

Memorandum

March 6, 2013

To: California State Board of Forestry and Fire Protection

**From: Mike Liquori (VTAC Chair)
Pete Cafferata (CAL FIRE Staff)**

**Re: Anadromous Salmonid Protection Rule Section V Technical
Advisory Committee (VTAC) Recommendations**

It is with great honor that we present you today with the Section V Technical Advisory Committee (VTAC) guidance document, the culmination of two and one-half years of work. The guidance document portion of the mandate of the VTAC Charter has been met, and we believe a well-developed methodology has been produced. The high degree of dedication and commitment demonstrated by both the VTAC members and agency representatives, much of which was on a voluntary basis, is deeply appreciated.

The VTAC guidance document was developed to assist RPFs, landowners, and agency representatives with identification of situations appropriate for active riparian management, and to provide suggested approaches for assessment, required under 14 CCR § 916.9 [936.9, 956.9](v)(3). RPFs are not required to use these approaches and other analytical methods are available. An optional pre-consultation form is provided as an appendix to allow RPFs to determine the potential acceptance of the site-specific proposal by the reviewing agencies. Additionally, summaries of submission requirements for a Section v(3) proposal, reviewing agencies methods for processing site-specific proposals, and simple monitoring strategies are provided in the document. With the development of the guidance document, we are encouraging RPFs and landowners to submit THPs with Section V site-specific proposals, where appropriate, for active riparian management to more rapidly improve aquatic habitat conditions for listed anadromous salmonids.

While our document represents considerable progress in outlining scientifically feasible and defensible approaches to alternative riparian treatments, there remains considerable work to be done. The key outstanding issues include:

Limited Landowner Incentives

While we attempted to outline various incentives for landowners in our guidance document, the feedback we have received to date suggests that existing incentives are weak. Some opportunities to develop more robust incentives for riparian improvements include:

- Simplified permitting – An exemption process so habitat enhancement proposals do not have to go through the normal THP review process, similar to CEQA Categorical Exemptions, would be highly beneficial as a future incentive for landowners and should be investigated.
- Systematic monitoring – While developing a monitoring design was beyond our scope, we generally agree that monitoring will be an important component in demonstrating success and gaining acceptance of these innovative riparian practices. Replacing landowner monitoring requirements with a more systematic regional or statewide monitoring program that would move beyond compliance monitoring and toward effectiveness monitoring should be a significant incentive for landowners. Such a program should have a feedback system that allows for more adaptive policies and procedures to evolve over time. This is consistent with the formation of the Board’s Effectiveness Monitoring Committee (EMC) in 2013. The EMC will advise the Board on how to build a monitoring program that can provide an active feedback loop to policy makers for adaptive management, particularly related to the effectiveness of Forest Practice Rules mandated for protection and recovery of listed anadromous salmonid species. Section V proposals for rapid improvement of riparian conditions and aquatic habitat features should be a component of this new monitoring work.
- Offsite mitigation – This mechanism for improving incentives for landowners to undertake site-specific proposals in WLPZs to enhance salmonid habitat has not been used, but is a viable option for RPFs. Offsite mitigation is currently available under CEQA and the California Forest Practice Rules and should be highlighted during Section V training sessions.
- Demonstrated regulatory relief – A documented track record of successful implementation efforts for Section V proposals will help to improve community goodwill over time. As demonstrated in the VTAC online survey filled out by 123 respondents in 2011, landowners need an increased level of certainty for extensive use of the Section V process, and documentation of regulatory relief can help provide assurance in the process.

- Financial opportunities – It is expected that usually the additional cost and planning efforts necessary under Section V will not be fully compensated by removal of additional WLPZ trees. However, other revenue sources that may include ecosystem service values might help provide greater incentives for innovative land management. The Board should consider investigating such opportunities to diversify the possible revenue sources from stewardship activities like those outlined in Section V.

Section V Pilot Projects

For several reasons, development of VTAC pilot projects, the second main VTAC Charter mandate, has taken a slower course. We had hoped to have completed at least two pilot projects simultaneous to the development of our guidance document. However, landowners were often reluctant to take on pilot projects due to: (a) the absence of clear guidance, and (b) uncertain regulatory pathways. Upon completion of the guidance document, we have noticed more landowners are stepping forward to discuss potential pilot projects. We encourage the Board to support these pilots, and to provide sufficient resources to ensure lessons learned from pilot projects can lead to future guidance document revisions, and where appropriate, changes to the Forest Practice Rules and other permitting processes.

The VTAC will continue to manage and have input on the pilot projects in 2013, primarily through email and conference calls. Currently, five pilot projects are under consideration for possible development by both private landowners and State Demonstration Forests. CAL FIRE staff will act as the lead coordinator for the VTAC to: (1) organize pre-consultation field meetings, (2) attend pre-consultation field meetings and record observations, and (3) document successes and failures of the pilot projects for possible modifications to the guidance document and/or the Forest Practice Rules. Staff will produce written records of the pilot project efforts and disseminate them to the VTAC members and agency representatives.

Cumulative Impacts and Watershed Context Assessment

There remains concern by some VTAC members that additional guidance is required for consideration of cumulative watershed effects and watershed context assessment. However, the majority of the VTAC felt such efforts were beyond the scope of this project, and would add complexity and uncertainty to a new process already suffering from a perception of complexity and uncertainty. Due to these issues, we state in the VTAC guidance document that there are several types of information sources that are readily available for obtaining background watershed condition data. We suggest RPFs utilize existing sources when undertaking a rapid watershed assessment so work can be completed cost

effectively and in reasonable time frame. Additionally, we suggest RPFs use the Watershed Resources section and the applicable portion of the Biological Resources section of the Cumulative Impacts Assessment (Technical Rule Addendum No. 2) required for all THPs to provide information for an appropriate riparian design associated with a Section V proposal.

Perhaps as Section V site-specific proposals become normalized within the forestry community, a greater understanding of the scope of cumulative effects assessments necessary to identify watershed improvement needs may be forthcoming. At the least, the VTAC encourages the Board to look at other approaches to resolving the outstanding cumulative impacts issues, as is currently occurring in the Board's Forest Practice Committee work. Ultimately, the effective assessment of cumulative effects should be an analytical and data-driven exercise, and data gleaned from the monitoring of Section V projects will add to the analytical toolbox for future cumulative effects analyses.

Training for Section V Site-Specific Proposals

VTAC members and agency representatives recognize that active riparian management is a relatively new concept and one RPFs are hesitant to practice. Clearly, additional training and education are necessary if wide-spread use of Section V proposals is to occur. To that end, we strongly support having the Board encourage the participating VTAC agencies to develop ongoing training workshops for RPFs and landowners, as well as agency personnel, that would begin in the spring and summer of this year. Additionally, we encourage: (1) RPFs, landowners, and agency personnel to participate in the riparian function and management webinar series developed by Dr. Richard Harris, which will occur from May 1st of this year to May 29th (5 two-hour sessions on Wednesdays; see: http://ucanr.edu/sites/forestry/Webinars/Riparian_ecology/) and (2) Board and Department staff to revamp the Board's VTAC website for educational purposes (http://www.bof.fire.ca.gov/board_committees/vtac/).

In conclusion, we believe the VTAC's efforts since October 2010 have been fruitful in developing a process for determining where to undertake active riparian management, and how to successfully construct a site-specific proposal, as required under the California Forest Practice Rules. We sincerely hope Section V proposals will be submitted by RPFs where they are appropriate, and will more rapidly improve habitat conditions for state and federally listed anadromous salmonids.