6/3/2022

Re: NSO Rule Revisions

Dear Mr. Wade,

The California Chapter of the Association of Consulting Foresters has reviewed the draft rule plead released at the May Board of Forestry Forest Practice Committee meeting and provided the following comments for your consideration.

There was a general consensus from four different consulting firms that the allowance for NTMP holders (and presumably WFMP holders) to employ a Spotted Owl Resource Plan as a Take Avoidance method would be a positive change. This is something that our Chapter strongly supports! Without this inclusion, the consensus was that the proposed revisions would not result in any meaningful change for small landowners. The emphasis should be on the SORP and making sure that it becomes an incentive for landowners. We have included the NTMP SORP, of which many of our members have actively provided much input into its development, so that the Board may familiarize itself with the details of this Take Avoidance pathway that is currently available for use.

Furthermore, If the idea is to encourage small landowners to manage forests for NSO’s (ie how to operate near Activity Centers with high fire risk), we pose the question of whether or not the ability of small landowners without NTMP’s to utilize an individual SORP could be a possibility. In the last 3 years, more than 10% of the AC’s have been lost to wildfire. So, is there any way that the Board could facilitate the ability of small landowners to utilize the SORP who can’t afford an NTMP or are not interested in use of that permit but are employing the same management styles through the use of Modified THPs or THPs which retain nesting/roosting habitat post-harvest? And/or could the following proposed rule plead modifications provided by Stu Farber, Wildlife Biologist of W.M. Beaty and Associates, be integrated into this rule package? In order to make a real impact, these are some ideas that we ask the Board and Department to consider.

There was also some discussion of definition of Owl Habitat. Many of our members commented that there has been no effort to recognize the status of young growth forest stands or the habitat that owls actually prefer and thrive in. See the below suggestions for plead revisions from again from Mr. Farber that addresses this concern.

Thank you for your consideration and work on this issue.

Sincerely,

Andrea Eggleton

RPF #3003

Vice President, ACF CA Chapter

From Stu Farber, Wildlife Biologist, W.M. Beaty and Associates:

“Adding the NTMP and WFMP to potential SORP’s is positive.  However, this rule package also directly requires use of USFWS guidance.  It might seem subtle, but a better package would be to have the following (as was in 2013) under item (g)(see below). This approach gives the landowner four independent options which are currently used including the USFWS guidance or CDFW guidance or CALFIRE authority or a landowner proposed approach.

***(g)****Where an activity center has been located within the plan boundary for the area specified in 14 CCR § 919.9(b)(1)(B), [§ 939.9(b)(1)(B)], ~~or 1.3 miles of that boundary,~~ the RPF shall determine and document in the plan: (i) activity center-specific protection measures to be applied during timber operations, and (ii) owl habitat~~, including habitat described in (1)-(5) below,~~ that will be retained after the proposed operations are completed to avoid take consistent with guidance provided by the listing agency(s) or Director, or (iii) propose alternative take avoidance standards based upon substantial site-specific information for review and approval by the Director.  The Director shall not approve alternative standards that are not likely to satisfy the take avoidance criteria specified in 14 CCR § 919.10, [§ 939.10].*

Also, this rule package also directly requires use of USFWS guidance for the definition of habitats.  I would hope we would prefer maintaining options into the future.  A better approach would be:

*\*\*\*\*\*****Owl Habitat****means ~~Type A, B, or C owl habitat or~~ those areas ~~with functional foraging habitat, functional nesting habitat, and functional roosting habitat~~ which support the owl's biological needs for breeding, sheltering, and feeding ~~.  An area of habitat could have characteristics which support all of the functional needs for nesting, roosting, and foraging or a combination of those functions.  Because owls are known to occasionally inhabit less than optimal forest structure, local information can be used to justify the modification of functional habitat definitions.~~ consistent with guidance provided by the listing agency(s) or Director, or (iii) propose alternative standards based upon substantial site-specific information for review and approval by the Director.  The Director shall not approve alternative standards that are not likely to satisfy the take avoidance criteria specified in 14 CCR § 919.10, [§ 939.10].*

Moving into the future I would hope we would not support having to exclusively use the USFWS guidance or with just modifications to the USFWS guidance.  Hope this helps or provides some ideas for thought,

Stu”