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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

MAR 31 2006

In response refer to:
10015SWR2006SR00189:CAA

Mr. Stan Dixon
Chair, California Board of Forestry and Fire Protection
P. O. Box 944246
Sacramento, California 94244-2460

Dear Chairman:

This National Marine Fisheries Service (NMFS) letter pertains to the Board of Forestry's (BOF) obligation to extend, permanently adopt, or allow the sunset of, the Threatened and Impaired Rules (T&I Rules) by December 31, 2006. The BOF administrative record preceding the adoption of the T&I Rules, as well as the *Federal Register* Notice published by NMFS June 7, 2000 (65 FR 36074), provides unequivocal and substantive evidence to suggest that any action by the BOF other than to extend or permanently adopt the T&I Rules would be unfounded.

In California, there are 10 distinct populations of salmon and steelhead listed as either threatened or endangered pursuant to the Federal Endangered Species Act (ESA) of 1973, as amended. Nearly all populations in northern California co-occur with large tracts of forestlands managed under California Forest Practice Rules (FPR). During the listing process of these species, NMFS reviewed the FPR and in all cases concluded they do not adequately protect anadromous salmonids or provide for properly functioning habitat conditions (60 FR 38011; 60 FR 14253; 61 FR 56138; 61 FR 41541; 62 FR 62741; 62 FR 43937; 62 FR 43974 and others). In fact, many of these *Federal Register* Notices conclude that California's non-Federal forestry practices are significant factors contributing to salmon and steelhead population declines and the degradation, simplification and fragmentation of their habitats through the present or threatened destruction, modification or curtailment of habitat and range, and the inadequacy of existing regulatory mechanisms.

NMFS testimony to the BOF in 2000 (additionally communicated in the June 7, 2000, *Federal Register* Notice) outlines that the T&I Rules "constitute a good first step in addressing many concerns raised during the FPR review process; however, they are currently inadequate to protect anadromous salmonids, including steelhead, and their habitat."

Since the 2000 adoption of the T&I Rules there have been no major changes in our general understanding of watershed process and salmonid needs. Habitat conditions for salmonids continue to decline and, after a recent NMFS status review of all Pacific Northwest salmonids, the federal status of the Central California Coast coho salmon Evolutionarily Significant Unit (*Oncorhynchus*

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kisutch) was changed from threatened to endangered. The geographic range of Central California Coast coho salmon overlaps large tracts of private forestlands.

NMFS recommends the BOF re-visit the *Federal Register* Notice from June 7, 2000 (enclosed) and the administrative record preceding T&I Rule adoption, and that these Rules be considered in their entirety for permanent adoption or extension. NMFS looks forward to continued communication that builds from this history of dialog and recognizes collaborative opportunities such as the current work to develop a foundation for science-based decision-making and the ultimate development of the California Department of Fish and Game 2112 Incidental Take Guidelines.

Thank you for your consideration. If you have any questions or would like to meet with staff regarding comments in this letter please contact Charlotte Ambrose at (707) 575-6068 or via email at charlotte.a.ambrose@noaa.gov.

Sincerely,

Original Signature on File

Rodney R. McInnis
Regional Administrator

cc: Russ Strach, NMFS Sacramento
L. Ryan Broddrick, DFG Sacramento
Dick Butler, NMFS Santa Rosa
Irma Lagomarsino, NMFS Arcata

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