

Members of the Buckeye Forest Project have now had several meetings throughout 2015 with members of the following regulatory agencies regarding Northern spotted owl ("NSO") management: US Fish and Wildlife Service ("USFWS"), California Department of Fish and Wildlife ("CDFW"), and California Department of Forestry and Fire Protection ("Calfire"). We offer the following suggestions, requested by CDFW following the August 20, 2015 meeting, as a starting point for discussions around improving NSO regulatory processes, which would ideally include USFWS, CDFW, Calfire, and the small non-industrial forest landowners ("NIPFs") whose lands lie within the range of the NSO.

#1: Create a technical assistance ("TA") program under the wing of one agency, so TA is available to all landowners, regardless of type or age of harvest plan or prior TA existence.

Recent meetings with regulatory agencies have clarified that TA programs have been de-funded. However, the Buckeye strongly encourages regulatory agencies to maintain or re-establish TA programs for landowners. This is a high priority both for the landowners and for the NSO. Landowners who do not have Habitat Conservation Plans ("HCP"s), which are not affordable for non-industrial landowners, are having difficulties receiving agency guidance regarding the current NSO regulations.

Because HCPs are unaffordable for non-industrial landowners, TAs should be provided to all landowners who need them, via permanent funding and staffing of an NSO-related program within one agency. This is the simpler and lesser cost solution to the TA dearth, from the Buckeye's perspective, and thus the most preferable for NIPFs. Additionally, agencies could pursue some version of statewide, government-provided non-industrial timber management plan Safe Harbor Agreements ("SHA"s) (but with a 40-year term) similar to formerly-used Habitat Retention Agreements of the USFWS. We would also encourage the National Oceanic and Atmospheric Administration to develop internal mechanisms for SHAs in concert with USFWS, and perhaps to share implementation with, or delegate implementation to, CDFW.

#2. Situate control of the NSO regulation process in one agency such as CDFW, as current interagency sharing of database management and decision-making authority leaves landowners unable to obtain guidance and database corrections. Permanent funding and adequate staffing for this agency will be needed to achieve accurate database management and consistent decision-making authority.

#3. Standardize interpretation of NSO regulations, in particular recent confusion over landowner responsibilities in meeting "recovery standard" versus "no take" standard. Recent meetings have clarified that regulatory agencies are following Endangered Species Act requirements of "no take" standard (not recovery standard) for NSOs on private lands. This means that private landowners need to protect actual NSO utilized habitat (as defined by the ESA), not potential habitat. This is a relief to the members of The Buckeye but we are still concerned about potential inconsistencies in interpretation of standards, as reported by member RPFs and landowners.

#4. Create a clear and written standard for NSO activity center abandonment with a basis in the Endangered Species Act. The original NSO protocol identified when an activity center could be considered abandoned, but the current protocol gives substantial latitude by reviewing USFWS staff, and does not clarify what standards are being used.

#5. Establish a process to clean up the NSO database, and to create periodic accuracy examinations and correction processes for the database. This effort would be preceded by a written standard that defines abandonment, retention, abolishment and invalidation of NSO sites.

#6. Establish a cap or maximum number of surveys needed to prove abandonment and/or invalidation or abolishment of a records NSO activity center. NSO surveys are expensive, and jeopardize landowners' ability to continue to manage forest lands. We encourage **a maximum limit on the number of continued surveys required to prove the absence of NSOs.**

#7. Revisit the protocol regarding the need to survey for two years (versus one). We would like a return to the original NSO protocol or a 1 year protocol that incorporates recent survey history and site visits for all NSO sites. This would particularly enable forest landowners with Non-Industrial Timber Management Plans ("NTMP"s) to respond to market conditions. While barred owl incursion has made NSOs less likely to respond to survey calling, this NSO reticence, once established, is likely to be repeated in the second of two survey years. NSO silence upon being called is ambiguous in meaning, and surveying during a second year does not add explanatory power.

#8. Relieve some landowners' limitations regarding management within NSO sites, by allowing limited management activities within the 100-Acre Core. The current 100 –acre core for NSO Activity Centers makes active timber management very difficult and in some instances impossible, particularly for landowners with small acreage. We would like to see consideration of policies that allow for some management activities during the non-breeding season, within that core.

#9. Consider the value of temporally limited activities on sites where banded birds 'migrate' from adjacent HCP clearcuts to prevent NIPFs from being penalized by the presence of banded NSOs escaping adjacent clearcut areas even if Safe Harbor Agreements are not established prior to migration. Many of these NSOs are banded, making identification of 'inherited' or migrated birds feasible, since banding occurs as part of HCP-related analyses and is beyond the financial scope of non-industrial forest landowners' management activities. Non-industrial forest landowners should not be penalized for maintaining desirable NSO habitat which becomes a 'draw' for displaced NSOs from adjacent lands.

#10. Mitigate costs of LIDAR data for NIPFs. As the agencies move toward LIDAR as a means to analyze NSO sites, third-party LIDAR primary data collection and analysis will further reduce the ability of many NIPFs to afford active management of their lands. The Buckeye invites the agencies to enter into discussions regarding ways in which LIDAR technology can be used for NSO issues without penalizing NIPFs financially. While this issue was not discussed at the August 20, 2015 meeting, it is relevant to NSO issues, and is included as a way to open discussion.

Parity of data collection and analysis, between the agencies' and NIPFs/consulting RPFs, will be necessary if NIPFs and their RPFs are to be able to have a 'level playing field' on which to discuss NSO sites in future. We would like to work with the State to help level the playing field of data collection and data availability.

Conclusions

The Buckeye offers these suggestions, in order to continue discussion regarding NSOs' impact on non-industrial forest landowners. NSO conservation is important for NIPFs, however, it has been and continues to be a hugely expensive undertaking for NIPFs. The case studies presented at the August 20,

2015 meeting showed significant proportions (37% to almost 100%) of NIPFs' total acreage are locked up in NSO activity center set-asides. This threatens NIPFs' ability to survive economically, and has led some to sell their properties, resulting in land use conversions out of forest, often into marijuana production. There are also large disparities in NSO conservation standards being applied, depending on the vintage of one's forest management plan. Overall, NIPFs strongly prefer least-cost, simplest to implement alternatives, as those are the most likely to make their forest stewardship economically viable. Since over a quarter of the total forestland in California is owned by NIPFs, their economic survival is necessary to protect a significant portion of California's public trust resources. It is with this in mind that we offer our suggestions, along with our hope for fruitful continued discussion with the agencies. We thank you for allowing us to engage in this effort with you.

Respectfully,

The Buckeye Forest Project