

# California Native Plant Society

Dorothy King Young Chapter - P.O. Box 985 - Point Arena,  
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George Gentry, Executive Officer  
California State Board Of Forestry And Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

Dear Mr. Gentry and Members of the Board:

The Dorothy King Young Chapter of the California Native Plant Society (CNPS) would like to offer the following comments on the Draft Environmental Impact Report (DEIR) for the Comprehensive Update to the Jackson Demonstration State Forest Draft Management Plan, December 2005.

CNPS is concerned with assessments, management proposals and conditions that have a bearing on native botanical resources on the Jackson Demonstration State Forest (JDSF).

CNPS respectfully requests written responses to all the questions and concerns raised in this letter.

**Length and Organization of DEIR:** The California Environmental Quality Act (CEQA) stipulates that an EIR must be written in a manner that is understandable by the public, allowing members of the public to comment on the EIR. The language is supposed to be clear, and the information presented in an organized, systematic manner. (Pub. Res. Code § 21003 subd. (b) and CEQA Guidelines §§ 15006, 15120, 15140.)

The CEQA Guidelines state, "The text of draft EIRs should normally be less than 150 pages and for proposals of unusual scope or complexity should normally be less than 300 pages." It appears to CNPS that the California Board of Forestry and Fire Protection (CDF) did not comply with the intent of the CEQA Guidelines to "... reduce unneeded bulk in EIRs and to help the documents disclose the key environmental issues..." Instead, the sheer bulk of the DEIR makes it difficult for the public to identify these issues and evaluate them.

The DEIR also has mitigation measures and other information scattered throughout the document, undefined acronyms, and pages of highly technical verbiage that is not strongly tied to the conclusions reached in the EIR, but often appear to be arbitrary or subjective. How does CDF, in the DEIR, fulfill its obligation to the public to provide clear, understandable information?

**Mitigation Measures:** The DEIR fails to summarize proposed mitigation measures or provide a detailed plan for mitigation and monitoring of impacts covered by the management plan. Many mitigation details are omitted, with the explanation that they will be included at some unspecified later date in individual Timber Harvest Plans (THPs).

CEQA allows deferral of this kind only when a series of projects within a larger project are expected to occur in very similar settings and have very similar impacts. Does not this deferral misapply the intent that the state's Forest Practice Rules (and hence JDSF's Management Plan and individual THPs) be functionally equivalent to CEQA?

In fact, such deferral of mitigation measures is inappropriate in a setting like JDSF, which is characterized by complex variables such as diverse topography, different hydrological patterns, soil types and micro-climates. Please explain how the public could be expected to evaluate the sparse language about mitigation of environmental impacts contained in the DEIR.

Would not an analysis and summary by independent scientific professionals be needed in order for the public to understand and evaluate the scientific information?

## **6.2 Botanical Resources --6.2.1 Regional Setting Bishop Pine Series**

The discussion of the bishop pine series, a vegetation community dominated by *Pinus muricata*, fails to include the following information about how the California Department of Fish and Game (CDFG) ranks bishop pine forests:

The Northern Bishop Pine Forest vegetation type is recognized by the State as a sensitive and limited vegetation type in California, State rank S2.2 (endangered with 6-20 EOs or 1,000-3,000 individuals or 2,000-10,000 acres, and threatened).

This vegetation type is currently listed in California Natural Diversity Database (CNDDDB) RareFind Communities. The Northern Bishop Pine Forest is very limited in distribution, and is often poorly understood within its range.

How will this information be reflected in the way bishop pine forest is treated in the DEIR and the JDSF Management Plan?

## **6.2 Botanical Resources --6.2.1 Regional Setting Pygmy Cypress Series**

The DEIR text leaves out a crucial piece of information, namely that the total extent of Mendocino pygmy cypress forest has decreased markedly in the last few decades. It correctly states that the original extent of Mendocino pygmy forest was about 4,000 acres. It fails to take into account that due to permanent loss, significant amounts of pygmy forest have been extirpated. Recent estimates place existing pygmy forest at about 2,600 acres [Davis, F. W., D. M. Stoms, A. D. Hollander, K. A. Thomas, P. A. Stine, D. Odion, M. I. Borchert, J. H. Thorne, M. V. Gray, R. E. Walker, K. Warner, and J. Graae. 1998. *The California Gap Analysis Project--Final Report*. University of California. Santa Barbara, CA..]

The DEIR states that the pygmy forest at JDSF constitutes 14% of the total pygmy forest area. However, that statistic is based on the original pygmy forest acreage, rather than current estimates. If extant pygmy forest totals approximately 2,600 acres, then JDSF's 613 acres constitute nearly 25% -- one quarter -- of the remaining Mendocino pygmy forest. This would seem to place a great obligation on CDF to be a responsible steward of its considerable pygmy forest land holdings.

Please explain how this insight will change the language of the DEIR and the Management Plan for managing JDSF's pygmy forest acreage.

Please explain how CDF can responsibly manage its bishop pine forests and pygmy forests utilizing a Management Plan based on an EIR that omits or misrepresents basic background information on the regional setting for its botanical resources.

## **Threatened, Endangered and Sensitive Species**

CNPS takes issue with the following text in the DEIR:

“Although CNPS is considered an authority on rare plants in California, and maintains an exhaustive database of rare, threatened, endangered and uncommon plants, they are a private organization operating independently of CDFG and USFWS. ... CDFG currently accepts the premise that placement of plants on CNPS lists 1A, 1B and 2 provides a fair argument that they qualify as rare, endangered, or threatened under Section 15380(d) of CEQA.”

This language implies that collection, development and review of CNPS data on sensitive plants are conducted in a completely independent manner. Is CDF aware that CNPS and CDFG share plant data and work in partnership to develop and maintain databases on rare plants and vegetation classification? How does CDF in the DEIR plan to acknowledge this scientific cooperation between CNPS and CDFG?

### **Federal and State-Listed Plant Species**

It is the position of CNPS that the salvage exemptions contained in the NPPA apply only to taxa state listed as rare, and that the salvage provisions apply *only after* compliance with all provisions of CEQA. Please see Donald H. Weburg v. State Board of Forestry and Fire Protection, case #02-CS00204 – Sacramento County Superior Court, 04-02-02.

### **6.2.3 Project Measures for Protection of Botanical Resources**

Under Goals and Objectives, the DEIR refers to pygmy forest as an “uncommon plant community” apparently at the same level as something vaguely described as “meadows.” How does CDF justify such imprecise, careless language regarding a rare resource like pygmy forest?

### **6.2.4 Specific Management Actions – Special Concern Areas and Unique Habitats**

This section refers repeatedly to measures supposedly specified in the JDSF Management Plan. Since the final form of the JDSF EIR has yet to be determined, it follows that the Management Plan, the “project” covered by the EIR does not yet exist in its final form. How can the public be assured by or comment on measures contained in a Management Plan that is not yet finalized?

Again, the intent of CEQA is to provide, in an EIR, clear, thorough and understandable information to allow the public to comprehend and comment. How can CDF fulfill this mandate with a DEIR that is far too lengthy for CEQA requirements that refers the public to another lengthy document?

### **Plant Species of Concern**

**Habitat Management Practices**-- CNPS absolutely opposes any plan for “Limited removal of species in the pygmy cypress forest may occur as a result of habitat development projects for the Lotis blue butterfly.”

First, scientists do not really know that *Lotus formosissimus* is the host plant for the larvae of the lotis blue butterfly. There is some evidence that this species might be the host plant, but it is far from certain.

Even if this *Lotus* is the larval host, this plant grows readily in wet meadows, so that other, more suitable habitats for it can be found. There is no justification for sacrificing pygmy forest in order to foster the growth of this plant.

How does CDF justify an action that is not supported by science and that would leave CDF vulnerable to legal action?

### **Invasive Exotic Plant Species Control**

Invasive exotic plants are a major environmental problem at JDSF, and have been for a long time. The invasive weeds choke out native plants and present a considerable fire hazard. Please explain how emphasizing integrated weed management, a “prevention-oriented approach” will have an impact on an already-serious weed infestation.

None of the measures outlined in the DEIR address the large stands of macro-weeds like *Cortaderia jubata*, *Cytisus scoparius* and *Rubus armeniacus* (formerly *R. discolor*).

While CNPS advocates for an active, ongoing weed-control program at JDSF, CNPS is also concerned about the effects of herbicides on native plants. Herbicides are often applied *after* a THP is closed, and CNPS is aware of cases where herbicide applications were fatal to sensitive botanical taxa. CDF claims that it has no authority over such applications, since the application is done after the THP closes. Does not this constitute illegal CEQA piecemealing? Shouldn't CDF address all herbicide impacts, including cumulative impacts, in the DEIR, as well as in the THP process?

### **6.2.6 Impacts – Impacts 1 through 6**

It is generally accepted in the scientific community that a complete biological inventory, resulting in baseline data is essential for creating a realistic management plan. However, the DEIR discusses methods of assessing impacts to botanical resources without reference to any baseline data.

The DEIR goes on to state that “An extensive inventory of the botanical resources of JDSF has not been conducted. JDSF maintains a map of known rare plant occurrences and has compiled available supporting documents. Inventory is planned to occur on a project-by-project basis through surveys patterned after currently accepted protocol.”

Please explain what is meant by “accepted protocol” and by whom it is accepted. Please explain how piecemeal, project-by-project surveys (to be conducted by whom?), possibly influenced by project timetables can provide sufficient data to inform project planning?

Please explain how “pre-survey scoping consultation with DFG” could help with the design of mitigation measures? In the absence of baseline biological data, how would CDFG or CDF personnel have sufficient knowledge to design protections for botanical resources?

How does CDF intend to deal with the fact that many rare, herbaceous plants can be easily missed by low-intensity, non-floristic or off-season surveys?

How can CNPS, not to mention the general public, evaluate the DEIR's language on mitigation for impacts to sensitive plants, without measures targeted to specific plant taxa?

The highly variable natural features found within JDSF indicate the need for mitigations like buffer zones tailored to the needs of each project site. Mitigation measures designed to protect plants should also be informed by knowledge of pollinator populations and behavior and dispersal mechanisms.

Why has CDF failed to provide assessments based on past THPs of the effectiveness of mitigation measures in protecting or avoiding sensitive plants or habitats? If these data exist, why not utilize them? If these data do not exist, why don't they, in a state research and demonstration forest?

Please explain what the public can expect in cases where mitigation measures fail to protect or avoid sensitive plants or habitats.

CNPS would like to see areas containing rare plant populations or vegetation types set aside and protected from the effects of logging and related activities. This would include smaller, but significant populations, in addition to large blocks of habitat. Since this is the most effective, scientifically defensible way to protect rare plants and habitats, why does the EIR not specify reserves for botanical “hot spots”?

Please explain how the material in the Botanical Resources section of the DEIR supports the conclusion that there will be no significant impacts to botanical resources. Given the absence of botanical inventory requirements, survey protocols, monitoring plans or specific, targeted mitigation

measures, how does the DEIR provide assurances to the public about the conclusion of “no significant impacts” to botanical resources?

**Impact 1: The project has the potential to threaten to eliminate a plant community (Less than significant)**

**Impact 3: Have substantial adverse effects, either directly or indirectly through habitat modifications, on any species identified as a candidate, sensitive, or special-status plant species in local or regional plans, policies or regulations, or by the CDFG or USFWS (Less than significant)**

The DEIR proposes to avoid potential adverse impacts to plant species of concern by having a botanist or “trained personnel” periodically check plant occurrences.

Please explain how this simple tally of plants would provide meaningful data about any decline in plant health in time for CDF to take remedial action? What remedial actions would CDF take in such cases? Please explain why the public should be satisfied with surveys conducted by “trained personnel” when complete, accurate botanical surveys require qualified scientists?

Such monitoring is apparently intended only for areas “subject to management activities,” which might exclude the plant species of concern in the pygmy forest areas. Please explain how this monitoring would be useful in assessing any decline in special-status, pygmy forest species not directly impacted by “management” activities.

Pygmy forest and the plant species of concern that occur there are extremely vulnerable to altered hydrology, changes in soil chemistry and surface erosion. Such adverse effects can be caused by grading and trenching, road building and by recreation involving motorized vehicles and trail bikes. These activities can be damaging even if they happen adjacent to, but not in the pygmy forest.

The fact is that the pygmy forest within JDSF has been very poorly managed. Mechanical disturbances that alter the hydrology, off-highway vehicles (OHVs) and dirt bikes, road building, poor road maintenance, invasion by exotic weeds, and trash dumping, continue to cause damage.

Please explain how the DEIR’s proposed “incidental protection” for sensitive plant species in SCAs can be valid under such the existing scenario.

**Impact 6: Cumulative effects resulting in a reduction in the range of a species, or local extirpation of a plant species on a spatial scale that includes the larger analysis area. This threshold includes changes in the environment caused by the interaction of ecological processes and multiple effects. (Less than Significant)**

With respect to Mendocino pygmy cypress forest, cumulative effects to special-status plant species in the pygmy forest within JDSF have already occurred and are continuing to occur. These cumulative effects are the result of altered hydrology and continual erosion caused by poor road maintenance and off-road vehicle activity. Please explain exactly how the proposed management and mitigation can be expected to halt or reverse these impacts.

The DEIR refers to “future road management” and the future implementation of “measures for scoping, survey and mitigation” to be implemented at some later date, on a project-by-project basis. How do such vaguely described measures meet the CEQA mandate for a clearly written EIR understandable by the public, and avoid the CEQA prohibition against piecemealing?

The DEIR erroneously states that, “Pygmy forest and pygmy-type vegetation on private lands are subject to Mendocino County land use planning and are designated as Environmentally Sensitive Habitat Areas. These areas are subject to more rigorous environmental review and restriction than most other areas (Mendocino Co. Plan Sect. 20.532.060 and 20.496045).”

In fact, only the small amount of Mendocino pygmy cypress forest found within the California Coastal Zone receives consideration as an Environmentally Sensitive Habitat Area in Mendocino County.

Both allowable activities and illegal uses, such as OHV recreation have taken their toll. There has been little or no enforcement of regulations prohibiting vehicle activity in the pygmy. The DFMP and DEIR do not provide any detailed management plan to protect the pygmy forest from high-impact vehicle activity. If CDF cannot generate a good plan to manage the JDSF pygmy forest, would CDF be willing to transfer ownership of those lands to another organization?

Given the concentration of illegal activities in JDSF's pygmy forest, the plan in the earlier DFMP for annual review of reported nuisances is woefully inadequate. It states that, "Additional restrictions will be implemented as needed." Those restrictions have not been implemented yet, and they are needed now. Citations for illegal vehicle use, dumping, shooting, etc. represent an excellent potential source of revenue. Have CDF, State Parks, or the local law enforcement agencies considered this?

Please see CNPS comments above on plans to remove pygmy forest vegetation in a misguided attempt to "restore" habitat for the lotis blue butterfly.

CNPS could support projects to regenerate Mendocino pygmy cypress forest using prescribed fire, in cases where intact pygmy forest geomorphologic structure makes success probable.

## **Project Information**

### **Goal #1. Research and Demonstration**

A meaningful, long-term research program at JDSF that involves biological resources must be founded upon a complete biological inventory. Both the CDFG and CNPS guidelines require a complete *floristic* survey prior to commencement of operations. Surveys for only a set of sensitive taxa do not provide a sufficient basis for conducting research.

Even though JDSF is touted as a research and demonstration forest, JDSF currently has no on-site botanical staff, and virtually no science staff.

CNPS calculated in 2002 that JDSF's expenses were less than 17% of its revenues. CNPS believes that a portion of the substantial revenues derived from JDSF timber harvests should be returned to JDSF in the form of qualified botanical and ecological staff capable of actually carrying out a viable research program. Please outline the reasons why this has not yet occurred. CNPS requests a step-by-step proposal for re-investing a portion of JDSF's timber revenues in JDSF's research program.

As for the research program itself, CNPS advocates the establishment of a formal research program, with results published in peer-reviewed journals, data made easily accessible to the public, and formal agreements with academic institutions. the DEIR cites a focus on "...investigations directed to the needs of the general public, small forest landowners, resource professionals, timber operators, and the timber industry."

CNPS suggests that studies in the following areas would be of great interest and relevance to many or most of the constituents cited:

- The relationship between sensitive plant taxa that appear to flourish in forest openings (e.g., *Sidalcea malachroides* and *Astragalus agnicidus*) and timber harvest practices
- Projects to evaluate how increased regulation of timber harvesting will actually affect the economics of timber harvesting

- Examination of impacts to timber harvesting when tree species vulnerable to Sudden Oak Death (e.g., *Lithocarpus densiflora*) become state or federally listed. Such listing could cause a “train wreck” for timber harvesting, so research conducted on JDSF could help small timber owners cope.
- Research into silvicultural prescriptions, equipment management, and other exotic control technologies that can be effectively used to combat invasive exotics in the north coast forests
- Research into techniques for forest restoration to maximize biological diversity and ecological functions.
- Research projects that focus on compatibility of logging and preservation of biodiversity
- Restoration, recovery and fire regimes in the pygmy forest, since the current, damaged state of JDSF’s pygmy forest would provide ideal conditions for such research.

Please provide a list of planned research projects that would have far-reaching relevance while anticipating future challenges to resource stewardship in California’s forests.

CNPS is also concerned about the “demonstration” goals for JDSF. How can CDF justify “demonstrating silvicultural prescriptions that result in even-aged management, when such methods are already widely used and understood?”

Any silvicultural prescription that is widely use and is a viable method, can no longer be considered “innovative”, and is therefore not a fit subject for “demonstration” in a state forest.

CNPS does not see much evidence that logging activities at JDSF are actually geared toward the small timberland owner. Instead, activities on the forest appear to focus on large, corporate, industrial timber companies.

How does CDF plan to greatly minimize the emphasis on industrial timber, and replace it with activities that are truly relevant to small landowners (as well as the general public)?

### **Concluding Remarks**

CNPS also wishes to address CDF’s assessment of the public’s responses to the DEIR. Written responses should be weighted in importance on the basis of their scientific and legal arguments, rather than by subjective measures like the number of responses.

With a well-written Environmental Impact Report and Management Plan, CDF would not have lost several years’ worth of revenues from JDSF due to legal actions. Funding from JDSF revenues could have provided CDF with trained, competent professionals to write these documents.

Sincerely,

Lori Hubbart  
 Chapter President  
 Dorothy King Young Chapter  
 California Native Plant Society