because of the amount of acreage eligible but not receiving treatment under the VTP, the proposed Program would likely result in a less than significant cumulative effect on biological resources at the bioregional scale.* (5-27)

The DPEIR frequently follows up these claims, again without supporting evidence, with the suggestion that the Program may actually provide a net environmental gain because it may “decrease the frequency, extent, or severity of wildfire.” (5-32)

Such rationales have no merit. There is a rich source of literature describing the potential impacts, both local and cumulative, of “fuel treatments” as well as the ecological benefits of high-severity fires in crown fire ecosystems. The DPEIR should adhere to the requirements of CEQA and determine the overall environmental impact of the Program,



not pass the responsibility on to individual project managers via a checklist based on subjective opinions.

This failure to account for environmental impacts is troubling because it gives the impression that the DPEIR was not produced to comply with CEQA, but rather to accomplish its stated goal of streamlining the regulatory process (1-7). In fact, this is in line with the Board of Forestry's 2010 Strategic Fire Plan which endorses efforts to "remove regulatory barriers that limit hazardous fuel reduction activities" (Fire Plan Goal #5, objective "b").

While it may be within the rights of the Board of Forestry to lobby the legislature to change laws, CEQA is quite clear about what programmatic EIRs need to address. An EIR's purpose is to examine environmental impacts. The Board should produce a document that does so.

Sincerely,
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(submitted electronically)
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