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Governor's Office of Planning & Research  
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STATE CLEARINGHOUSE

August 9, 2019

Dr. Keith Gilliss, Chair  
California Board of Forestry and Fire Protection  
PO Box 944246  
Sacramento, CA 94244-2460

**California Vegetation Treatment Program Draft Program Environmental Impact Report  
(SCH# 2019012052)**

Dear Chair Gilliss:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to provide comments on the public review draft of the California Vegetation Treatment Program (CalVTP) Program Environmental Impact Report (PEIR). CDFW submits its comments as a trustee and responsible agency under the California Environmental Quality Act (CEQA). (Pub. Resources Code, §§ 21069, 21070; CEQA Guidelines, §§ 15381, 15386, subd. (a).) CDFW serves by statute as California's trustee agency for fish and wildlife and holds those resources in trust for all the people of the state. (Fish & G. Code, § 711.7, subd. (a).) CDFW also has legal jurisdiction as trustee to conserve, protect, and manage fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.)

CDFW also provides the comments detailed below as a responsible agency because many of the CalVTP activities and treatments detailed in the PEIR are subject to CDFW's independent regulatory authority and will require a permit or other authorization from CDFW under the Fish and Game Code. This includes the notification and authorization requirements under CDFW's Lake and Streambed Program, and permitting under the California Endangered Species Act (CESA). A robust analysis in the PEIR of the potentially significant environmental effects that the CalVTP may have on California fish and wildlife, and a detailed mitigation framework to address those effects will be essential to satisfy these future permitting requirements. Details regarding CDFW's regulatory authority and related permitting obligations are available on CDFW's web page ([www.wildlife.ca.gov](http://www.wildlife.ca.gov)). Finally, CDFW provides the comments detailed below as a responsible agency because it owns land or has land management authority in the treatable landscape described in the PEIR.

CDFW would like to thank the Board of Forestry and Fire Protection (Board), and the Department of Forestry and Fire Protection (CAL FIRE) for consulting with and seeking input from CDFW during development of the draft PEIR. (See Pub. Resources Code, § 21080.4.) California is grappling with a lengthening fire season and large, catastrophic

fires that are increasing in size and frequency. In addition to the human consequences, ever more frequent catastrophic fires cause significant, adverse effects to fish and wildlife, including loss of individuals, loss or type conversion of habitat, disruption of landscape connectivity, and changes in ecosystem processes. CDFW recognizes the consequences of catastrophic fire and supports the need for California to minimize the related risks. We also believe California's fire prevention efforts can and should be carried out to avoid and minimize unnecessary adverse effects to fish and wildlife. Indeed, with careful planning, California fish and wildlife could benefit in some respects from these important efforts. CDFW appreciates that the Board and CAL FIRE share these interests, and we look forward to continued coordination.

CDFW, with its trustee mandate and responsible agency obligations, reviewed the draft PEIR with an eye to potentially significant effects to fish and wildlife, and potentially feasible mitigation measures and alternatives to address those effects. (Pub. Resources Code, § 21104, subd. (c); CEQA Guidelines, § 15086, subd. (c).) CDFW focused its review specifically on the Program Description in Chapter 2, the biological setting and impact analysis in Chapter 3.6, and the treatment-specific implementation framework described in various places in the PEIR, but most importantly in the Project-Specific Analysis included as Appendix PD-3. Consistent with our review, CDFW's comments detailed below broadly fall into two categories: (1) future project implementation and tracking, and (2) clarity of requirements and protection measures detailed in the PEIR. We offer our comments with an interest in meaningful public review and with the goal of helping the Board, CAL FIRE, and others to carry out this important effort.

### **FUTURE PROJECT IMPLEMENTATION AND TRACKING**

One of the Board's objectives identified in the PEIR is to substantially increase the pace and scale of vegetation treatments to reduce the risk of catastrophic fire. The PEIR, to this end, provides a programmatic level of detail focused on potentially significant effects and a statewide, but region and species-specific mitigation framework for vegetation treatments consistent with the PEIR. The Project-Specific Analysis included in Appendix PD-3 and the related checklist provide the essential roadmap to implement individual treatments under the CalVTP (hereafter, the PSA or Checklist), and related reporting requirements will help the Board, CAL FIRE, and the public to track the pace and scale of vegetation treatments described in the PEIR.

Discussion in the PEIR regarding substantive implementation of the CalVTP and use of the PSA Checklist would be improved with additional detail concerning the bulleted topics that follow.

- Additional detail regarding ongoing maintenance activities in connection with and following an individual treatment would improve the PEIR. CDFW agrees that maintenance activities will vary project to project, but it is not clear whether subsequent or ongoing maintenance will be addressed in the PSA Checklist as part of the review for an initial treatment. Likewise, even if ongoing maintenance following an individual treatment is addressed in the PSA Checklist for the initial treatment, it is not clear whether or in what circumstance subsequent changes in the landscape would make the initial Checklist no longer relevant to discretionary decisions concerning ongoing maintenance. Additional detail regarding

maintenance following an initial treatment and the shelf-life of the completed Checklist for the initial treatment would improve the PEIR.

- The PSA Checklist includes reporting requirements that must be submitted to CAL FIRE before an individual treatment project, but there is no guidance regarding data collection and reporting after a treatment is completed. Project proponents should be required to submit a report to CAL FIRE within a reasonable time after an individual treatment is completed. Details regarding the substantive content and the process to submit a post-treatment report should be added to the Project Description or otherwise included in the CalVTP implementation framework. The Board should require the report to include basic facts about the specific treatment and post-treatment conditions, including dates of work, type and acreage of treatments, and a description of post-treatment vegetation and sensitive resources identified for protection. A required post-treatment report will help the Board and CAL FIRE compile relevant data and better understand post-treatment conditions at a statewide scale.

### **CLARIFYING SPECIFIC PROJECT REQUIREMENTS AND MITIGATION MEASURES**

Existing discussion in the PEIR regarding Standard Project Requirements (SPRs) and identified mitigation measures to address potentially significant effects on fish and wildlife would be improved with additional detail concerning the bulleted topics that follow.

- The PEIR should include an SPR to avoid potentially significant impacts to nesting birds. The PEIR identifies impacts to common nesting birds in Impact BIO-6 and provides a limited discussion of a few measures to prevent related effects. Absent a specific SPR that project proponents are required to implement in the field, however, these measures will not provide sufficient protection to nesting birds, chicks, and eggs during vulnerable periods of their lifecycle. The SPR should require biologically appropriate surveys based on habitat and time of year, and require additional avoidance and minimization measures for work that must be conducted during the nesting season.
- The PEIR contains four biological mitigation measures (BIO-1c, BIO-2c, BIO-3b, and BIO-3c) that require a Compensatory Mitigation Plan. Language should be added advising project proponents to consult with CDFW and/or any other applicable responsible agency prior to finalizing any Compensatory Mitigation Plan in order to ensure that it will also satisfy that responsible agency's permitting requirements.
- The PEIR should add more specific detail governing the application of certain SPRs and mitigation measures. For example, Mitigation Measure BIO-3a states: "To the extent feasible, no fuel breaks will be created in sensitive natural communities with rarity ranks of S1 (critically imperiled) and S2 (imperiled)." This measure should identify the specific scientifically based parameters governing fuel break feasibility determinations for individual treatments, including where special status species or other biologically sensitive resources may be present. The same parameters and

required explanation for treatment-specific fuel break feasibility determinations should also be included in the PSA Checklist, particularly where a project proponent determines a fuel break is necessary in a sensitive natural community. Finally, to the extent a potentially significant impact to special status species or a sensitive natural community will result from a fuel break, the Board should consider the feasibility of and the parameters governing required compensatory mitigation.

Similarly, Mitigation Measures BIO-1a and BIO-2b state that "no-disturbance buffers will generally be a minimum of 50 feet from listed plants" and "will generally be a minimum of 100 feet" for special status wildlife. Both measures specifically allow for smaller or larger buffers if a qualified individual determines that the buffer size would adequately protect against potentially significant impacts to the species. CDFW appreciates a single buffer size for all special status or listed plants and animals is not biologically sound. Site-specific details including topography, habitat type, species, and the specific treatment activity, to name a few, should be considered when making treatment-specific determinations about an appropriate buffer. At a minimum, if a qualified individual determines that a buffer will be smaller than the general minimum prescribed in these measures, a scientifically based treatment-specific explanation for that determination should be required in the PSA Checklist.

As another example, SPR BIO-4 states that the removal of large, native riparian hardwood trees will be minimized to the extent feasible. The same measure notes that the tree size retention parameter will be determined on a site-specific basis, depending on the vegetation present at the project site. Instead, this SPR would be improved with the inclusion of a minimum diameter at breast height limit, but with flexibility to remove larger trees. A scientifically based project-specific explanation substantiating the basis to remove larger trees should be required in the PSA Checklist. This will allow for site-specific flexibility, while directly encouraging the retention of larger native riparian hardwoods. This is similar to other Board regulations and exemptions where a standard is set but deviations from that standard are allowed with a scientifically based written justification.

- CDFW, in general, supports the requirement in SPR-AD3 that individual treatment projects be consistent with local plans, policies, and ordinances. We recommend, however, that the SPR include more specific detail regarding local Community Wildfire Prevention Plans. Required consistency with these plans can help ensure that specific treatment activities account for any local variations in fire regime. Doing so will also require consideration of and promote consistency with local priorities and strategies, and consistency with already identified local strategies to effectively address fuels management and reduce wildfire impacts.
- Currently, the PEIR only prescribes a timeline for habitat assessments and related details are not clear. The PEIR allows for habitat assessments older than one year, for example, if they can be "demonstrated" to remain valid. Further detail regarding the sideboards governing (e.g., unchanged site conditions) and how the validity of

reconnaissance-level surveys, data review, and habitat assessments that are older than one year will be demonstrated should be addressed in the PSA Checklist.

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CDFW appreciates the opportunity to comment on the CalVTP PEIR and we look forward to our continued work with the Board, CAL FIRE, and our shared partners on this and similar efforts. If you have any questions regarding this letter or further coordination, please contact Ms. Isabel Baer, Environmental Program Manager, at (916) 651-3110, or [isabel.baer@wildlife.ca.gov](mailto:isabel.baer@wildlife.ca.gov).

Sincerely,



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