



## California Northern Spotted Owl (NSO) Stakeholder Forum Notes

### *NSO Stakeholder Forum Date and Location*

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January 30, 2018 9:30 AM – 4:00 PM	Resources Building First Floor Auditorium 1416 Ninth Street Sacramento, CA 95814
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### **Purpose of the NSO Forum**

The purpose of the California Northern Spotted Owl Stakeholder Forum (Forum) is to provide a mechanism for state and federal agencies, nongovernmental organizations, researchers, landowners, and other interested parties to discuss topics surrounding northern spotted owl management and conservation efforts in California. This first Forum focused on NSO and timber harvesting, with an emphasis on information sharing from the agencies—California Department of Fish and Wildlife (CDFW), California Department of Forestry and Fire Protection (CAL FIRE), and U.S. Fish and Wildlife Service (USFWS)—to the regulated public.

These notes provide a summary of the Forum and present a variety of viewpoints and opinions from presenters, stakeholders, and agencies. Where necessary, some items were shortened for brevity. Alternately, in some instances further detail and explanation were included to improve clarity and consistency. Information in this summary is current as of the date of the Forum, January 30, 2018.

### **Acronyms and Abbreviations**

AC - Activity Center	HCP - Habitat Conservation Plan
BDOW - Barred Owl	HRA - Habitat Retention Agreement
Board - California Board of Forestry and Fire Protection	NSO - Northern Spotted Owl
CAL FIRE - California Department of Forestry and Fire Protection	NTMP - Non-industrial Timber Management Plan
CDFW - California Department of Fish and Wildlife	Protocol - USFWS Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls (2012)
CESA - California Endangered Species Act	SHA - Safe Harbor Agreement
CEQA - California Environmental Quality Act	SORP - Spotted Owl Resource Plan
ESA - Endangered Species Act (federal)	TA - Technical Assistance
FPR - Forest Practice Rules	THP - Timber Harvesting Plan
	USFWS - United States Fish and Wildlife Service



## Agency Updates

(see website for presentations: [www.wildlife.ca.gov/Conservation/Timber/NSO-Forum](http://www.wildlife.ca.gov/Conservation/Timber/NSO-Forum))

- CDFW – Robert Hawkins, CDFW - Northern Region, Interior/Redding Office (Region 1)
  - Overview of the CDFW Timberland Conservation Program Website, CDFW roles and responsibilities  
<http://www.wildlife.ca.gov/Conservation/Timber/Resource-Center>
- CAL FIRE – Stacy Stanish, CAL FIRE Biologist
  - CAL FIRE biologists review THPs/NTMPS for NSO impacts
  - CAL FIRE does not do Endangered Species Act (ESA) or California Endangered Species Act (CESA) “Consultation” (that is for USFWS and CDFW staff), but can provide guidance to landowners
  - CALFIRE Memorandums pertaining to NSO are available on the CAL FIRE website at [http://calfire.ca.gov/resource\\_mgt/resource\\_mgt\\_forestpractice\\_pubsmemos\\_memos](http://calfire.ca.gov/resource_mgt/resource_mgt_forestpractice_pubsmemos_memos)
- USFWS – James “J.B.” Bond, Supervisory Fish & Wildlife Biologist - Arcata Office
  - In 2007 USFWS reduced the amount of Technical Assistance they are able provide to timberland owners
    - Still provide assistance to the State and private timberland owners working on large scale projects, including Habitat Conservation Plans (HCPs) and Safe Harbor Agreements (SHAs)
  - Barred Owl Strategy – working on understanding the impacts and how to deal with the barred owl invasion
  - Available to work with landowners on Safe Harbor Agreements, Habitat Conservation Plans, and general conservation planning
    - Would like to focus more on smaller SHAs
  - Yreka USFWS Field Office is working on providing some guidance on how to address NSO impacts in burned habitat

## Questions & Answers – Agency Representatives

- Is the USFWS now doing SHAs, even though in the past National Marine Fisheries Service had conflicts with some of the habitat adjustments in riparian areas?
  - USFWS and CDFW can write SHAs for NSO, as long as the project does not impact riparian or aquatic ecosystems or cause impacts to fish.
- Why is the USFWS issuing more HCPs, even though it seems the current HCPs are not effective at protecting NSO long-term?
  - HCPs require landowners to implement site-specific mitigation and avoidance measures taking into account their property conditions. In return, the HCP provides a legal process for some take, should it occur. USFWS is committed to honoring the signed agreements that are



in place. With each new HCP that is developed, USFWS seriously considers how the agreement will impact NSO. If an HCP would jeopardize the continued existence of NSO, then the USFWS would not authorize it.

- USFWS stated that Habitat Retention Agreements (HRAs) are no longer valid. Can folks transfer their HRAs to a Spotted Owl Resource Plan?
  - Habitat Retention Agreements are different from Spotted Owl Resource Plans (SORPs). While some elements in the old HRAs could be transferred to a SORP, a lot more information and requirements go into a SORP than were covered by HRAs. In some rare instances, HRAs can still be used, but they must meet the requirements for CDFW and USFWS take avoidance. Another potential option is to build a Safe Harbor Agreement with USFWS and CDFW using the HRA as a starting point.
- Can deviations from the USFWS Protocol (Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls) occur, and what agency gives that approval?
  - Yes, deviations can be approved if sufficient information is provided. There are limited staff at the USFWS that can provide Technical Assistance on such matters. Consult with both state agencies, CAL FIRE and CDFW. The State can request Technical Assistance (TA) from the USFWS in order to review and approve the deviation.
    - Very detailed methods need to be provided, with rationale and justification for the deviation.
  - Seek pre-consultation with CALFIRE and CDFW as early as possible.
  - See contacts posted on the CDFW website:  
[www.wildlife.ca.gov/Conservation/Timber/R1](http://www.wildlife.ca.gov/Conservation/Timber/R1)  
[www.wildlife.ca.gov/Conservation/Timber/R3](http://www.wildlife.ca.gov/Conservation/Timber/R3)
- Is there a process for Activity Center abandonment?
  - The NSO Interagency Working Group (NSOIWG) has discussed the process for abandonment in detail. At this time, abandonment can only be authorized by USFWS, and it only occurs when site-specific habitat and survey information is available. The USFWS Yreka Office is working on finalizing a document with the process they follow to determine whether abandonment is appropriate.
- Were the California Natural Diversity Database (CNDDDB) and the database used for the NSO status review the same? Why weren't all resources used in making the NSO listing determination?
  - CDFW staff used all available data in the status review, including the CDFW Spotted Owl Observations Database.
  - The Spotted Owl Observations Database is managed under the CNDDDB Program but as a separate database. Historically, the CNDDDB has housed some NSO data; however, activity centers and related observations have always been tracked separately in the Spotted Owl Observations Database. The terms "Spotted Owl Database", "CNDDDB", and "BIOS" are often



- used interchangeably, which may cause confusion. For more information visit [www.wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-info](http://www.wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-info).
- Does the Spotted Owl Observations Database provide an accurate number of NSO Activity Centers?
    - The Spotted Owl Observations Database provides the best information available for NSO Activity Centers (ACs) in California. However, the database relies on external NSO surveys, which can be problematic. First, not all timberland is surveyed for NSO, so there are ACs on the landscape that are not included in the database. Second, even when surveys do occur, the data is not always submitted to CDFW. Accordingly, more ACs may be missing from the database. And third, some of the surveys that are submitted have missing data or poor survey quality which can lead to inaccurate and missing ACs. CDFW's Spotted Owl Observations Database manager, currently Kate Keiser, uses biological knowledge of NSO and available data, often in collaboration with data submitters and interagency staff, to keep the database up to date and accurate.
  - Bill Condon, CDFW's Timberland Conservation Program Statewide Coordinator, met with many stakeholders – did anything come from those meetings?
    - Bill Condon and his staff (namely Angela Moran) compiled the notes from each of their meetings with stakeholders and created a public document. This document, titled *Report on Northern Spotted Owl Stakeholder Meetings* is available on CDFW's website and document library at <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=148674&inline>
    - The meetings and the subsequent report are important and will continue to inform decisions after Bill's retirement. Mainly, the report:
      - Will help inform potential changes to the Forest Practice Rules (FPR)
      - Will help track NSO issues
  - How does CDFW propose to change the Forest Practice Rules (FPR)? What specific NSO FPR changes are CDFW suggesting?
    - CDFW will work with the California Board of Forestry and Fire Protection (Board), CAL FIRE, other agencies, and the regulated public to make changes to the FPR. CDFW anticipates providing feedback on NSO FPR language and is in the process of identifying appropriate changes.
  - The current system is not working for NTMPs, please don't make it more difficult; please consider these landowners when revising regulations.
    - The agencies understand that small landowners do not have as many resources at their disposal as large industrial landowners. Additionally, small landowners often exhibit different approaches to management than large industrial landowners. The agencies will assist NTMP-holders where possible as long as the natural resources continue to be protected and take of NSO is avoided.



- How is barred owl (BDOW) being addressed? What are the results of the BDOW removal project on Hoopa land?
  - The State listing process for NSO resulted in the formation of a Barred Owl Science Team (BOST). This team is working to create a strategy to address BDOW in California.
  - Hoopa – a lot of data has been collected since the BDOW removal study began
    - Preliminary results show that some removal has helped increase NSO occupancy and detectability, while other removals have not. Removal has a different effect depending on BDOW occupancy at the start of removal and habitat type. The study is not complete yet and the Hoopa tribe has not fully analyzed the data.
- When will USFWS provide better guidance for post-fire NSO habitat use?
  - USFWS staff are working on completing a guidance document. It will be posted on the USFWS Yreka Office website.
    - Contact Bob Carey of USFWS Yreka office with any questions
- Will there be a similar NSO process for Cannabis permits?
  - USFWS – Cannabis is not federally legal, so USFWS cannot authorize any permits or activities related to Cannabis cultivation.
  - CDFW – A number of new programs have been created in CDFW and in other agencies to review and permit Cannabis cultivation. Cannabis is not exempted from the California Endangered Species Act or the Endangered Species Act. CDFW expects Cannabis cultivation to abide by the same standards of avoidance and mitigation as timber harvesting.
- It appears that landowners are being required to preserve habitat which goes beyond the take prohibition of CESA and ESA. The BDOW is then taking over that habitat which prevents NSO from using it. Why are landowners required to protect habitat that is being used by BDOW and not by NSO?
  - BDOW complicates NSO management and conservation on many different levels. Without sufficient surveys, it is difficult to identify when NSO has been completely displaced by BDOW versus when NSO is remaining silent so as to avoid conflict with BDOW. The BOST will be strategizing about BDOW issues.
- What agency do we start with when we need a protocol survey deviation?
  - Both CDFW and CAL FIRE.

**NSO Interagency Working Group (NSOIWG) Update** – Susan Sniado, CDFW – Northern Region, Eureka Office (Region 1)

(Presentation available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154070&inline=1>)

- The NSO Interagency Working Group (NSOIWG) formed as a result of stakeholder and agency meetings. Mainly, stakeholders perceived a lack of communication amongst agencies regulating



NSO management. The NSOIWG stated purpose is: to promote recovery of the NSO by facilitating interagency understanding and communications.

- NSOIWG includes CDFW, USFWS, and CAL FIRE
- Group meets every other month
- Actions:
  - Develop training for staff
  - Resolve NSO database issues
  - Share best available science
  - Seek ideas from subject experts and stakeholders
  - Provide outreach and education
  - Create recommendations and guidance
  - Promote greater understanding of the issues

**Barred Owl Science Team (BOST) Update** – *Carie Battistone, CDFW – The Wildlife Branch, Non-game Program*

(Presentation available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154066&inline=1>)

- BOST formed as a result of the Fish and Game Commission meetings surrounding the NSO listing decision (as did the NSO Stakeholder Forum)
- Officially formed in September 2017 as an independent science advisory body to CDFW
- BOST will focus on impacts to NSO and California Spotted Owl from Barred Owls
- BOST is composed of scientists invited by the CDFW Director. Agency liaisons from the USFWS, CDFW, USFS and National Park Service also participate to help guide BOST concerning agency needs. There are 9 BOST members, including 2 co-chairs
- Meeting frequency is undetermined at this time, but the need is high. Likely to be every other month.
- Future actions of BOST may include:
  - Develop research needs and prioritize them
  - Create a strategy for large-scale experiments in California

**Questions & Answers – NSOIWG and BOST**

- As the CNDDDB program cannot require data submittal, private timberland owners do not always share their data. Often they claim that their NSO survey data is confidential. Why is NSO data classified? How can the public and others properly evaluate the impacts to NSO pursuant to the California Environmental Quality Act (CEQA) without full disclosure? Additionally, not everyone is reporting to the database consistently—some data is observational only while other landowners are conducting demography studies.



- The NSOIWG has discussed the need to address data-related issues, including problems with data submission and data quality. The data submission item in particular is on the NSOIWG running list of topics to address.
- While not required under Timber Harvesting Plans (THPs), CNDDDB data submission is required for all Scientific Collecting Permits.
- Obtaining the data from the Spotted Owl Observations Database is cost prohibitive for some stakeholders.
  - Access to the Spotted Owl Observations Database requires a CNDDDB subscription. While Assembly Bill 1492 (2012) funds support the database manager position, the CNDDDB Program provides the remainder of the data management resources. When the CNDDDB program was established, the California Legislature explicitly mandated cost sharing by users of the database (CA Fish & Game Code Section 1932 (e)), and subscription fees are a key source of funding for the program.
  - For relatively small projects, CNDDDB does offer a more cost-effective product, in the form of an overlay or text report for individual USGS 7.5' Quads.
  - The CNDDDB Lead Scientist, Misty Nelson, acknowledges that the current one-size-fits-all subscription fee structure may not be ideal for all users, and is currently exploring options to address CNDDDB subscription cost concerns.
- Why does data submitted in THPs and Non-industrial Timber Management Plans (NTMPs) not go directly into the Spotted Owl Observations Database? CDFW should be responsible for tracking this data.
  - THP and NTMP data is posted to CAL FIRE's ftp site as a PDF. That process does not lend itself to easily transferring NSO data to the Spotted Owl Observations Database. The Spotted Owl Database Manager does not have time to search through THPs for new NSO data. She relies heavily on surveyors submitting their data directly to her or providing relevant plan numbers.
  - CDFW staff that participate in review of THPs and NTMPs attempt to forward NSO data to the Spotted Owl Observations Database when possible.
  - If you have questions about the database or want to provide updated information, please get in touch with the Spotted Owl Database manager, Kate Keiser, at [owlobs@wildlife.ca.gov](mailto:owlobs@wildlife.ca.gov).
- CDFW and USFWS are changing Activity Center (AC) placement with little information and without talking to CAL FIRE.
  - Moving ACs requires a review of historical data, recent surveys, habitat, and nearby NSO detections. CDFW and USFWS only move ACs when the available data provides evidence that a move is justified. CDFW and USFWS are improving their communication with CAL FIRE regarding NSO. The NSOIWG is one example of where the agencies openly communicate and share information with each other.



- The NSOIWG presentation mentioned potential changes to the NSO Forest Practice Rules (FPR). What could they possibly be? When dealing with changes to the FPR, you cannot do them in a vacuum. How will both Federal and State agencies provide their input and come to agreement on that process?
  - In 2013, the Board of Forestry and Fire Protection (Board) considered a variety of rule changes to the NSO FPR. The Board put discussion of these rules on hold due to the California Endangered Species Act (CESA) process. After the Fish and Game Commission initially voted to designate NSO as threatened under CESA, CDFW's Timberland Conservation Program held a series of meetings with stakeholders. One focus was the NSO FPR. For a summary of those discussions, see the *Report on Northern Spotted Owl Stakeholder Meetings* at <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=148674&inline>.
  - The NSOIWG hopes to review the NSO FPR discussions in the above report and potentially work with the Board to advise them on any changes.
  - The NSOIWG has not recommended any specific changes as of this date.
  - Changes to the FPR are always a public process that go before the Board. All agencies and stakeholders would have a chance to provide comments and recommendations to the Board. Ultimately, the Board would vote on any proposed rule changes.
- Can the Board of Forestry and Fire Protection (Board) make FPR changes without USFWS and CDFW input?
  - Mike Miles, Board member, noted that the Board typically will consult with agencies before any rule changes occur. The Board does not do anything in a vacuum; it is a public forum and can only proceed after public input. It is a public process, and that includes agency review and comment.
- Are the NSOIWG meeting minutes public? If so, where can we find them?
  - Meeting notes are not currently public.
  - The NSOIWG is working on creating a web page. NSOIWG will discuss posting notes or agendas.
- Marin County does not have timberland so the primary concern for NSO is the invasion of the barred owl, which was first documented last year. There are now 5 to 7 barred owls in Marin County. We do not want to get lost in the mix and hope that the NSOIWG and BOST will pay attention to our special circumstance.
- In regards to an earlier comment about HCPs failing, some HCP holders have seen a severe impact from the barred owl. Can you discuss monitoring efforts of barred owls across the range?
  - Within the *Report to the Fish and Game Commission: A Status Review of the Northern Spotted Owl in California* there is a map illustrating the range of barred owls (see page 164 of the report at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=116307&inline>.) Currently, Kern County is the most southern detection documented. However, BDOW





- monitoring is not common—often detections of BDOW are incidental to spotted owl surveys. BDOW monitoring needs to ramp up.
- CDFW encourages folks to submit BDOW data to the Spotted Owl Observations Database. The database also tracks BDOW data and is updated quarterly.
  - Monitoring of BDOWs is starting in California, particularly Zach Peery's work in El Dorado County. BDOW work will be discussed extensively at The Western Section of The Wildlife Society annual meeting symposium "Extinction or management of owls: the dilemma of the barred owl invasion in California" on February 5, 2018.
  - How can small landowners get a Scientific Collecting Permit (SCP)? Will this take a legislative change?
    - This topic will be discussed extensively within the Barred Owl Science Team (BOST). They plan to brainstorm about how to deal with permitting.
    - SCPs are only for research, not for management. It is not the way forward for management activities.
  - Is there an opportunity to change the BDOW "status" to make it easier for removal?
    - CDFW does not have a definition for non-native invasive species, so in that sense there is no status to change. Additionally, there are other protections for raptors in the Fish and Game Code (Sections 3505, 3503, 3800, and 3802) and exempting the BDOW from those protections would likely require a Legislative change.
    - The regulatory framework we all have to work under provides a lot of protections for raptors and migratory birds which creates complications for BDOW removal.
    - The BOST hope to come up with a strategy to help guide decisions on this front.
    - The agencies recognize that there are limitations. That is one reason we have these meetings, to hear and discuss these issues.
  - Some large landowners who have worked under a Spotted Owl Resource Plan (SORP) for years have recently been directed by USFWS to revise or implement their SORP differently. Ultimately, at least one landowner was told that their SORP was not adequate and that Attachment A was the only way to avoid take. Do different regions operate differently? How does this relate to Stu Farber's presentation on SORPs this afternoon?
    - USFWS – Let's talk offline. There were unique, site-specific reasons that went into the decision to revoke that particular SORP. We understand your frustration.
    - SORPs often require updates and amendments through time. Typically, through collaboration and cooperation with the agencies, SORPs can be retained long-term. Stu's presentation covers this aspect of SORPs.
    - CDFW attempts to be as consistent across Regions as possible. However, based on Ecoregional differences and site-specific issues, Regions may provide different recommendations and come to unique conclusions.



**California State Safe Harbor Agreement Program Act** – Ryan Mathis, CDFW – Habitat Conservation Planning Branch

(Presentation available online: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154067&inline=1>)

- Ryan Mathis supervises two programs within the Habitat Conservation Planning Branch: California Endangered Species Act (CESA) & California Environmental Quality Act (CEQA)
- Safe Harbor Agreements (SHA) are a fairly new CESA permitting program for CDFW (<https://www.wildlife.ca.gov/Conservation/CESA/Safe-Harbor-Agreements>)
  - Senate Bill 448 in 2009 added SHA to CESA, modeled after the federal version
  - SHAs emphasize collaboration with private landowners to conserve listed species and reduce regulatory restrictions for the landowners
- A programmatic SHA is a group SHA held by a governmental or nongovernmental administrator. Individual landowners can sign up with the administrator under the programmatic SHA.
- All the required components of an SHA application are provided in Fish and Game Code Section 2089.8 ([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FGC&sectionNum=2089.8](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FGC&sectionNum=2089.8).)

**Questions & Answers**

- What has been going on with the 120 acre SHA that has been in development with the USFWS for a while?
  - USFWS – The USFWS appreciate that their partners have been patient. SHAs are prioritized based on their conservation value, but sometimes the bureaucratic process is slow. The Federal Register, for example, can really slow things down. Sometimes site-specific biological issues take time to work out.
- Is a State SHA going to work with the Feds? Are these jointly developed? Why has CDFW not provided a template for how this can get done?
  - The Federal government does not have a process in place to agree with a state SHA. It is better to have a Federal SHA that CDFW can agree with via a Consistency Determination. CDFW prefers to be involved during the development of a federal SHA so that California SHA requirements are addressed early on.
  - SHAs are often site-specific making a template difficult to create.
- Has the State seen the SHAs that the Feds are working on?
  - Yes, CDFW is currently reviewing those draft SHAs.
- How does CDFW address the threats to a species when considering SHAs?
  - CDFW evaluates every issue concerning the species and includes conditions to reduce impacts and improve their habitat. There must be a net conservation benefit for a SHA to be



- a valid option. If proposed activities under an SHA would further threaten the species, CDFW would not approve the SHA.
- You listed seven completed SHA projects. From start to finish, how long does a SHA take?
    - The timeline varies. Some examples include:
      - California tiger salamander – 6 months
      - Townsend's big-eared bat – 3 to 4 months
      - Shasta Crayfish – a couple of months
    - Consistency Determination – CDFW has 30 days to review a federal permit and find it consistent or inconsistent with state law. Otherwise it is automatically approved by operation of law.
  - Do the respective agencies have the capacity to take on these SHAs?
    - USFWS – Yes. USFWS sees all projects with large conservation benefits as a high priority. While USFWS is short-staffed, the commitment is still there.
    - CDFW – CDFW's Timberland Conservation Program is fully staffed. CDFW will undertake SHA review just like any other permit.

**Northern Spotted Owl Resource Plan: A Spotted Owl Management Toolbox** – *Stu Farber, W.M. Beaty & Associates*

(Presentation available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154086&inline=1>)

- Beaty and Associates manages 290,000 acres of timberland and rangeland
- Examples of tools in the toolbox to operate on habitat with a listed species:
  - Habitat Conservation Plan (HCP)
  - Spotted Owl Management Plan (SOMP)
  - USFWS Technical Assistance
  - Spotted Owl Resource Plan (SORP) through the FPR
    - Scientific
    - Programmatic
    - Adaptive
- W.M. Beaty & Associates SORP
  - Consulted with CAL FIRE and USFWS in 2010, approved by CAL FIRE in 2011
  - Consulted with CDFW in 2015 and 2017 to ensure it meets the “no take” threshold for CESA
  - Amended SORP as needed
  - Based on site-specific survey information and a published statistical analysis of NSO detection probabilities in the area, the SORP was able to justify and support a three-visit, two-year survey set-up. Another factor that influenced this flexibility was the low density of BDOWs in the area.



- The SORP includes an analysis of NSO habitat relying on abiotic features on the landscape as well as vegetation. The site-specific habitat assessments take into account known NSO locations and habitat use via telemetry studies.
- The SORP provides an annual end-of-year report that summarizes NSO survey data, habitat assessments, and filed THPs.
- SORP Feedback
  - Using new science has facilitated plan flexibility and amendments. A science-based approach makes for easier communication with agencies and a more effective plan.
  - Programmatic plans like SORPs improve consistency and efficiency.
  - SORPs do not just sit on the shelf, they require care and feeding
    - Amendments are necessary and may take some time and effort
  - The initial creation of the SORP takes a lot of time and effort, but if it is done well the approval goes quickly.
  - W.M. Beaty & Associates has found SORPs to be a valuable tool in the FPR, as is the Spotted Owl Expert.

#### Questions & Answers

- One of your slides provided a diagram of an Activity Center (AC) that looked like multiple ACs. Why was it designated as a single AC?
  - All the birds on this property are color-banded so that individuals can be tracked through time. Additionally, a telemetry study informed this particular NSO core use area. Based on this information we were able to identify this area as a single AC.
- How many owls (single and pairs) are you managing?
  - Currently, we have six Activity Centers (ACs) on the edge of the NSO range that are all occupied. That number has shifted through time. Additionally, seven more occupied ACs in the central part of the NSO range are managed under the Hancock Forest Management SORP which W.M. Beaty and Associates developed.
- Does this approach work for lands with higher densities of owls? Why are you not required to follow USFWS take avoidance guidelines?
  - The SORP is following USFWS guidelines because it is a site-specific, informed agreement. It is not less or more than USFWS Attachment B, it is just different based on the data W.M. Beaty and other private landowners have collected. The SORP started with the guidance documents from USFWS and then built on those. This is a landscape specific assessment-driven process.
  - SORPs could be useful for larger ownerships with more owls. Whether acres or number of owls, the SORP provides a framework to inject your information.
- Based on the SORP, you were able to institute a two-year, three-survey protocol in areas with fewer BDOWs. In areas with more BDOWs, did you need more surveys?



- From the published detection probability results, a two-year, three-survey protocol achieves the accepted USFWS confidence interval to determine presence of NSOs. However, since the published detection probability results were based on a study area with fewer BDOWs, when greater than two separate BDOW detections occur within a 0.5 mile NSO core area, then a two-year, six-survey protocol is conducted.
- This particular SORP is based on a statistician's review of survey data and detection probabilities on specific properties. Anyone interested in deviating from the USFWS-recommended survey efforts should contact their local statistician and identify their one-visit NSO detection probability, based on the number of BDOWs in the area. The number of surveys and years required to get an acceptable level of detection will vary based on site-specific items, including the number of BDOWs.
- Any deviation from USFWS Protocol surveys should be reviewed and approved by CDFW, CAL FIRE, and USFWS.

**NSO & Notices of Emergency Timber Operations – Rob DiPerna, Environmental Protection Information Center (EPIC)**

(Presentation available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154068&inline=1>)

- Emergency Notices are ministerial documents that do not receive environmental review or require consultation with regard to listed species, e.g., NSO
- Potential impacts of Emergency Notices for timber operations
  - Take of NSO
  - Cumulative impacts to NSO
- Fire exclusion and suppression have shifted fire return intervals, leading to more high severity fires on the landscape. Large wildfires lead to large salvage logging operations under Emergency Notices.
- Post-fire landscapes are not dead
  - Spotted owls use burned areas
- Issues with Emergency Notice Forest Practice Rules (FPR):
  - Definitions are unclear, e.g., what are the “operational provisions” of the FPR?
  - No clear requirement for wildlife scoping or mitigation of impacts
  - No requirement to consult with listing agencies (CDFW and/or USFWS)
  - No requirement to meet stocking requirement or replant after salvaging
  - No protection for snags or other wildlife trees
  - No evaluation of cumulative impacts
  - Green trees that only experienced low severity fire and therefore may be suitable habitat are being harvested
- Neither the Endangered Species Act nor the California Endangered Species Act are being enforced

Northern Spotted Owl Stakeholder Forum Web Page:

[www.wildlife.ca.gov/Conservation/Timber/NSO-Forum](http://www.wildlife.ca.gov/Conservation/Timber/NSO-Forum)



- EPIC petitioned the Board of Forestry and Fire Protection to change the Emergency Notice FPR. Suggested changes included:
  - Revise ambiguous definitions and define undefined terms
  - Include a statement that take must be avoided unless otherwise authorized
  - Require minimum stocking standards or an artificial regeneration plan
  - Require Emergency Notice circulation; notify CDFW and USFWS
  - Require a wait period to allow for agency review
- Cannot recover or conserve this listed species only on public lands. Conservation is not a burden. It is essential.
- Recommendations:
  - CDFW and USFWS should prepare a Recovery Strategy
  - CDFW and USFWS should provide guidance on post-fire NSO habitat use

#### Questions & Answers

- While USFWS and CDFW are not necessarily notified of Emergency Notices, they are responsible for tracking listed species, and they should be tracking what is burning. If the agencies believe take is occurring, they can enforce their laws and prosecute the offenders.
  - What about the public? How is the public supposed to know what activity is happening on the landscape?
- What leeway does the Board of Forestry and Fire Protection have to change Emergency Notice timelines? The Forest Practice Act requires “a declaration...that a bona fide emergency exists which requires *immediate harvest activities*...[emphasis added]” (Section 4592). Five days should be enough for agencies to review.

#### Public Comment

*Some public comments were submitted via email prior to the Forum. These comments are available on the Forum web page: [www.wildlife.ca.gov/Conservation/Timber/NSO-Forum](http://www.wildlife.ca.gov/Conservation/Timber/NSO-Forum). The comments below were provided during the Forum.*

- I have a general comment about today. We heard a lot about meetings, thoughts, and process, but have not heard about a single product from the three agencies. We have seen this coming for years. NSO has been listed under the Endangered Species Act for 26 years. The State is unprepared and it is not acceptable. At the present pace, I would guess we're losing 10 to 20 miles of NSO habitat due to barred owls a year. The agencies need to figure out how to get something done and let us do it.
- Thank you for having this meeting and keeping us informed on the process. It is important to be informed about recent developments, particularly on BOST and NSOIWG. I want to know what topics you are discussing relative to the science, and potentially provide input. Some landowners



have close to 30 years of NSO data that could be useful. If there are new regulations or changes to the FPR, I would very much like to be involved. I have appreciated the process moving from USFWS to CAL FIRE. I've had meetings with review teams around the State and they are very productive. The CAL FIRE process for the past 10 years has worked really well. Michael Baker and Stacy Stanish (CAL FIRE biologists) are really good at answering tricky questions and providing assistance. It is encouraging to know that they are going out to do NSO work. I would encourage CDFW to follow this lead as well, so that regulators know what we have to deal with.

- The timber company I work for has 65 owls. The Spotted Owl Expert designation is needed in this process. It has worked well so far. When a Spotted Owl Expert makes a proposal, it should be reviewed and approved by someone with equal qualifications. The process for abandonment is unclear. When are ACs abandoned? We need a clear process. The barred owl is a definite threat and needs to be dealt with. We need to get on it now. We will see another species lost if we don't. We also need a clear process for deviation from the Protocol. Some of us have 30 years of demographic data. That shouldn't be overlooked. We need to be able to use the data we have. Thanks for the opportunity to comment.
- I am in awe of the NSO expertise in this room. I hear regularly from small landowners in Northern California that have to deal with regulations because they are providing habitat for NSO. Don't overburden them with regulations when they are contributing to the conservation of the bird. If it becomes burdensome for the small landowners to manage their land, we will lose the NSO. We need to work together so that we can maintain forested habitat. I have heard that the two year protocol does not work for small landowners. They need some flexibility. They need a clear process for abandoning ACs. And they need clarification on agency roles. Are landowners going to have to deal with a new agency that does not have experience dealing with NSO? A lot of landowners have knowledge that is not being used. We need a better system for compliance. I am interested in SHAs, but we need a better long-term approach. Look forward to continuing the conversation, as we need to figure this out.
- Portions of the Protocol are outdated. 50% of redwood timberland is owned by small landowners. Buffers hurt the small landowners more than they hurt anyone else. The buffers are predicated on the idea that there is nothing beyond that core area (either clear cut, decimated, or no habitat). This is the thinking from 30 to 40 years ago. Non-industrial landowners are mandated to increase inventory over time. They are improving and creating wildlife habitat, NSO habitat. There is no recognition of this by agencies. Three properties I manage have logged four times. There is more timber now, and the trees are bigger now than 40 years ago. Habitat has improved greatly. Repeated entries improve stands rather than degrade them. This goes unseen by regulators. I see three ways agencies can reward these landowners:
  1. Reduce the no cut buffer around the AC to 300 feet. This is how the Habitat Retention Agreements with USFWS worked for years, and owls have been there for decades. Even Ted Wooster allowed us to cut within 300 feet and birds were still there.



2. For ACs that have ten years of survey data with no owls, allow harvest around the AC and just leave 100 ft around the unoccupied site. Something is still being retained there. Nest/roost habitat is still there on the remainder of the landscape.
  3. We need a reduced intensity Protocol. There need to be options to incentivize this type of management and recognize that it in fact benefits habitat for NSO into the future.
- This species disproportionately affects small landowners. The two-year Protocol is a real burden. Markets are not stable, they fluctuate. I can't tell a landowner that timber sales will stay constant two years into the future. Landowners are unwilling to invest \$3,000 to \$5,000 into NSO surveys and even more money into a THP with uncertain returns from the timber. Give me a specific number of surveys; 12 surveys in one year would be better than the two-year Protocol. One third of Sonoma County just burned because landowners can't manage their properties—the regulatory costs are too high. As a biologist, don't take away my toolbox. I can't band owls as a consulting biologist. Make the process easier for biologists to go out and do our jobs. If agencies are going to emphasize SHAs, give us the tools to create them. The scientific community has already determined that BDOWs are the main problem for NSO. Do we have to wait another two years to do something? If the State needs to change the definition of what a raptor is, let's do it and let's do it now.
  - Small industrial landowners are taking on all the burden. My company has inherited a cutover property and is trying to build that property back up. We need tools. Agencies should encourage landowners to grow larger diameter trees. We should aim to recover the species, not just conserve it. We can build all the habitat in the world, but until the BDOW issue is addressed, there is no hope for NSO. I feel pretty negative about the outlook for NSO, primarily because the barred owl issue is not being addressed. NSO sites managed for 20 years are now being taken over by barred owls. Increasing and improving habitat is minor until we deal with this BDOW issue.
  - The current process appears to be underground regulation. Agency staff follow guidelines or make prescriptions that are not anywhere in regulation. The TA process with the USFWS has been the cornerstone of everything we are doing. Now that the process is changing, the agencies should provide a good faith effort to negotiate something through the National Environmental Policy Act and the California Environmental Quality Act. The current process is all about saving the trees—we are using habitat as a proxy for the owl, not actually managing the owl. I have been advocating BDOW control for years, but agencies and others are late to the game.

### **Feedback and Future Forums**

CDFW requested that attendees answer a survey available online or as hard copies at the Forum. CDFW was interested in receiving feedback on the Forum and input for future Forums. Results of the survey are available online here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=159862&inline>

Northern Spotted Owl Stakeholder Forum Web Page:  
[www.wildlife.ca.gov/Conservation/Timber/NSO-Forum](http://www.wildlife.ca.gov/Conservation/Timber/NSO-Forum)