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February 28, 2006

George Gentry, Executive Director
California Board of Forestry
1416 9th Street
Sacramento, CA 95814

Re: Draft EIR for Jackson Demonstration State Forest Draft Management Plan

Dear Mr. Gentry and Members of the Board:

I write on behalf of Dharma Cloud Charitable Trust Foundation, The Campaign to Restore Jackson Redwood State Forest, and the public they represent regarding the Jackson Demonstration State Forest Management Plan and its draft EIR.

The Draft EIR Fails to Consider a Range of Feasible Alternatives

A draft EIR is required to consider a range of reasonable alternatives. A reasonable alternative has two requirements: it must be (1) feasible and (2) less damaging than the project as proposed. (CEQA Guidelines, § 15126.6, subds. (a), (f).) The draft EIR fails to consider a range of feasible alternatives.

The draft purports to consider seven alternatives. Alternative A is the no project alternative. It is required in every EIR. It is not considered part of the range of reasonable alternatives because it cannot satisfy the basic objectives of the project proponent. Instead, it is used as a baseline for measuring impacts. Alternative B is management under the 1983 management plan. This alternative is not feasible because CDF and the Board entered into a settlement agreeing not to manage JDSF under the 1983 management plan. Alternative C is the present project, management under the 2002 management plan. It is not an alternative. Alternative C2 is a variation on C1 and is purportedly feasible. Alternative D is management towards an all–age forest and is purportedly feasible. Alternative E is deemed infeasible by the draft EIR because it is not consistent with the Public Resources Code or Board policy. Alternative F is deemed infeasible by the EIR, because it too is not consistent with the Public Resources Code or Board policy. (1:7-9; VI:8-13.)

Thus, not including the project itself and the no-project alternative, only two feasible alternatives are considered, C2 and D. Two alternatives do not constitute a "range" no matter how broadly that term is construed. This is particularly the case for a project of this size and scope.

The EIR purports to rationalize this violation by contending that elements of alternatives E and F, even though infeasible, "are useful for how they offer potential ways to mitigate forest management impacts." (VI:12.) But this is true of many infeasible alternatives, including the no-project alternative. They can embody ways or mitigations to avoid a project's impacts. CEQA, however, requires that alternatives be feasible, because only a feasible alternative provides the decisionmaker and the public with a *real* alternative to the proposed project. Only a feasible alternative satisfies CEQA's goals of informed decisionmaking and public participation.

Under CEQA, an EIR must identify the environmentally superior alternative. Here, the EIR picks alternative E, which is not feasible. This too violates CEQA. A non-feasible superior alternative thwarts the goals of informed decisionmaking and public participation.

Finally, the draft EIR states that the no project alternative "is not required for analysis since it does not meet the project goals and objectives." (VI-9.) This is incorrect as a matter law. CEQA in fact requires an in-depth analysis of the no project alternative. (CEQA Guidelines, § 15126.6, subd. (e)(1)-(2).)

In short, the EIR's failures to consider a range of feasible alternatives, to identify a feasible superior alternative, and to analyze the no project alternative are fundamental violations of CEQA.

The Draft EIR Fails to Recognize that an Effect that Delays Recovery Is a Cumulative Impact

The draft EIR appears to take the position that any incremental impact from ongoing timber operations will be offset by various restoration measures, such as the road management plan. Take for example cumulative watershed effects from sedimentation. The draft EIR does not assert that logging under the modern Forest Practice Rules altogether eliminates sedimentation in streams and waterways. Indeed, even the various Casper Creek studies on which the draft EIR so often relies make clear that logging has impacts, albeit some that are lessened under the modern Forest Practice Rules. (E.g., Lewis, 1998; Reid, 1998.) Instead, the draft EIR appears to reason that sediment delivery from future timber operations will be offset by other measures like road restoration that are designed to eliminate ongoing sources of sedimentation. When everything is added up, so the reasoning

goes, the amount of sediment that is eliminated through restoration will exceed the amount that future timber operations produce. Thus, the draft EIR concludes that timber operations will not have a cumulative impact. (E.g., VIII:58.) (This same reasoning is applied to a variety of cumulative effects, including water temperature (VIII:45) and fisheries habitat. (VIII:82.))

There is a major flaw in this reasoning, because it ignores that ongoing timber operations will necessarily *delay* recovery. Assuming the draft EIR is correct—that restoration projects will reduce sedimentation by more than that produced by timber harvests—timber harvesting, because it still produces sedimentation, will delay recovery. Under CEQA, a project that delays recovery has a significant adverse impact, or at least a cumulative one, because it continues past environmental harm longer than necessary.

By way of illustration, imagine that someone has had a heart attack. His doctor advises him that if he does not smoke his recovery will take one year. If he smokes one-half pack a day, his recovery will take two years; a pack a day, three years; a pack and one-half, four years; and so on. No one would deny that smoking will have an adverse impact by delaying his recovery.

This same holds true here. Timber operations, because they will have some sedimentation (and other) effects even with the mitigations required by the Forest Practice Rules, will delay recovery. The draft EIR fails to acknowledge that a delay in recovery caused by timber operations is a significant cumulative impact. The draft EIR's conclusion that the project will not have cumulative impacts is therefore incorrect both as a matter of fact and law.

The Road Management Plan and Other Mitigations

The road management plan is an essential mitigation for the project. It is discussed throughout the draft EIR as a mitigation for a wide range of project impacts relating to hydrology, water quality, fisheries, sedimentation, landslides, and soils. (E.g., VII:6:1:92-94; VII:10:18-19; VII:7:31-32.)

At the same time, it is not clear from the EIR or the JDSF management plan whether the road plan is contingent on the availability of funding, or staff, or contractors, or a combination thereof. (See VII:6:1-97.) Please clarify and explain whether the road management plan and any other mitigations are contingent on funding or other factors that may not materialize. If so, they do not constitute valid, feasible mitigations.

The Draft EIR's Conclusion that The FPRs Will Mitigate All Cumulative Impacts Is Not Supported by Scientific Evidence

The draft EIR assumes that the Forest Practice Rules are adequate to protect the environment. In numerous places, it states that the FPRs will mitigate significant impacts of the project. It also implies as much when it contends that the FPRs plus additional mitigations like the road management plan will combine to have a beneficial effect on the environment.

The problem with this reasoning is that the draft EIR does not provide scientific evidence that the FPRs are reducing impacts to a level of insignificance, especially cumulative impacts. The draft EIR frequently cites to the Casper Creek studies, but those studies do not show that the modern FPRs reduce impacts to a level of insignificance. Far from it. Although the Casper Creek studies show that many impacts are lessened by the modern FPRs, they do not suggest, let alone conclude, that the modern FPRs eliminate *all* impacts. (E.g., Lewis, 1998; Reid, 1998.)

On the other hand, there have been at least three recent, comprehensive studies by independent scientific panels that have concluded that the modern Forest Practice Rules fail to prevent cumulative impacts, especially regarding water quality and fisheries, namely *Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat* (Ligon et al., 1999); *A Scientific Basis for the Prediction of Cumulative Watershed Effects* (Dunne et al., 2001); *Final Report and Phase II Report on Sediment Impairment and Effects on Beneficial Uses of the Elk River and Stitz, Bear, Jordan and Freshwater Creeks* (Collison et al., 2002-2003). The three reports were all commissioned by California agencies, namely the California Resources Agency (Ligon et al., 1999), CDF (Dunne et al., 2001), and the North Coast Regional Water Quality Control Board (Collison et al., 2002-2003). The first two of these studies were relied on by the California Senate Office of Research in its 2002 report, *Forest Practice Rules Fail to Adequately Address Water Quality and Endangered Species.* These studies and report are attached.

These studies constitute substantial evidence that the FPRs fail to prevent cumulative impacts. In short, they contradict one of the basic premises of the draft EIR. More importantly, the EIR does not address the studies, nor does it offer comparable evidence to counter them. It does not, for example, provide any scientific studies, measurements, or quantitative analyses that show that the FPRs alone or in combination with additional mitigations eliminate potential significant and cumulative impacts. The EIR's conclusions appear based on assumptions rather than scientific evidence.

In short, the draft EIR does not provide concrete evidence to support its claim that the FPRs alone or in combination with other mitigations will *totally eliminate* the

adverse effects of logging in JDSF. This lack of evidence is especially troubling in light of the fact that every major, independent study of the FPRs has found them inadequate to control cumulative impacts.

Please respond to this concern, including the conclusions of Ligon, Dunne, and Collison. Please also describe the actual, scientific evidence that supports the draft EIR's conclusion that logging in JDSF will not have a single cumulative or other adverse impact.

Very truly yours,

Paul V. Carroll