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SUBJECT: Letter 2 of 2
Comments on the Mendocino Redwood Company
Draft Habitat Conservation Plan and Draft Environmental Impact Statement/
Program Timberland Environmental Impact Report

To whom it may concern:

This letter represents the second set of comments and recommendations from Navarro-by-the-Sea Center for Riparian and Estuarine Research (NSCR) on the draft Habitat Conservation Plan (HCP) and Natural Communities Conservation Plan (NCCP) from Mendocino Redwood Company (MRC) for their approximately 213,244 acres in Mendocino County, California, as well as the combined Draft Environmental Impact Statement (EIS) and Program Timberland Environmental Impact Report (PTEIR).

Given the approaching deadline for comments, NSCR divided its comments and

recommendations into two letters. The first letter identifies our overall concerns, and recommends that the Science Panel be reconvened to review the current draft of the HCP/NCCP. Depending on the recommendations of the Science Panel, the current draft of the HCP/NCCP should be revised, together with the EIS/PTEIR, if necessary. And if revisions to the HCP/NCCP are necessary to address recommendations of the Science Panel, that the public comment period be extended a minimum of 60 days beyond the completion of the revised HCP/NCCP and EIS/PTEIR.

NSCR has only been able to conduct a cursory review of the extensive documents associated with the HCP/NCCP and the EIS/PTEIR, but is very concerned about the possible implications of the requested approvals on future land management practices in the Navarro River watershed and broader forest lands of Mendocino County. The following are specific comments and requests related to our review of the HCP/NCCP and the EIS/PTEIR:

Limited Baseline Data

A review of the species and habitat descriptions in Chapters 3 through 6 indicate a severe lack of baseline data on sensitive resources, which is acknowledged in the HCP/NCCP. But the degree to which this lack of baseline data could affect the results of the impact analysis in both the HCP/NCCP and the EIS/PTEIR has not been adequately recognized in the modeling for harvest yields and minimum resource protections. Where baseline data is not available, conservation measures must explicitly state how presence or absence of sensitive resources must be verified and minimum standards for avoidance and protection must be described, and as necessary adjusted, to account for the results of future surveys and mapping. As stated in Section 3.4.4.1, Old Growth Trees, in the HCP/NCCP (see page 3-59), "MRC has little information on the actual number of individual old-growth trees within our forests." And in Section 3.4.4.2, Wildlife Trees, (see page 3-60), "MRC currently has little data on our wildlife trees." And yet, protection of old growth trees and wildlife trees are one of the key assumptions to enhancing habitat for terrestrial wildlife including Northern spotted in the plan area, and in meeting the goals for provide suitable nesting habitat for this special-status species. The lack of baseline data raises questions over the validity of projections for both short- and long-term success of habitat protection and enhancement necessary to address the direct and indirect take of special-status species such as the Northern spotted owl, and reinforces the need to provide a thorough independent review by the Science Panel.

As discussed under Section 1.8.1, the HCP/NCCP would cover 9 fish and wildlife species or sub-species in the plan area. These consist of two species listed as endangered, one as threatened, and six recognized by the California Department of Fish and Wildlife (CDFW) as California Species of Special Concern (SSC). However, this list of six species recognized as SSC does not include the Navarro roach (*Lavinia symmetricus navarroensis*). The Navarro roach is considered a SSC by the CDFW, and is present at the western edge of the plan area within the Navarro River Estuary. Navarro River is the type locality for this subspecies, for which very little research has been conducted on its rarity, population numbers, and degree to which it may disperse within the intertidal reach of the Navarro River and the tributary drainages that extend

into the plan area. This subspecies most likely occurs in other estuarine systems along the North Coast as well, although we know of no detailed studies on its distribution, status, or typical habitat characteristics. Given the potential for direct and indirect impacts on this species as a result of plan implementation, this species should be described and evaluated, with appropriate conservation measures provided in the HCP/NCCP.

Deferral of Plans/Programs and Lack of Specificity in Conservation Measures

As determined by the Court of Appeal in *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, a lead agency cannot “defer” preparation of detailed studies necessary to fully understand the potential impacts of a project, in this case the numerous surveys, plans and programs identified in the HCP/NCCP. These are essential to understanding the relationship of existing sensitive resources to proposed timber management activities, effectiveness of proposed mitigation, and long-term success of the HCP/NCCP. As an example, Conservation Measure 9.7.3-1 calls for preparation of an Invasive Plant Control Program and an Invasive Animal Control Program for the plan area “within the first 5 years of HCP/NCCP implementation”. MRC has been practicing invasive species control and management as part of current timber harvest practices and has a full understanding of the issues, challenges and successful techniques. A draft of the invasive plant and animal control programs should be provided as an appendix to the HCP/NCCP to allow the public an opportunity to review the performance standards and success criteria in these programs, and provide comments where revisions are necessary. These programs are often times critical to protection of sensitive resources that may be directly avoided by timber harvest activities but then are eventually lost as a result of competition for available light, water and other resources due to the establishment and spread of invasive species that favor disturbed conditions created by harvest activities, or are introduced into previously intact forest habitat as a result of road construction, canopy removal, and other disturbances.

As an example of the lack of specificity in many aspects of the HCP/NCCP, Conservation Measure 9.7.3-3 states that a “formal evaluation and revision” of the invasive plant and animal control programs be performed every five years. But does not specify any parameters in conducting the evaluation, who would be involved in the review, and whether there would be any opportunity for public review and comment. And no performance standards are identified in any of the conservation measures related to invasive species, such as reporting requirements as part of routine monitoring, criteria to use in providing invasive species treatment, and triggers that would require on-going retreatment of target species. Control of invasive species is critical to successful protection and enhancement of natural habitat, and should be a key component of the long-term management obligations of MRC for the plan area. The HCP/NCCP should be revised to provide the appropriate level of detail in all conservation measures where performance standards must be specified to ensure successful implementation.

Potential Impacts and Lack of Compensatory Mitigation in HCP/NCCP

When a proposed activity has the potential to impact a listed species either through direct take or through modification or loss of habitat, compensatory mitigation is typically required by the resource agencies. Mitigating for habitat loss requires either the replacement or protection of habitat within the plan area or at another location, but specific mitigation has not been clearly identified as part of the draft HCP/NCCP by MRC. No habitat areas would be permanently protected through conservation easements or other control mechanisms under the draft HCP/NCCP. Instead, “mitigation” would presumably be achieved through timber management practices defined as part of the HCP/NCCP, based on projections of trends in suitable habitat for special-status species. Given the uncertainties in data and assumptions used to develop these projections in habitat trends, this poses a high risk of both direct and incidental take of special-status species, and allows for substantial impacts on existing habitat for extended periods of time before restrictions on harvest activities, consideration of adaptive management strategies, and contingency measures are to be implemented under the draft HCP/NCCP.

This is an unacceptable approach to resource management that provides no assurances that essential habitat for target special-status species won't be irreparably compromised over long-periods. The proposed HCP/NCCP allows MRC to maximize their timber harvest activities in locations that would otherwise be controlled and restricted under normal California Forest Practice Rules. This could ultimately lead to extirpation of one or more listed species from currently occupied habitat. As an example, the goal for Northern spotted owl management under the HCP/NCCP is to increase their population size in the plan area by 20%, basically by managing 25% of the plan area to provide suitable nesting habitat. The assumed increase in nesting/roosting habitat and population size over the life of the HCP/NCCP is intended to offset the expected take of Northern spotted owls as a result of habitat degradation. But there are no assurances that the intended increases in habitat and population size will ever be achieved. Monitoring would be provided to verify nesting territory locations and reproductive success, but this would be performed while existing territories are actively compromised and possibly eliminated as a result of timber harvest activities.

As indicated in Table 10-7 on page 10-29 of the HCP/NCCP, by Year 40 the Level-1 nesting territories for Northern spotted owl in the Navarro West block would drop from 11 to 3. And even at Year 75 Level-1 nesting territories are estimated to reach a total of only 4, representing a 64% reduction for one of the most productive blocks in all of MRC's holdings. This represents a watershed-level reduction in nesting territories as a direct result of timber harvest practices that is unacceptable and for which no corresponding mitigation is provided as part of the HCP/NCCP. And this watershed-level reduction in nesting territories is not addressed in the EIS/PTEIR through specific mitigations that would avoid this dramatic, permanent reduction in nesting territories in the Navarro West block. Even the projections in the HCP/NCCP intended to provide an increase in suitable nesting habitat through land management activities do not address this impact on the distribution of Northern spotted owl in the Navarro River watershed,

assuming those projections are ever met.

The HCP/NCCP should be revised to protect all of the existing Level-1 territories in the Navarro West block, and the analysis in the EIS/PTEIR should be revised to address this significant impact and provide for adequate mitigation. Any compromise or loss of essential habitat for target special-status species should not be allowed without a compensatory mitigation program that provides both short- and long-term verifiable benefits for the species. And compensatory mitigation should be established in advance of any scheduled impacts to existing essential habitat, in this case the Level-1 nesting territories within the Navarro West block and elsewhere in the plan area. Only after habitat enhancement has been achieved and new, expanded territories established should the anticipated impacts to existing essential habitat be allowed to proceed, and the draft HCP/NCCP should be revised to reflect this minimum compensatory mitigation standard.

With regard to alternatives considered in the EIS/PTEIR, the analysis indicates that projected trends in suitable habitat for target special-status species would be far superior under Alternative A than the “Proposed Action” (the HCP/NCCP proposed by MRC). NSCR strongly supports implementing the various mitigations, refinements and additional conservation measures recommended in the EIS/PTEIR, and requests that a refined Alternative A be implemented if no other options are determined feasible following the thorough review by the Science Panel.

Alternative B calls for establishing permanent reserves throughout the plan area as a mechanism to achieve long-term protection of essential habitat for target special-status species. However, the parameters of Alternative B in the EIS/PTEIR are so onerous that even with a substantial reduction of more than 50% in acres harvested in comparison to the Proposed Action, the overall impacts of clear cutting and aggressive silvicultural methods under this alternative as currently defined would result in severe adverse impacts on a landscape level that would be unacceptable for the region.

But why wasn't a hybrid alternative considered in the EIS/PTEIR? One that provides a minimum system of reserves to ensure essential habitat for target special-status species is permanently protect, but capitalizes on the silvicultural methods to be used under Alternative A. The reserves under this hybrid alternative could be much smaller in acreage than those identified in Alternative B to reduce the degree to which timber harvest objectives of MRC must be compromised. But instead of occupying such a large percentage of plan area, they could be strategically located to expand upon and compliment habitat values on the existing protected lands contained within holdings of State Parks, the Mendocino Land Trust, the Anderson Valley Land Trust, and other conservation areas, or in locations where protection of core habitat for Northern spotted owl, marbled murrelet, and other target species overlap, and/or where they would complement other constraints such as wetlands and Watercourse and Lake Protection Zones.

NSCR requests that such a hybrid alternative be fully developed and included in the

EIS/PTEIR as a method to address the loss of essential habitat for Northern spotted owl and other target special-status species. This includes the anticipated loss of 7 Level-1 territories in the Albion and Navarro West inventory blocks, which is unacceptable and inconsistent with the objectives of the HCP/NCCP where highly productive nesting territories are to be avoided and protected.

Duration of HCP/NCCP Approval and Lack of Opportunity for Public Input

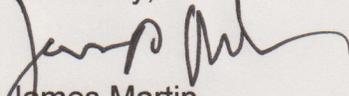
The requested incidental take authorizations associated with the HCP/NCCP for an 80-year period should be denied given the lack of baseline data in the plan area, the broad assumptions regarding suitable habitat for special-status species, and uncertainties in meeting projected trends for habitat establishment, among other considerations. NSCR requests that the terms of the HCP/NCCP extend for not more than a 40-year period, and that opportunities for continued public input be required as part of on-going monitoring and the adaptive management process. Public information sessions should be conducted at least once every 10 years to present the results of habitat management activities, degree to which goals and success criteria have been met, and status of any adaptive management strategies to be implemented following coordination and approval by resource agencies. And an opportunity provided for public comment which should be responded to as part of a summary report to be submitted to the resource agencies and made available for review by the public.

Although a HCP/NCCP provides an opportunity for regional planning of timber management practices and MRC is to be commended for their efforts to date, the draft HCP/NCCP and draft EIS/PTEIR require substantial revisions following a thorough review by the reconvened Science Panel, as recommended in our first comment letter. This should be followed by an additional public review period of a minimum of 60 days beyond the date of the completion of the revised draft HCP/NCCP and draft EIS/PTEIR, if necessary.

NSCR does appreciate the tremendous effort that MRC, the resource agencies and their personnel have devoted to preparing the draft HCP/NCCP, the draft EIS/PTEIR, and associated documents. But these documents still have a long ways to go before they provide the critical directives to guide timber management practices over such a vast area and for such a complex environment we all treasure and appreciate, while ensuring adequate protection for the special-status species and essential habitat found in Mendocino County.

Please feel free to contact me with any questions regarding the above comments. I can be reached by email at beach127@aol.com or by phone at 707-877-3477.

Sincerely,



James Martin
Board President