

Memorandum

To: Unit Foresters
Forest Practice Inspectors
Regional Review Team Foresters

Date: July 7, 2008

R12

Telephone: (916) 653-4995

From: **Chris Browder, Deputy Chief, THP Administration
California Department of Forestry and Fire Protection
(CAL FIRE)**

Subject: Evaluation Process for Northern Spotted Owl Information to Determine Compliance with CCR § 919.9(g) [939.9(g)] and 919.10 [939.10]

Introduction

The following generally describes the information the California Department of Forestry and Fire Protection (CAL FIRE) will request from plan proponents, where that information should be put in the timber harvesting document (plan), and which CAL FIRE staff will be responsible for review of such information when making take avoidance determinations for the northern spotted owl (NSO) associated with timber operations.

First Review

The first review team is responsible for determining whether the submitted plan or amendment provides adequate information to evaluate compliance with 14 CCR §§ 919.9(g) [939.9(g)] and 919.10 [939.10]. In addition to ensuring that adequate information has been included in the plan, the first review team will ensure that all NSO activity centers (ACs) identified in the California Department of Fish and Game's NSO Database Management System (NSO database) Report # 2 have been addressed in the plan and that the pre- and post-harvest habitat analysis tables provided demonstrate retention of sufficient post-harvest suitable NSO habitat.

The seventeen items listed below under **Plan Contents** are similar to the information currently required by the U.S. Fish and Wildlife Service (USFWS) for NSO Technical Assistance (TA). CAL FIRE has determined that this same information may be needed to allow the Director to exercise discretion and make a determination based upon information that is sufficiently clear and detailed (14 CCR § 897(b)(3)). However, CAL FIRE recognizes that a Registered Professional Forester (RPF) may deviate from the specific plan contents outlined below and still provide sufficient information to

CONSERVATION IS WISE-KEEP CALIFORNIA GREEN AND GOLDEN

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT WWW.CA.GOV.

determine that the plan is in conformance with the rules, take of NSO has been avoided, and potential significant and cumulative impacts have been addressed.

Plan Contents relative to NSO take avoidance and § 919.9(g) [939.9(g)]:

Under Section II, the following should be provided--

1. Whether the plan is in the range of the NSO.
2. How the plan will comply with 14 CCR § 919.9(g) [939.9(g)].
3. Whether there are known NSOs on, or within 1.3 miles of, the plan.
4. How the plan will address and provide protection for a previously unknown NSO discovered after take avoidance determination.
5. Appropriate enforceable language stipulating no timber operations shall occur until such time as all surveys for the current, or immediately preceding, survey period are complete, the results have been provided to CAL FIRE, and the results of CAL FIRE's take avoidance determination have been incorporated into the plan, including any resultant changes in timber operations to avoid take, if necessary.
6. A description of habitat retention levels and operational protection measures for any known ACs within 500 feet, 1000 feet, 0.5-mile radius (interior only, USFWS-recommended measures), 0.7-mile radius, and 1.3-mile radius, including a description of such measures.

Under Section IV, the following should be provided--

7. Cumulative Impacts: Have cumulative effects to the NSO been adequately addressed?

Under Section V, the following should be provided--

8. A copy of the most recent NSO database inquiry and results, including the most current date and version utilized.
9. A map showing the NSO assessment area within 1.3 miles of the plan boundary.
10. A map showing nesting, roosting and foraging habitat out to 0.7 mile from the plan boundary or out to 0.25 mile for plans that will only operate in unsuitable habitat to verify placement of survey route.
11. Pre- and post-harvest habitat analysis maps for the 0.5 mile- (interior only-- USFWS-recommended measures), 0.7 mile- and 1.3-mile radius circles around all known NSO ACs.
12. Tables indicating the acres of suitable pre- and post-harvest nesting, roosting and foraging habitat within the 0.5- (interior only, USFWS-recommended measures), 0.7- and 1.3-mile radius circles for each known NSO AC.
13. Survey summary sheets, including the survey date, the survey start time, the survey results, including explanation and justification for any reasonable exception to the protocols.

CONSERVATION IS WISE-KEEP CALIFORNIA GREEN AND GOLDEN

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT
WWW.CA.GOV.

14. Description of the definitions used for nesting, roosting and foraging habitat (current USFWS recommended definitions, Forest Practice Rule definitions, or other).
15. A clarification of the priority ranking used relative to habitat retention areas.
16. Description of the size, shape and configuration of habitat patches.
17. For take avoidance strategies that meet or exceed the requirements of 14 CCR §§ 895.1 (habitat descriptions) and 919.9(g) [939.9(g)] (protection measures and post-harvest habitat retention levels around known ACs), but do not meet the currently recommended USFWS measures for AC protection and post-harvest habitat retention, an analysis by a qualified person, which clearly and substantively demonstrates why the proposed, site-specific protection measures and level and configuration of post-harvest habitat retention will avoid take of the NSO. This analysis will need to address how the proposal will not significantly impair or disrupt feeding, breeding, nesting, and sheltering of the NSO (please see 14 CCR § 919.10 [939.10]) and may be performed by a biologist in direct employ of the timberland owner.

Field Review

The forest practice inspector will be responsible for determining and documenting (in the pre-harvest inspection report) whether:

1. Pre- and post-harvest habitat analysis provided in the plan for ACs located on the plan and within 1.3 miles of the plan boundary is consistent with the habitat descriptions used, the level of habitat retention proposed, rules requirements and ground conditions. Tools include: a review of aerial photos, ortho-photos, Google Earth (or other available tools), and field review. The evaluation will include field review of the habitat analysis contained in the plan to:
 - a. Ensure habitat definitions used in the analysis reflect ground conditions.
 - b. Determine whether the retained habitat quantities described in the plan appear accurate.
 - c. Evaluate the priority ranking of habitat retention areas.
 - d. Assess the appropriateness of the size, shape, and configuration of habitat patches.
2. Protection measures for activity centers appear adequate and in conformance with the rules.
3. Surveys appear complete and in adherence to protocol, insofar as is possible.¹
4. Proposed operations are in compliance with 14 CCR § 919.9(g) [939.9(g)].

Second Review & Director's Signature:

The second review team (and Director's designee for signature) will review the plan record to ensure the plan is in compliance with 14 CCR § 919.9(g) [939.9(g)] and apply the criteria identified under 14 CCR § 919.10 [939.10] to determine whether take of the NSO will be avoided.

¹ Reference "Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls," Revised March 17, 1992 (Endorsed by the U.S. Fish and Wildlife Service); and "Northern Spotted Owl Survey Data Analysis," February 27, 2008 (U.S. Fish and Wildlife Service)