

Planning Agreement

between

**The Mendocino Redwood Company and
The California Department of Fish and Game**

regarding the

**Mendocino Redwood Company
Natural Community Conservation Plan**

June 23, 2003

Mendocino Redwood Company Natural Community Conservation Plan

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Mendocino Redwood Company Natural Community Conservation Plan

The Mendocino Redwood Company (“**MRC**”) and the California Department of Fish and Game (“**DFG**”) enter into this agreement regarding the Mendocino Redwood Company Natural Community Conservation Plan and Habitat Conservation Plan (“**Agreement**”) as of the Effective Date. MRC and DFG may be referred to collectively as “**Parties**” and each individually as a “**Party**.”

Planning Agreement

1. Background

1.1. Mendocino Redwood Company Timber Operations MRC was formed in 1998 and owns over 232,000 acres of land in Mendocino County and Sonoma County. MRC is currently conducting its timber harvest operations under an Option A Maximum Sustained Productivity Demonstration (the “**Option A Report**”), approved by the California Department of Forestry and Fire Protection, which provides for a sustainable level of timber production, taking into account biologic factors, economic factors and other forest values, such as recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment. In addition, MRC’s timber harvest operations have been certified as meeting the principles and conditions of Forest Stewardship Council certification by two independent accredited certifiers: Scientific Certification Systems and SmartWood. MRC wishes to conduct profitable timber harvest operations while protecting and rebuilding the important ecological attributes of its lands.

1.2. California Department of Fish and Game DFG is the agency of the State of California authorized and empowered to act as trustee for wildlife of the State on behalf of its residents. DFG is authorized to develop natural community conservation plans pursuant to the Natural Community Conservation Planning Act, to enforce the terms of the California Endangered Species Act, and to enter into agreements with federal and local governments and other entities for the conservation of species and habitats pursuant to those laws.

1.3. Natural Community Conservation Planning Act The Natural Community Conservation Planning Act (“**NCCPA**”) was enacted to encourage broad-based planning to provide for effective protection and conservation of the state’s wildlife heritage while continuing to allow appropriate development and growth. The purpose of natural community conservation planning is to sustain and restore those species and their habitat identified by DFG that are necessary to maintain the continued viability of biological communities impacted by human changes to the landscape. A natural community conservation plan is a plan that identifies and provides for those measures necessary to

conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth and other human uses. Among other things, a natural community conservation plan provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species appropriate for land, aquatic, and marine habitats within the plan area. The NCCPA also provides that after the approval of a natural community conservation plan, DFG may permit the taking of any identified species (both listed and not listed) whose conservation and management is provided for in the plan.

1.4. Compliance with the Natural Community Conservation Planning Act and the Federal Endangered Species Act MRC's lands contain valuable biological resources, including native species of wildlife and their habitat. Among the species on MRC's lands are certain species that are protected, or may need to be protected in the future, under the California Endangered Species Act ("CESA"), the federal Endangered Species Act ("FESA"), or both CESA and FESA. MRC intends to develop a conservation plan that satisfies the requirements for a natural community conservation plan under the NCCPA, as amended in 2002, and a habitat conservation plan under Section 10 of ESA, 16 U.S.C. § 1539(the "NCCP/HCP" or "Plan"). MRC intends for the Plan to serve as the basis for incidental take permits pursuant to section 2835 of the NCCPA and section 10(a) of FESA that would identify Covered Species whose conservation and management are provided for in the NCCP/HCP and Covered Activities, for which the incidental take of Covered Species would be permitted under the terms and conditions identified in the NCCP/HCP. To serve as the basis for an incidental take permit under the NCCPA, the Plan must be approved by DFG based on its finding that the Plan meets NCCPA requirements. Because there is no local agency with land use permitting authority over the activities proposed to be addressed in the Plan, this Agreement is solely between CDFG and MRC.

2. Purposes of the Planning Agreement The purposes of this Agreement are to:

- define the Parties' goals and obligations with regard to the development of an NCCP/HCP for MRC's lands;
- define the geographic scope of the conservation planning area;
- identify a preliminary list of natural communities, and the endangered, threatened, candidate, or other species known, or reasonably expected to be found, in those communities, that are intended to be the initial focus of the Plan's development, and for which incidental take authority will be sought;
- identify preliminary conservation objectives for the planning area;

- establish a process for the inclusion of independent scientific input to assist DFG and MRC;
- encourage concurrent planning for wetlands and waters of the United States;
- establish an interim process during plan development wherein DFG can review projects and recommend mitigation measures or project alternatives that would help achieve the preliminary conservation objectives;
- establish a process for public participation; and
- ensure coordination with federal wildlife agencies for the purposes described in this section.

3. Definitions Terms used in this Agreement that are defined in Fish and Game Code Section 2805 will have the meanings set forth therein. The following terms as used in this Agreement will have the meanings set forth below.

3.1. Adjustment Area means lands that MRC does not currently own, but which are similar in character to MRC's lands and are included in the analysis in the NCCP/HCP to anticipate MRC's potential acquisition, timber harvest rights or other interest in those lands after the NCCP/HCP is approved.

3.2. Analysis Area means the Adjustment Area and the Planning Area, as depicted in Exhibit A.

3.3. CEQA means the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.*

3.4. CESA means the California Endangered Species Act, California Fish and Game Code, Section 2080, *et. seq.*

3.5. Covered Activities means the activities that will be addressed in the NCCP/HCP and for which MRC will seek an NCCPA take permit pursuant to Fish and Game Code Section 2835 and an incidental take permit pursuant to Section 10 of FESA. The NCCP/HCP will authorize incidental take resulting from Covered Activities only.

3.6. Covered Species means species, listed and non-listed, whose conservation and management are provided for under an approved NCCP/HCP. The protection and enhancement of Covered Species and their habitat is one of the primary goals of the NCCP/HCP. Because the NCCP/HCP will provide for the conservation and management of Covered Species, the NCCPA allows DFG to authorize limited incidental take of Covered Species under terms and conditions identified in the NCCP/HCP.

3.7. DFG means the California Department of Fish and Game.

3.8. FESA means the federal Endangered Species Act, title 16, U.S.C.A., Section 1530, *et seq.*

3.9. Habitat Conservation Plan or HCP means a plan prepared pursuant to Section 10 of FESA.

3.10. Implementing Agreement or IA means a document that finalizes the agreement between parties to implement the NCCP/HCP and associated take permits, and provides additional guidance on practical application of the permit.

3.11. NCCPA or Natural Community Conservation Planning Act means California Fish and Game Code Section 2801, *et seq.*, as amended in 2002.

3.12. NCCP/HCP means the joint natural community conservation plan and habitat conservation plan.

3.13. NEPA means the National Environmental Policy Act, title 14, USC, section 4321, *et seq.*

3.14. Planning Area means the lands subject to MRC's ownership, timber harvest rights or other interest that MRC proposes to cover in the NCCP/HCP and the incidental take permits issued under the NCCPA and FESA, as depicted in Exhibit A.

3.15. Reserve means a specified area within the Planning Area that receives special protections under the NCCP/HCP, such as long-term limitations on timber harvest.

4. Planning Scope, Goals and Objectives By agreeing to assume responsibility for development of the NCCP/HCP, and committing staff and financial resources for that purpose, MRC intends for the NCCP/HCP to yield numerous benefits, including natural resource conservation and greater regulatory efficiency, streamlining and certainty, as further described herein.

4.1. Planning Area and Scope of Analysis The Analysis Area is the geographic area in which MRC plans to focus its analysis in the NCCP/HCP and includes a Planning Area and an Adjustment Area. At present the Planning Area includes approximately 232,000 acres of MRC's lands in Mendocino County and Sonoma County, as depicted in **Exhibit A.** The Planning Area will be the principal focus of the analysis in the NCCP/HCP. Within the Adjustment Area, MRC may acquire an interest in lands that are similar in character to those in the Planning Area and to which MRC may wish to extend coverage of the NCCP/HCP and take authorization. Lands within the Adjustment Area may be included by amendment to the NCCP/HCP and take authorization through a process, and under terms and conditions, described in the Implementing Agreement for the NCCP/HCP, with the approval of CDFG. MRC's intent in including the Adjustment Area in the NCCP/HCP is to enable MRC to add lands within the Adjustment Area to the NCCP/HCP through a minor amendment process. The NCCP/HCP will not require any

actions to be taken on lands in the Adjustment Area; nor will the Adjustment Area or activities in the Adjustment Area be covered in any take authorizations initially issued by CDFG. The Adjustment Area is therefore not part of the Planning Area itself. However, the NCCP/HCP will include an analysis of the addition or deletion of lands to the Planning Area in the context of the conservation and management measures applicable to the Planning Area for the Covered Species and communities.

4.2. Covered Activities Covered Activities are those activities to be discussed in the NCCP/HCP that may result in the take of Covered Species and for which MRC will seek incidental take permits under section 2835 of the NCCPA and section 10(a) of FESA. MRC seeks take authorization for proposed Covered Activities related to silviculture and stand improvement, commercial timber operations, roads and landings, timber regeneration, habitat improvement, adaptive management, monitoring, and harvest of various minor forest products, as described below. The proposed Covered Activities may be revised in the draft NCCP/HCP. The take authorization issued after approval of the NCCP/HCP will authorize take resulting from Covered Activities only.

4.2.1. Silviculture and stand improvement Proposed Covered Activities related to silviculture and stand improvement are: pre-commercial thinning; timber stand improvement; commercial thinning; variable retention; shelterwood removal; seed-tree removal; single-tree selection; group selection; high-retention selection; transition; alternative prescriptions; rehabilitation; exemptions; sanitation; and salvage.

4.2.2. Commercial timber operations Timber operations, as defined in Public Resources Code, Section 4527, related to the removal of trees from stands, such as falling; bucking; limbing; yarding; loading and hauling timber; and maintenance of logging equipment are proposed Covered Activities.

4.2.3. Roads and landings Proposed Covered Activities related to roads and landings are: placement and drainage; construction; reconstruction; maintenance; temporary or permanent road closure; rock-pit development and use; stream-crossing activities; water drafting and use; equipment maintenance and fueling; and right-of-way agreements.

4.2.4. Regeneration Tree planting and seeding; site preparation; prescribed burning; and fire control are proposed Covered Activities. The use of pesticides will not be proposed as a Covered Activity.

4.2.5. Habitat improvement and adaptive management Activities undertaken for which the purpose is intended to improve aquatic or terrestrial habitat for either covered or other species, as well as adaptive management are proposed Covered Activities.

4.2.6. Existing Timber Harvest Plans THPs approved before the NCCP/HCP is approved that adhere to the Interim Guidelines described below in Section 5.5, and

attached as Exhibit C, are proposed Covered Activities. Approved THPs that do not adhere to the Interim Guidelines will not be Covered Activities.

4.2.7. Research and monitoring Monitoring the effectiveness of conservation measures implemented under the NCCP/HCP, and implementing and evaluating adaptive management under the NCCP/HCP, are also proposed Covered Activities. Data collection, including capture, handling, marking and release of Covered Species are proposed Covered Activities.

4.3. Natural Communities and Species A preliminary list of natural communities, and the endangered, threatened, candidate, or other species known, or reasonably expected to be found, in those communities, that are intended to be the initial focus of the NCCP/HCP is attached as **Exhibit B**. Exhibit B identifies a preliminary list of the species that MRC and DFG will evaluate for inclusion in the NCCP/HCP. Exhibit B is not a final list of the NCCP/HCP's Covered Species. During the preparation of the NCCP/HCP, species may be added to or removed from the list. After approval of the NCCP/HCP, species may be added to or removed from the Covered Species list under terms or processes described in the NCCP/HCP and the Implementing Agreement.

4.4. Regulatory Goals MRC intends that the NCCP/HCP will allow MRC to carry out the proposed Covered Activities in compliance with CESA, CEQA, the NCCPA, FESA and NEPA. DFG acknowledges that no 2081 permit is required for take of CESA listed species that are covered by an approved NCCP plan. DFG's approval of the NCCP/HCP shall be based on the NCCPA (as amended in 2002), and will not be based on any NCCP regulations developed subsequent to this Agreement pursuant to Section 2825 of the NCCPA.

4.4.1. Consistency with Option A Report MRC and DFG agree that the NCCP/HCP, which is intended to provide the framework for compliance with CESA, the NCCPA and FESA, will to the greatest extent practicable be consistent with MRC's Option A Report. However, MRC understands that the Option A Report was developed to comply with the Forest Practice Rules, but was not intended to fulfill NCCPA mitigation or conservation requirements, nor FESA requirements. MRC and DFG therefore expect the NCCP/HCP to contain some measures, standards or requirements that may apply to Covered Activities which are not specifically identified in the Option A Report.

4.4.2. Regulatory assurances MRC's agreement to assume responsibility for preparation of an NCCP/HCP is based in part on its expectation that DFG will provide MRC regulatory assurances regarding Covered Activities in accordance with Section 2820(f) of the NCCPA of 2002.

4.4.3. Other Regulatory Programs MRC and DFG will invite the California Coastal Commission, the Regional Water Quality Control Board and, if applicable, other State or federal agencies with jurisdiction over natural resources in the Planning Area to

participate in the development of the NCCP/HCP to address effects on those natural resources. Such participation may include attending planning meetings or commenting on draft documents. MRC and DFG understand that a natural community conservation plan is not specifically intended to address the regulatory requirements of these agencies, but agree that a coordinated planning process will provide improved resource protection opportunities and greater regulatory efficiency, streamlining and certainty. MRC and DFG understand that if the regulatory requirements of these agencies are not met in the NCCP/HCP, the agencies may impose additional requirements on MRC's future activities.

4.5. Conservation Goals and Objectives The preliminary conservation goals of the NCCP/HCP are to provide for the conservation and management of the natural communities and species preliminarily identified in **Exhibit B** and, over the period of the NCCP/HCP, improve the native biodiversity on MRC's lands. The preliminary conservation objectives of the NCCP/HCP are as follows:

4.5.1. Riparian habitat To preserve and enhance aquatic habitat, primarily by managing for streamside stands with large, dense conifer species, and specifically:

- to promote and increase recruitment of large woody debris;
- to maintain ecologically appropriate water temperatures;
- to promote riparian functions such as nutrient cycling, coarse organic inputs, flood water roughness and structure; and
- to protect stream bank stability.

4.5.2. Water quality To minimize new anthropogenic sediment inputs and reduce historic anthropogenic sediment inputs to watercourses that can harm aquatic species.

4.5.3. Terrestrial habitat To retain a range of seral stages and conditions of native terrestrial communities, specifically including mature and late seral forests, and provide structural components of terrestrial habitat that are necessary for native species diversity and to conserve existing rare or unique habitats, and specifically:

- to shift silvicultural applications from even-aged to uneven aged management;
- to retain ecologically appropriate numbers and distribution of snags;
- to preserve an ecologically appropriate amount and distribution of large woody debris;
- to develop an ecologically appropriate amount of large old trees and larger, older

forests with large old trees;

- to restore the natural balance between conifer and hardwood stands in accordance with specific site conditions;
- to protect old growth stands;
- to maintain the current distribution and species composition of the pygmy forest; and
- to minimize disturbance to Covered Species during sensitive periods.

5. Planning Process MRC and DFG intend that this Agreement will fulfill NCCPA requirements pertaining to planning agreements and will establish a mutually agreeable process for preparing the NCCP/HCP that fulfills the requirements of the NCCPA and FESA.

5.1. Independent scientific input MRC and DFG will use independent scientific input and analysis to guide the preparation of the NCCP/HCP. MRC will consult with qualified independent scientists representing a range of pertinent disciplines, such as conservation biology, aquatic resources and terrestrial ecology, and forestry. The independent scientists will be selected by mutual agreement between MRC and DFG, with input from National Marine Fisheries Service (“**NOAA Fisheries**”), United States Fish and Wildlife Service (“**USFWS**”), and the public. The advice and analysis provided by the independent scientists will help inform and guide preparation of the NCCP/HCP. The independent scientists will be asked to: recommend scientifically sound conservation strategies for the species and natural communities proposed to be covered by the NCCP/HCP; recommend a set of reserve design and landscape stewardship principles that addresses the needs of species, landscapes, ecosystems, and ecological processes in the planning area; recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan; and identify data gaps and uncertainties so that risk factors can be evaluated. The independent scientists may be asked to provide additional feedback on other key issues during preparation of the NCCP/HCP, potentially including written reports, as deemed necessary by MRC and DFG. Final written reports prepared by the independent scientists shall be made available to the public. Both MRC and DFG will strive to maintain the scientists’ independence.

5.2. Coordination with federal wildlife agencies MRC and DFG have been coordinating and will continue to coordinate closely with USFWS and NOAA Fisheries to ensure that the NCCP/HCP meets the requirements of Section 10(a) of FESA. This coordination will include, at a minimum, scheduling joint meetings with USFWS and NOAA Fisheries, sharing information about preparation of the NCCP/HCP, and sharing draft documents with and actively seeking comments from the USFWS and NOAA

Fisheries on conservation planning issues pertaining to FESA and NEPA.

5.3. Concurrent planning for wetlands and waters of the United States MRC intends to address impacts to wetlands and waters of the United States in the NCCP/HCP to meet the requirements of and obtain all necessary authorizations under the Clean Water Act for Covered Activities. Similarly, MRC intends to address in the NCCP/HCP impacts resulting from changes to the bed, bank or channel of rivers, streams and lakes on MRC lands to meet the requirements of and obtaining all necessary authorizations under Fish and Game Code Section 1603 for Covered Activities. Based on the NCCP/HCP, MRC may seek programmatic permits or authorizations under the Clean Water Act and Section 1603 as necessary for Covered Activities. However, such programmatic permits or authorizations are not necessary for approval of the HCP or NCCP or for issuances of incidental take permits and authorizations.

5.4. Public participation and outreach In coordination with public scoping under CEQA and NEPA, DFG and MRC will conduct at least three public meetings at locations and times selected to maximize participation by interested members of the public. DFG and MRC will provide reasonable public notice of the meetings. In addition, MRC will provide reasonable public notice for and will conduct at least three additional public workshops to address specific areas of interest or concern identified during the public scoping meetings.

5.4.1. Preliminary draft documents All planning documents associated with the NCCP/HCP that are subject to public review shall be made available at least ten working days before any public hearing in which they will be discussed. Public participants will be invited to submit written comments on the draft planning documents or informational material, and the comments will be considered by MRC and DFG in preparing the NCCP/HCP. MRC's public workshops will not be "public hearings" under this Section 5.4.1 as they are intended to address specific issues of interest or concern, rather than review draft planning documents proposed for DFG's adoption, or adoption by the USFWS or NOAA Fisheries.

5.4.2. Internet website MRC will make information about the NCCP/HCP available to the public by maintaining a page on its Internet website (<http://www.mrc.com/>) that provides an overview of the NCCP/HCP and includes all current public review draft documents.

5.4.3. Public review of NCCP/HCP before adoption Draft documents proposed for adoption, including the draft NCCP/HCP, Implementing Agreement, and attachments, will be made available for public review and comment for a minimum of 60 days, and will be made available at least ten working days before any public meeting regarding the documents. MRC and DFG expect to fulfill this obligation by distributing the draft NCCP/HCP, Implementing Agreement, and attachments with the draft environmental impact report prepared for the NCCP/HCP pursuant to CEQA, and/or the draft environmental impact statement prepared for the NCCP/HCP pursuant to NEPA.

5.4.4. NCCP and CEQA decision and findings In order to approve the NCCP/HCP for implementation, DFG must make findings based on substantial evidence, required by CEQA and the NCCPA. Such findings must be based on DFG's independent judgment and analysis. Absent sufficient evidence to support the findings required for approval, DFG may be unable to approve the NCCP/HCP.

5.5. Interim land management and timber harvest activities DFG recognizes that MRC will continue to manage its land and carry out commercial timber operations during preparation of the NCCP/HCP. As part of its commercial timber operations, MRC will propose new timber harvest plans ("THPs") and other new timber harvest activities. New THPs and timber harvest activities that MRC proposes after the Effective Date of this Agreement and pending approval of the NCCP/HCP are referred to collectively in this Agreement as MRC's "**Interim Activities**". MRC will ensure that all Interim Activities implemented during NCCP/HCP preparation are consistent with the preliminary conservation goals and objectives in Section 4.5 and will not preclude important conservation planning options or connectivity between areas of high habitat values. To establish mutually agreeable standards and measures that will ensure MRC's Interim Activities will be consistent with these goals and objectives and will not take threatened or endangered wildlife protected by CESA or FESA, MRC and DFG have developed certain Interim Guidelines that will apply to MRC's Interim Activities. (See **Exhibit C.**) MRC and DFG agree that Interim Activities implemented in accordance with the Interim Guidelines, the California Forest Practice Rules, and MRC's Option A Report will be consistent with the preliminary conservation goals and objectives described in this Agreement, will likely avoid take of CESA or FESA-listed threatened or endangered species of wildlife, will not preclude important conservation planning options or connectivity between areas of high habitat values, and will not compromise the successful development or implementation of the NCCP/HCP. MRC and DFG recognize that USFWS and NOAA Fisheries are not parties to this planning agreement and retain the authority and responsibility to protect federally listed species, and may provide additional guidance or require other measures to avoid take of such species. If any take occurs as a result of interim activities notwithstanding the Interim Guidelines, it will be included in the analysis of take to be authorized under the NCCP, if and when it is approved.

5.5.1. Consideration of independent scientific input Upon the issuance of a report by the independent scientists as described in Section 5.1, MRC and DFG will evaluate the report and its conclusions and will make any necessary or appropriate revisions to the Interim Guidelines.

5.6. Restoration of habitat during the planning process MRC is currently restoring or permitting the restoration of portions of its lands in the planning area that contain native species of wildlife and natural communities. MRC intends to continue these restoration activities during preparation of the NCCP/HCP. MRC will solicit input from

DFG regarding potential restoration sites and methods. To the extent that DFG is aware of and informed about MRC's restoration actions, DFG agrees to credit such restoration actions fully, in accordance with their biological value, toward the conservation requirements of the NCCP/HCP, once it is approved. This provision will not apply to restoration actions undertaken to mitigate the impacts of THPs or timber harvest activities carried out prior to or during NCCP/HCP preparation.

6. Commitment of Resources

6.1. NCCP/HCP costs MRC understands that, as a prospective applicant for a State take authorization, it has the primary responsibility for developing an NCCP/HCP that meets applicable legal requirements and that, as a result, the development and implementation of the NCCP/HCP must be funded primarily by MRC.

6.2. NCCPA funding DFG agrees to cooperate with MRC in identifying and securing, where appropriate, Federal and State funds earmarked for natural community conservation planning. Pursuant to Fish and Game Code, Section 2810, the Parties agree that MRC shall not provide reimbursement to DFG for its participation in the planning phase of the NCCP/HCP. However, compensation and reimbursement for plan implementation, including DFG's monitoring costs, will be discussed in the future. Preparation of the CEQA documents necessary for public review and approval of the NCCP/HCP shall be funded by MRC and under the direct supervision of DFG, NOAA Fisheries and USFWS, subject to any memorandum of understanding for the preparation of a NEPA/CEQA document that the Parties may enter into. DFG's commitments and obligations under this Agreement are subject to the availability of appropriated funds. The Parties acknowledge that this Agreement does not require DFG to expend its appropriated funds unless and until an authorized officer of DFG affirmatively acts to commit to such expenditures as evidenced in writing.

6.3. DFG expertise Subject to funding and staffing constraints, DFG agrees to provide technical and scientific information, analyses and advice to assist MRC with the timely and efficient development and implementation of the NCCP/HCP.

7. Miscellaneous provisions

7.1. Statutory authority MRC will not construe this Agreement to require DFG to act beyond, or inconsistent with, its statutory authority.

7.2. Effective date The Effective Date of this Agreement will be the date on which it is fully executed.

7.3. Duration This Agreement will be in effect for three years following the Effective Date, unless extended by amendment or terminated.

7.4. Amendments This Agreement can be amended only by written agreement of MRC and DFG.

7.5. Termination This Agreement may be terminated by MRC or DFG upon thirty days' written notice. In addition, this Agreement shall be terminated upon DFG's approval of the NCCP/HCP. In the event DFG has provided MRC with grant funds for the development or implementation of the NCCP/HCP, upon termination of this Agreement, MRC shall return any remaining grant funds to DFG within 30 days of termination.

Dated: 7/8/03

THE MENDOCINO REDWOOD COMPANY

By: Michael S. Jani
Michael Jani
Vice President and Chief Forester

Dated: 8/7/03

**THE CALIFORNIA DEPARTMENT OF
FISH AND GAME**

By: Ron Rempel
Ron Rempel, Deputy Director
Habitat Conservation Division

Approved as to form:

Dated: 8-6-03

By: Michael R. Valentine
Michael R. Valentine, General Counsel

FIRST AMENDMENT TO THE PLANNING AGREEMENT
Between the Mendocino Redwood Company and
the California Department of Fish and Game regarding
the Mendocino Redwood Company Natural Community Conservation Plan

RECITALS

The Planning Agreement between the Mendocino Redwood Company ("MRC") and the California Department of Fish and Game ("DFG") regarding the Mendocino Redwood Company Natural Community Conservation Plan, dated June 23, 2003, was entered into August 7, 2003, (the "Planning Agreement").

The Mendocino Redwood Company ("MRC") and the California Department of Fish and Game ("DFG") wish to extend and modify the terms of the Planning Agreement by way of this First Amendment (the "First Amendment").

AMENDMENT

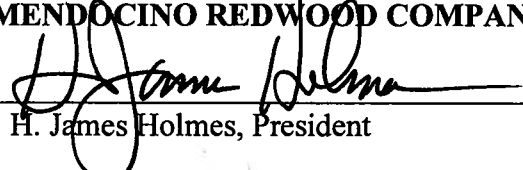
MRC and DFG agree to amend the Planning Agreement effective July 1, 2009, as follows:

1. Section 7.3 of the Agreement is amended to read: "This Agreement will remain in effect until July 1, 2014, unless extended by amendment or terminated."
2. Exhibit C shall be replaced with the attached Amended Exhibit C.
3. This First Amendment may be executed in counterparts.
4. All other terms and conditions of the Planning Agreement shall remain as originally agreed.

IN WITNESS WHEREOF, MRC and DFG hereto execute this First Amendment.

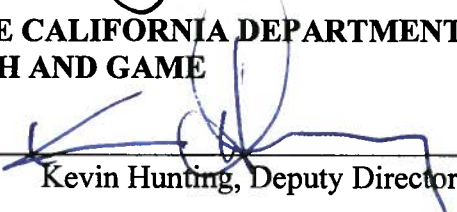
Dated: 7/9/9

THE MENDOCINO REDWOOD COMPANY

By: 
H. James Holmes, President

**THE CALIFORNIA DEPARTMENT OF
FISH AND GAME**

Dated: 10/14/09

By: 
Kevin Hunting, Deputy Director

Approved as to form:

Dated: 10/5/09

By: 
Ann S. Malcolm, General Counsel

AMENDED EXHIBIT C

Interim Guidelines

Pending completion of the NCCP/HCP and DFG's issuance of an incidental take authorization, or termination of this Agreement, MRC will adhere to these Interim Guidelines in carrying out Interim Activities. The Interim Guidelines are in addition to the requirements of MRC's Option A Report and applicable interim or permanent **Board of Forestry Forest Practice Rules ("FPR")**. The Interim Guidelines prescribe certain standard measures and consultation requirements that ensure a high minimum level of protection and mitigation that will apply to all new Timber Harvest Plans ("THPs") within the Planning Area that MRC submits to the California Department of Forestry and Fire Protection after the effective date of the Planning Agreement, unless specifically superseded by alternative, site-specific measures developed in consultation with DFG, as described below. The Interim Guidelines will not apply to THPs that were submitted to or approved by the California Department of Forestry and Fire Protection before the effective date of the Planning Agreement.

As part of THP development, MRC's Registered Professional Foresters ("RPFs") will evaluate site-specific conditions within the THP area and determine whether the standard protection measures identified herein will be practicable and effective, whether modifications of the standard measures are warranted, or whether alternative measures are warranted. If the RPFs' site-specific analysis reveals the need for modifications of the standard measures or alternative protection measures, MRC will develop appropriate modifications or alternative measures and present them to DFG for review. Any use of modified or alternative protection measures will require advance consultation and approval of DFG during THP development. DFG will approve any modified or alternative protection measures that provide the same or higher level of protection for the applicable resource (e.g., chinook salmon or freshwater streams) as the standard measures. DFG will ensure that it is reasonably available to meet and consult with MRC regarding proposed modified or alternative measures.

MRC will continue to comply with Section 1603 of the Fish and Game Code. As required by Section 1603, MRC will notify DFG before substantially diverting or obstructing the natural flow or substantially changing the bed, channel, or bank of any river, stream or lake designated by DFG, or using any material from streambeds.

The Interim Guidelines are designed foremost to protect and avoid take of threatened or endangered anadromous fish species, northern spotted owls, marbled murrelets, and Point Arena mountain beaver. However, the Guidelines will also protect other sensitive species and sensitive habitats such as riparian habitat, freshwater streams, and old growth stands.

1. Riparian habitat and stream protection measures

The following guidelines are intended to protect riparian habitat and freshwater streams, and avoid take of chinook salmon; coho salmon, steelhead trout and other threatened or endangered aquatic wildlife species. These guidelines prescribe standard measures that exceed, or are in addition to, the requirements of the FPR and MRC's Option A Report.

1.1. Standard measures for specific watercourse classes. The following conservation measures will be implemented based on applicable watercourse classifications.

1.1.1. Class I watercourses. The following protections apply to Class I watercourses:

- **Watercourse and Lake Protection Zones (“WLPZs”)** will be measured from the Watercourse and Lake Transition Line as defined in the FPRs, or on watercourses with floodplains, from the outside edge of floodplains as defined by the 20-year flood.
- No timber will be harvested within 100 feet of the Watercourse and Lake Transition Line of Class I watercourses (the **“Class I inner zone”**).
- Within a zone extending from the edge of the Class I inner zone out to 190 feet from the Watercourse and Lake Transition Line of Class I watercourses (i.e., an additional 90 feet; the **“Class I outer zone”**), MRC will retain at least 50% of the overstory canopy.
- MRC will retain all trees in the Class I inner zone or Class I outer zone leaning over Class I watercourses.
- The Class I inner zone will be an equipment exclusion zone, except on designated crossings and existing truck roads.
- The Class I outer zone will be considered a riparian management zone (**“RMZ”**), as defined in the FPR.
- Where necessary, trees may be felled to accommodate cable yarding corridors. Trees felled within the first 100’ of the Watercourse and Lake Transition Line to accommodate yarding will be left as LWD.
- Trees within the channel or bank will be retained
- There shall be no sanitation/salvage within the inner zone.

1.1.2. Large Class II watercourses. The following protections apply to Large Class II watercourses (> 100 acre drainage area):

- No harvest shall occur within 75 feet from the Watercourse and Lake Transition Line of a Large Class II watercourse (the **“Class II inner zone”**). The zone extending from the edge of this no harvest zone out to 190 feet (the **“Class II outer zone”**) will be considered a RMZ, and MRC will retain 50% of the overstory canopy when adjacent silviculture is uneven-aged, and 65% where the adjacent silviculture is even-aged.

- MRC will retain all trees within a WLPZ that are leaning over a Large Class II watercourse.
- The Class II inner zone will be an equipment exclusion zone, except on designated crossings and existing truck roads.
- Crossing placement, reconstruction or removals in Class II watercourses shall be permitted only with an approved Streambed Alteration Agreement. All restoration projects will be carried out in accordance with DFG's publication entitled "California Salmonid Stream Habitat Restoration Manual" (October 1994 - Second Edition).
- Where necessary, trees may be felled to accommodate cable yarding corridors. Within the inner zone, trees felled will be left on site as LWD.
- There shall be no sanitation/salvage within the inner zone.

1.1.3. Small Class II watercourses. Small Class II watercourses (<100 acre drainage area, or not expected to flow continuously throughout its length throughout the year) will be protected as follows:

- Within the WLPZ as defined in the FPRs, MRC will preserve a no-cut zone at least 10 feet from the edge of the channel bank.
- Where active sliding occurs, the no-cut zone will extend 10 feet above any active scarp.
- The WLPZ around Small Class II watercourses will be an equipment exclusion zone, except on designated crossings and existing truck roads.
- MRC will retain all conifer trees leaning over watercourses within a Small Class II watercourse WLPZ.
- MRC will retain non-sprouting tree species directly adjacent to the stream channel where singular root masses provide for stability of banks and channel bottoms. Such trees shall be retained when their crowns extend into a plane directly above the edge of the stream channel. MRC shall not take more than 50% basal area of redwood clumps directly adjacent to the stream channel.
- Outside of the 10-foot no cut zone as described in the first 2 bullet points, in Small Class II watercourse WLPZs as defined in the FPRs, MRC will retain at least 50% canopy cover of all tree species when adjacent silviculture is uneven-aged, and 75% canopy where the adjacent silviculture is even-aged. Only selection harvest can be done in the WLPZ.

- Where necessary, trees may be felled to accommodate cable-yarding corridors. Trees cut within the WLPZ for this purpose will be retained as LWD if the tree is not a harvestable tree as defined above.
- There shall be no sanitation/salvage within the WLPZ.

1.1.4. Class III watercourses that exhibit active down-cutting and eroding banks. The following protections will apply to Class III watercourses that exhibit active down-cutting and eroding banks:

- The zone extending from the bankfull channel edge of the watercourse out to fifty feet, as measured on the slope, will be considered a RMZ.
- MRC will preserve a no-cut zone at least 10 feet from the edge of the channel bank.
- Where active sliding occurs, the no-cut zone will extend 10 feet above any active scarp.
- MRC will retain all conifer trees leaning over watercourses within the RMZ.
- MRC will retain all non-sprouting tree species directly adjacent to the stream channel where singular root masses provide for stability of banks and channel bottoms. Such trees shall be retained when their crowns extend into a plane directly above the edge of the stream channel.
- In the balance of the RMZ, MRC will retain at least 50% canopy cover of all tree species using single tree selection.
- Trees may be felled where necessary to accommodate cable-yarding corridors. Within the no-cut zone at least 10 feet from the edge of the channel bank, trees felled for cable yarding will be left as LWD.

1.1.5. Small Class II waters other than watercourses (e.g., springs and seeps) and wet areas within a WLPZ. Small Class II watersheds and wet areas within a WLPZ will be protected as follows:

- Within the FPR-defined Class II WLPZ, MRC will perform single-tree selection harvest only.
- MRC will retain at least 50% overstory canopy cover of all tree species. Where adjacent silviculture is even-aged, the canopy will be at least 65%.
- MRC will retain all trees leaning over watercourses.

- MRC will retain all non-sprouting tree species directly adjacent to the stream channel, where singular root masses provide for stability of banks and channel bottoms. Such trees shall be retained when their crowns extend into a plane directly above the edge of the stream channel.
- Trees may be felled where necessary to accommodate cable yarding corridors.
- This area will be considered an equipment exclusion zone, except on designated crossings and existing truck roads.
- All trees proposed for harvest will be marked prior to a Pre-Harvest Inspection.
- Seeps and springs associated with roads will be surveyed for covered species. If present the above protection measures will be implemented.

1.1.6. Other Class III watercourses. For all other Class III watercourses, MRC will implement the following protections within 50 feet from the edge of the bankfull channel of the watercourse, as measured on the slope:

- This area shall be considered an RMZ and managed as an ELZ.
- MRC will retain at least 50% overstory canopy cover of all tree species.
- MRC will retain all conifer trees leaning over Class III watercourses.
- MRC will retain all non-sprouting tree species directly adjacent to the stream channel where singular root masses provide for stability of banks and channel bottoms. Such trees shall be retained when their crowns extend into a plane directly above the edge of the stream channel.
- Trees may be felled where necessary to accommodate cable yarding corridors.

1.2. General riparian habitat protection measures. The following general conservation measures will be implemented where similar prescriptions are not otherwise identified by MRC in an applicable watershed analysis that has been reviewed and approved by DFG or in MRC's Option A Report.

1.2.1. Logging roads. All existing and proposed logging roads under the ownership or control of MRC that are proposed for use within a THP and are within a WLPZ or a RMZ will be rocked, abandoned, seeded and mulched or equivalently stabilized prior to the winter period. The applicable Registered Professional Forester must consult with and obtain the approval of DFG before implementing any proposed alternative to these measures. DFG will approve any alternative to these measures that provides the same or better level of protection as rocking or abandoning the road (including offsite mitigation that would protect the same resource to the same degree as rocking the road). In evaluating a proposed alternative, factors to be considered

must include the condition of the buffer strip between the road and the watercourse (width, slope, and post-harvest filter capacity), the condition of the road (grade, soil type, and level of use following completion of harvest), present levels of sediment loading within the watercourse, and the ability of the watercourse to move sediment downstream to key Coho in-stream habitat components such as spawning gravel and rearing pools.

1.2.1.1. Wet weather restrictions. From April 1 to May 15, timber hauling will be suspended on roads that are not rocked or paved ("dirt roads") when precipitation exceeds .25" (as reported by the Santa Rosa Press Democrat for Fort Bragg) in any 24-hour period. The suspension will continue for 48 hours after the precipitation stops. Before resuming hauling, and during hauling on the first day after it is resumed, the applicable Registered Professional Forester will inspect potential sources of sediment input into watercourses along dirt roads to identify and prevent such input. Potential sources of sediment input to be inspected include, but are not limited to, watercourse crossings and drainage ditches. If timber hauling on the dirt roads causes visible sedimentation in a watercourse after the 48-hour suspension period, the suspension will be extended until visible sedimentation will not be caused.

1.2.2. Tractor roads. All tractor roads within a WLPZ and a RMZ used during timber operations will be covered with tractor-packed slash or heavy mulch prior to the winter period to prevent transport of sediment to the watercourse.

1.2.3. Other exposed areas. All other areas exposed to mineral soil (excluding logging roads and tractor roads) as a result of timber harvest operations that are within a WLPZ or RMZ equal to or greater than 100 square feet will be covered with mulch or slash prior to the winter period.

1.2.4. Pre-harvest inspections. A sufficient sample marking of trees proposed for harvest in a RMZ will be completed prior to the pre-harvest inspection to allow for evaluation of harvest effects on stream temperature, over-stream canopy vegetation and LWD recruitment.

1.2.5. Erosion control maintenance and monitoring. Erosion controls on permanent and seasonal roads and associated landings within a WLPZ or RMZ, which are not abandoned in accordance with 14 CCR 923.8, will be maintained for three years. MRC will provide winter erosion control monitoring reports for all roads proposed for use under these conservation measures.

1.2.6. Erosion control within equipment exclusion zones. Where there are specific crossings or roads within any equipment exclusion zones established under these Interim Guidelines, the applicable RPF must implement site-specific measures designed to avoid generation of sediment that could be transported by a Class III watercourse to downstream Class I or Class II watercourses. In addition, all tractor road watercourse crossings must be flagged prior to the pre-harvest inspections to enable crafting of measures to minimize the potential to generate sediment.

1.2.7. Felling and yarding. Tractor road crossings and felling and yarding practices must be located so as to avoid disturbance to existing LWD lodged within the channel of Class III watercourses and functioning to slowly meter sediment downstream, or in the position to recruit into those functions.

1.2.8. Site preparation. Site preparation activities that result in soil disturbance within or cause sediment movement into the channel of class III watercourses will occur only to the extent allowed under 14 CCR 915.3. Broadcast burns will not be ignited within the EEZ or ELZ of any classified watercourse. Prescriptions for broadcast burning will include retention of LWD as a goal.

1.2.9. Site-specific watershed analyses. Where MRC has completed a watershed analysis within the Planning Area, MRC will adhere to any specific considerations/prescriptions regarding harvesting activities in areas of high potential for mass wasting. Where a watershed analysis has not yet been completed, MRC shall utilize the Shalstab Model as a tool for predicting high, shallow-seated landslide hazard, make on-site field investigations of those sites, determine the validity of the prediction and where high shallow-seated landslide hazard is present, and limit harvest operations and road construction as described in the Option A Report.

1.2.10. Winter log hauling. Hauling of logs during the winter period beyond November 15th and before April 1st will be confined to roads with either an asphalt or rocked surface and where all road drainage structures meet or exceed FPR 923.3. Hauling on roads during any season will cease if fines are being eroded and delivered to flowing inside ditches or watercourses.

1.2.11. Streambed crossing mitigation strategy. MRC will consult with DFG to prepare a streambed crossing mitigation strategy for the Planning Area that includes standard minimization and mitigation measures for adverse impacts resulting from streambed crossings and landings. The streambed crossing strategy will account for individual watershed differences. MRC will submit appropriate standard measures identified in the strategy in its notification to DFG regarding streambed alterations for specific activities in those watersheds pursuant to Fish and Game Code §1603. The streambed crossing strategy will apply to all THP's and forest management activities proposed in the Planning Area.

1.3. Guidelines for developing anadromous fish protection measures. MRC's RPFs will adhere to the following general guidelines for purposes of developing and explaining riparian habitat and stream protection measures for anadromous fishes and meeting the requirements for Board of Forestry Technical Rule Addendum No. 2 (regarding cumulative impacts assessment).

1.3.1. Review of relevant information. MRC RPFs or RPF technical advisors will become familiar with the following information:

- The life cycles, life history requirements and habitat needs of anadromous fishes, to the extent necessary to understand and address negative impacts that timber harvest operations may cause. Relevant information includes DFG's petition to the Board of Forestry to list Coho as a sensitive species, DFG's publication entitled "Coho Salmon Habitat Impacts - Qualitative Assessment Technique for Registered Professional Foresters" (November 1994 - Draft #2), DFG's publication entitled "California Salmonid Stream Habitat Restoration Manual" (October 1994 - Second Edition), DFG's report entitled "A Status review of the Coho Salmon (*Oncorhynchus kisutch*) in California South of San Francisco Bay" (March 1995), various reports published by

State and Federal agencies and the scientific literature. DFG will provide copies of this information to MRC upon request.

- Additional information as necessary to clarify detailed site specific habitat problems in order to evaluate direct project impacts pursuant to 14 CCR §916.4 and cumulative impacts pursuant to Technical Rule Addendum No. 2. To develop a proposed THP or other timber harvest activity, MRC's RPFs will carefully review all available information regarding current in-stream habitat conditions and problems on a stream-by-stream basis. Other sources of information such as the scientific literature, environmental documents and various reports pertinent to the watershed in which activities will occur should be used as supporting information.
- As required by Technical Rule Addendum No. 2, MRC's RPFs will confer informally with various local and appropriate experts for site specific information regarding present in-stream habitat conditions and specific locations of anadromous fishes' habitat areas (e.g. spawning sites and rearing pools), including the presence of refugia and key or sensitive habitats. The RPFs will also confer with professionals with knowledge or expertise regarding existing watershed conditions and watershed processes to gain insights into natural and human caused factors that have contributed to the formation of present in-stream habitat conditions.

1.3.2. Direct and cumulative impact assessments. MRC RPFs will conduct cumulative impacts assessments pursuant to 14 CCR §898 and §1034, and direct impact evaluations of sensitive conditions near Watercourse and Lake Protection Zones pursuant to 14 CCR §916.4 (a) and (b), with an emphasis on the five key watershed products (water, woody debris, sediment, nutrients, temperature or solar radiation) that can affect the habitat of anadromous fishes and the existing stream conditions, specifically emphasizing the following factors:

- water temperature control
- stream bed and flow modification by large woody debris
- filtration of organic and inorganic material
- up slope stability
- bank and channel stabilization
- vegetation and structure diversity for fish habitat, possibly including but not limited to:
 - vertical diversity (such as cover produced from side-stream structure)
 - migration corridor
 - cover for nesting redds, roosting habitat (rearing and refugia pools, etc.), and escape from predators
 - food abundance (terrestrial insect and leaf drop, etc.)

- microclimate modification
- snags (where they apply to in-stream habitat such as LWD or recruitment) and surface cover (dark habitat)

2. Northern spotted owl protection measures

The following guidelines are intended to protect and avoid take of the northern spotted owl. These guidelines prescribe measures that exceed, or are in addition to, the requirements of the FPR and MRC's Option A Report. For purposes of these guidelines, forest structure classes will be categorized as "Foraging" habitat or "Nesting/Roosting" habitat for northern spotted owl, or as "Non-suitable" habitat, as follows:

Structure Class	Tree Type	Dominant Size Class	Min. Canopy	NSO Type	Habitat
0	Non-forested	0	0	Non-suitable	
1	Mixed Hardwoods	<8"	<40%	Non-suitable	
2	Mixed Hardwoods	>16"	<40%	Non-suitable	
3	Mixed Hardwoods	8" -16"	>40%	Non-suitable	
4	Mixed Hardwoods	>16"	>40%	Foraging	
5	Mixed Hardwoods	8" - 16"	>60%	Non-suitable	
6	Mixed Hardwoods	>16"	>60%	Foraging	
7	Mixed Conifers/Hardwoods	8" - 16"	<40%	Non-suitable	
8	Mixed Conifers/Hardwoods	16-24"	<40%	Non-suitable	
9	Mixed Conifers/Hardwoods	8" - 16"	>40%	Non-suitable	
10	Mixed Conifers/Hardwoods	> 16"	>40%	Foraging	
11	Mixed Conifers/Hardwoods	<8"	>60%	Non-suitable	
12	Mixed Conifers/Hardwoods	16-24"	>60%	Foraging	
13	Conifer	8" - 16"	<40%	Non-suitable	
14	Conifer	16-24"	<40%	Non-suitable	
15	Conifer	24-32"	<40%	Non-suitable	
16	Conifer	>32"	<40%	Non-suitable	
17	Conifer	8" - 16"	>40%	Foraging	
18	Conifer	16-24"	>40%	Foraging	
19	Conifer	24-32"	>40%	Foraging	
20	Conifer	>32"	>40%	Foraging	
21	Conifer	8" -16"	>60%	Foraging	
22	Conifer	16-24"	>60%	Nesting/Roosting	
23	Conifer	24-32"	>60%	Nesting/Roosting	
24	Conifer	>32"	>60%	Nesting/Roosting	

2.1. Take avoidance guidelines. MRC will continue to follow the procedure prescribed in section 919.9 of the FPR, including providing information to enable CALFIRE to make no-take determinations and, when applicable, obtaining technical assistance directly from the USFWS or through CALFIRE prior to implementation of any THP until the NCCP/HCP is finalized and even after the NCCP/HCP is finalized for lands not included in the NCCP/HCP. MRC will include the information below for each THP. MRC acknowledges that the USFWS' provision of technical assistance is subject to the availability of appropriated funds and available staffing.

The technical assistance reflected in this section 2.1 will apply for so long as the USFWS' continues to provide technical assistance to CALFIRE or MRC. If the USFWS stops providing technical assistance, MRC may elect to stop using these technical assistance guidelines but would remain obligated to comply with the Endangered Species Act and its prohibition against the take of listed species, such as the northern spotted owl.

2.1.1. Activity center map and other information. In each THP, MRC will include one copy of a map of known northern spotted owl activity centers¹ in or near (within 0.7 miles) the THP ("**Activity Center Map**"). The Activity Center Map will include, at a minimum, all activity centers identified in the previous three years. The Activity Center Map will also include activity centers identified prior to the previous three years, unless the activity center is inactive. "Inactive" means that 1) there are 3 years of negative results to surveys (for a mapped 72-acre core area and assuming no interference competition from barred owls) as described in 2.1.2 below, or 2) based on site-specific conditions identified by MRC, the USFWS concurs that an identified activity center is inactive or otherwise does not warrant designation as an activity center. The Activity Center Map will identify any portion of the THP that is within 0.7 miles of a northern spotted owl activity center. If no portion of the THP is within 0.7 miles of an activity center, the THP will include a statement to that effect, explain the basis for the conclusion that the THP is not within 0.7 miles of an activity center, and describe any surveys or other actions taken to determine that no activity center is present. For the THP area and areas within 0.7 of each activity center, MRC will also provide **one copy** of each item below in the **THP**.

- A. Pre- and post-harvest habitat maps for the THP.
- B. Description of silvicultural acreage for the THP.
- C. Pre- and post-harvest northern spotted owl habitat acreages by silviculture and harvest unit, including an estimate of the post-harvest basal area minimums. A pre-harvest basal area assessment must also be provided where timber harvest will occur in Nesting/Roosting habitat that is $\geq 500'$ from the Activity Center or contiguous with the 72-acre core area (see 2.4, below).
- D. Map with the last three consecutive years of northern spotted owl activity centers (all locations within the last three years or the most recent location for old sites not abandoned) within 0.7 miles of the THP boundary. This map must also include the location of the biologically most significant location ("BMSL") from DFG's California

¹ "Northern spotted owl activity center" means a geographical point derived from owl survey data that is used to depict the location of an important functional area of an owl territory for the year of the survey and to locate the application of protection measures. An activity center is identified during the daytime by locating within a northern spotted owl's territory the point or center of the area that for that year is most important biologically to the owl. The factors used to map the activity centers are, in order of importance, the location of: nest sites, non-nesting pairs, single females, single unknowns, and single males. While it is best to locate activity centers during the daytime, it is acceptable to identify an activity center at night if: 1) a pair of northern spotted owls is detected at night (i.e. two birds of the opposite sex ≤ 0.25 miles of each other); 2) an individual owl is detected at night on three separate surveys within a breeding season and the detections are within 0.25-miles of each other; and 3) an individual owl is detected at night in the same area over successive years.

Natural Diversity Database (“NDDDB”) Spotted Owl Viewer and a discussion if it is different from MRC’s location of the activity center.

- E. For all activity centers within 0.7 miles of the THP area (including territories with disjunct activity centers that are separated by ≥ 1000 feet), a map depicting northern spotted owl habitat distribution at 1000 feet, 0.5-mile, and 0.7-mile scales and a table that quantifies the habitat distribution.
- F. Map of all appurtenant roads associated with the THP, identifying existing mainline and seasonal roads.
- G. Map identifying any proposed new road construction.
- H. DFG NDDDB Spotted Owl Viewer reports 1, 2, and 3 for area extending 0.7 miles beyond THP boundary.
- I. Color aerial photo coverage of the 0.7 mile area surrounding all activity center(s) associated with THP, including additional color maps with polygons representing stands of differing structure classes and northern spotted owl habitat overlay (i.e., a transparency) using the best available aerial photographs. Any apparent discrepancies between the habitat layer and the aerial photo should be explained. For example, if the aerial photo appears to depict a forest structure class that is categorized in the table above as “Foraging” habitat, and it is identified as non-suitable habitat in the habitat layer, an explanation must be provided.
- J. Maps of all timber operations within 0.7 miles of known activity centers that have occurred since the date the aerial photo or equivalent imagery.
- K. Maps showing all approved THPs within 0.7 miles of known activity centers.
- L. The best available northern spotted owl survey data, which must include: 1) a map of the survey route; 2) a table or spreadsheet that summarizes surveys conducted in the area, including the start and end times of each survey; 3) results of follow-up visits wherever northern spotted owls have been detected; and a map of detection locations for northern spotted owls and barred owls.
- M. Because many of the functional habitat designations in the above described analyses are derived from secondary information, a certification from the RPF that he/she has verified NSO functional habitat assignments within the THP and the adjacent 500 feet.

2.1.2. Surveys results. Using the USFWS Arcata Field Office’s modified version (8-14-2009-TA-3640) of the USFWS endorsed NSO survey protocol (revised March 17, 1992); MRC will conduct northern spotted owl surveys throughout the THP area and all areas within 0.7 miles of the THP. MRC will provide the results of these surveys and survey station layout to CALFIRE in THPs and, if available, in TA requests to the USFWS. MRC may propose an alternative survey regime to CALFIRE and to the USFWS, identifying an appropriate number and location of

survey stations. USFWS may review any alternatives and, approve it as proposed, or approve it subject to specific, appropriate modifications needed to achieve equivalent efficiency for detecting northern spotted owls. MRC will conduct the survey and provide the survey results to CALFIRE and, if available to review them, the USFWS. USFWS may review the survey results and inform MRC if a field assessment of the proposed THP area is warranted. If the USFWS issues new NSO survey protocols, MRC, the USFWS and DFG will confer to decide how best to update MRC's survey protocols based on the new USFWS protocols.

2.1.3. Field assessment. If USFWS informs MRC a field assessment is necessary for any reason, USFWS may conduct a field assessment with MRC personnel prior to issuance of a letter of TA.

2.1.4. THPs receiving USFWS technical assistance. Following receipt of the above information and the proposed protection measures for any THP, the USFWS may identify any measures in addition to the NSO Protection Measures below that are necessary to avoid take. The USFWS will include an explanation of its conclusion that implementation of the THP without the additional measure(s) is likely to cause take of a northern spotted owl. The RPF responsible for the THP will include the necessary take avoidance measures, if any, as an enforceable amendment to the THP before timber harvest is initiated.

2.2. Northern spotted owl protection measures. All THPs that occur within 0.7 miles of an activity center identified on the Activity Center Map (see section 2.1.1) or in the surveys described in Section 2.1.2 will include all applicable Protection Measures described in Sections 2.3 to 2.6, unless alternatives are proposed by MRC and accepted by the USFWS. For all activity centers, MRC will include the habitat protection measures in Sections 2.4 to 2.6, below. For *occupied* activity centers, MRC will also implement the disturbance prevention measures in section 2.3, below.

2.3. Disturbance prevention measures. MRC will include the disturbance prevention measures in this Section in all THPs that are within 0.7 miles of any *occupied* activity centers. MRC will stratify northern spotted owl disturbance prevention measures based on the categories of habitat, breeding season, and non-breeding season. For purposes of these measures, the breeding season for northern spotted owls is February 1–July 31st. The end-date of July 31st will be used unless additional site-specific biological data show that northern spotted owls are absent, are not nesting, have failed to nest successfully, or have fledged young capable of flight, in which case the breeding season for purposes of that THP area will be shortened accordingly.

2.3.1. Disturbance prevention measures during the breeding season (February 1st-July 31st). Each THP will include the following measures for occupied activity centers during the northern spotted owl breeding season:

- Only the following operations will be allowed within 1000 feet (305m) of the occupied activity center:
 - Use of mainline haul roads and maintenance of mainline haul roads as designated by maps in the THP. For purposes of this section, “maintenance” does not include

the changing the prism of the road or other actions that are considered reconstruction of roads under the California Forest Practice Rules.

- Use of public roads.
- Use and maintenance of existing non-mainline haul roads that (1) are located at least the same distance from the current spotted owl activity center as a public road or mainline haul road; or (2) are existing seasonal roads ≥ 500 feet from the activity center and in use throughout the time the spotted owl territory has been active.
- Use of pickups and ATVs on existing roads.
- Helicopter operations, including service landings, will be prohibited within 2640 feet (805m) of the occupied activity center.
- Falling and yarding within 1000 feet of an activity center may be allowed *only if* the activity center is determined after May 15th to be inactive because owls are absent, non-nesting, or had a nest failure. Falling and yarding shall not occur within a northern spotted owl core area that has fledged young until there is evidence that the fledges have been out of the nest for at least two weeks and are capable of sustained flight.
- Stopping logging vehicles outside of mainline haul roads will be allowed within 1000 feet of an active nest site for safety reasons only.
- Any trees allowed to be felled within a core area for road maintenance will be retained for woody debris.
- Non-habitat disturbing activities, such as road reconstructions and maintenance, and other types of road use, may be allowed after July 9th.
- Stumps at least 425' from an activity center may be used to guy a yarder for yarding ground outside the core area.

2.3.2. Non -breeding season (August 1st-January31st). Each THP will include the following measures for occupied activity centers outside of the northern spotted owl breeding season:

- Operations, including use and maintenance of all existing roads and rock pits, may be allowed.
- Only the following operations may be allowed within the nest core area (i.e., within a 500' radius of the occupied activity center):
 - Use of cable corridors and tailholds, provided.
 - Only trees less than 6 inch dbh may be felled for the cable corridor.
 - All trees felled for the cable corridor will be left on the forest floor for woody debris.
 - Exclude nest or screen trees from felling.

- Use and maintenance of existing roads.
- Helicopter operations—including service landings—that are at least 1000 feet from an activity center may be allowed.

2.4. Activity center protection. All THPs will include a buffer zone around each northern spotted owl activity center—the “core area.” A northern spotted owl *core area* is a 72-acre area surrounding an activity center, which includes the 18-acre “nest core” area within a fixed 500’ radius of the center and the 54-acre “roost protection zone” outside the 500’ radius. A core area will ordinarily have a circular radius of 1000 feet from the activity center. However, MRC may deviate from a circular core area by adjusting the boundaries to 1) include Resting/Roosting habitat instead of Foraging habitat, 2) include contiguous habitat instead of isolated habitat, 3) exclude habitat cut off from the activity center by a topographic divide, such as a ridge, or 4) conform to local landscape attributes such as draws and streamcourses. Core areas must include a minimum of 72 acres and must maximize the amount of retained Nesting/Roosting habitat. All THPs will include the following measures for northern spotted owl core areas.

- MRC shall mark with a “wildlife tree” tag, any tree confirmed to have a northern spotted owl nest in it to enable its retention. No tree or snag previously identified as containing a northern spotted owl nest structure will be felled regardless of the occupancy status of the activity center. Historic spotted owl nest trees in areas unoccupied or abandoned by owls will be provided with screen trees for additional protection.
- Harvest will be prohibited within the nest core area.
- Functional Nesting/Roosting habitat will be retained within the roost protection zone.
- MRC will only be required to protect that portion of a core area that is on its property.
- 72-acres of Nesting/Roosting will be retained in the core area, if possible. If a core area contains less than 72 acres of Nesting/Roosting habitat, the roost protection zone will be modified to maximize the amount of Nesting/Roosting habitat that is contiguous with and outside the nest core (500 foot radius) while conforming to local landscape attributes. If a core area cannot be redrawn to retain 72 contiguous acres of Nesting/Roosting habitat, all Nesting/Roosting habitat within 1000’ of the activity center will be retained, and no harvest will be allowed within the 1000’ area. If the core area contains at least 72 acres of Nesting/Roosting, then harvest may be permitted in the roost protection zone (outside of 500’ nest core) as long as:
 - At least 2/3 of the pre-harvest basal area is retained, comprising at least 100 square feet of basal area with 60% canopy cover and an average stand diameter of at least 16” inches per acre.
 - If the above objective cannot be met, then no harvest in the roost protection zone will be allowed.

- All suitable habitat (Nesting/Roosting and Foraging) subject to harvest that is within the roost protection zone (i.e., 500-1000 feet or topographical area around nest core) will be harvested in a way that retains its pre-harvest functional definition. Immediately post-harvest, these areas will maintain or increase pre-harvest mean stand diameter.

2.5. Habitat retention within 0.7 miles of activity centers. All THPs will include the following measures to retain habitat within .7 miles of activity centers.

- At least 500 acres of suitable habitat (Nesting/Roosting and Foraging) will be retained within 0.7 miles of the activity center. If there is less than 500 acres of suitable habitat within 0.7 miles of the activity center, all suitable habitat will be retained. Or no operations within any suitable habitat.
- At least 200 of the 500 acres of suitable habitat will be maintained as Nesting/Roosting.
- At least 100 acres of Nesting/Roosting habitat within 0.7 miles of an activity center will be retained. If a northern spotted owl territory contains ≤ 100 acres of Nesting/Roosting habitat within 0.7 miles of an activity center, then no harvest shall occur in those acres of Nesting/Roosting habitat.
- Harvest may occur in Nesting/Roosting habitat that is between 100 and 200 acres within 0.7 miles of an activity center, provided the Nesting/Roosting habitat is not contiguous with the core area and is maintained with at least a 60% canopy cover of at least 16"dbh trees.
- For northern spotted owl territories² containing ≤ 200 acres of Nesting/Roosting habitat within 0.7 miles of an activity center, timber harvest in Nesting/Roosting habitat harvest is permitted only if:
 - contiguous Nesting/Roosting habitat within and extending beyond the core area is retained so that at least 2/3 of the pre-harvest basal area in the NR stand to be harvested is maintained post-harvest, comprising at least 100 square feet of basal area with 60% canopy cover and an average stand diameter of at least 16" inches per acre; and
 - Nesting/Roosting habitat not contiguous with the core area is maintained with at least a 60% canopy cover of at least 16"dbh trees.
- Before harvesting timber within Nesting/Roosting habitat that is within 0.7 miles of an activity center, where the Nesting/Roosting habitat either comprises < 200 acres or the harvest would reduce the Nesting/Roosting habitat to < 200 acres, MRC staff

² A "northern spotted owl territory" is a spatial area that is defended by a single resident or pair of northern spotted owls. Specific northern spotted owl territories refer to generally fixed geographic areas. As a working definition, a territory is that area within 0.7 miles of the AC.

trained in habitat typing will conduct a field review to confirm the actual acreage of suitable Nesting/Roosting habitat.

- Operations will be limited to $\leq 50\%$ of available suitable habitat within 0.7 miles of a northern spotted owl territory in any one year

2.6. Relocation of activity centers and emergence of new northern spotted owl territories. Northern spotted owl activity centers may move over time, or new territories may become established within the area of a THP or within the biological assessment area of the THP after a THP is approved, but before operations under the THP are begun. To ensure take of northern spotted owls is avoided in these circumstances, MRC will update and include in the THP the information required in Section 2.1.1 with regard to any new or relocated activity centers, and will include all applicable measures required in Sections 2.2 to 2.5.

3. Marbled murrelet protection measures

The following guidelines are intended to protect and avoid take of marbled murrelet. These guidelines prescribe measures that exceed, or are in addition to, the requirements of the FPR and MRC's Option A Report.

3.1. Consultation guidelines. MRC will use the following process to develop appropriate marbled murrelet protection and take avoidance measures. Marbled murrelet consultations will be conducted with DFG, although USFWS retains the discretion, and MRC or DFG may request the USFWS to provide binding input at any time on matters related to ensuring no-take of marbled murrelets under FESA.

3.1.1. Field inspection. MRC will survey for and identify trees that potentially contain marbled murrelet nests, or provide potential nesting habitat in and adjacent (use Standard Protection Measure habitat and disturbance buffer distances to define adjacent) to the THP area. These trees will be identified on a map included with each proposed THP within the Planning Area. The areas may be identified on the northern spotted owl Activity Center Map, if applicable.

3.1.2. Pre-harvest consultation. For each THP within the Planning Area, MRC will provide DFG information about habitat structure and location, a survey history for the THP area, a description of proposed activities and a description of past marbled murrelet detections. MRC will consult with DFG to establish a standard format for this information. MRC will request DFG to provide a habitat assessment or other appropriate technical assistance for THPs that have potential nest trees as determined in Section III.A.1, above. DFG will review the information provided by MRC and inform MRC if a field assessment of the proposed THP area is warranted.

3.1.3. Field assessment. At the request of MRC or DFG, a field assessment will be conducted by DFG and/or USFWS to evaluate the THP area and nearby areas for suitability as marbled murrelet nesting habitat.

3.1.4. Surveys. If MRC or DFG conclude that areas included in, or nearby a proposed THP are likely to provide nesting habitat for marbled murrelets, MRC may conduct surveys consistent with the survey protocols developed by the Pacific Seabird Group and endorsed and amended by the DFG and the USFWS. MRC may propose an alternative survey regimen, identifying an appropriate number and location of survey stations. DFG will review the proposed survey, and will approve it as proposed, or approve it subject to specific, appropriate modifications needed to achieve an equivalent probability of detection. MRC will conduct the survey and provide DFG and the USFWS with the survey results. Until surveys are complete and the results submitted to DFG for a determination that there is a low likely hood that the proposed activities will result in take, the standard protection measures shall be applied unless alternative protection measures have been approved by DFG.

3.1.5. Incorporation of technical assistance in the THP. Following the marbled murrelet survey, if applicable, DFG will provide MRC with an evaluation of the potential for take of marbled murrelet if the proposed THP is implemented. If DFG determines that take is likely to occur, DFG will consult with MRC to develop necessary or appropriate take avoidance measures based on the Standard Protection Measures for inclusion in the proposed THP.

3.2. Standard Protection Measures. If a stand is determined to be marbled murrelet habitat, the Standard Protection Measures described below will be implemented and adhered to unless DFG finds that modifications are appropriate.

3.2.1. Buffer habitat from adverse modification. Timber operations will not be conducted within 300 feet of the identified habitat.

3.2.2. Disturbance buffer. Timber operations will not be conducted within 0.25 miles for ground-based operations, or 0.5 miles for helicopter operations, from March 24 to September 14.

3.2.3. The RPF responsible for the THP will include the standard protection measures, or others derived by DFG to avoid “take,” if any, as an enforceable amendment to the THP before timber harvest is initiated.

4. Point Arena mountain beaver technical assistance letter

MRC will obtain a current Technical Assistance letter (“TA letter”) from the USFWS whenever suitable habitat for Point Arena mountain beaver (“PAMB”) is located within 500 feet of a THP. When no suitable habitat is found, this will be stated in the THP, along with information about when and where the habitat assessment was conducted and by whom it was conducted.

4.1. Point Arena mountain beaver assessment area and surveys. On MRC lands within an area bounded by a point 2 miles north of Bridgeport Landing, north of a point 5 miles south of the town of Point Arena, and to a distance of 5 miles inland from the Pacific Ocean, MRC will use USFWS approved personnel to survey for and identify any potential PAMB habitat within 500 feet of any ground or vegetation disturbing activities proposed. If suitable habitat is located, PAMB surveys by USFWS-approved individuals may be conducted. MRC will provide all of

the above information to the USFWS in a request for technical assistance. USFWS may conduct a field review at their discretion.

4.2. Point Arena mountain beaver habitat. Burrow openings are often found in areas of lush mesic herbaceous and woody vegetation. These areas are often, but not always, located on steep north-facing slopes or in gullies, and where soils are well-drained and friable. Mountain beavers also are known to use areas around and beneath and around coarse woody material on the ground.

PAMB are typically found in one of the three basic habitat types, only one of which is present within the plan area: riparian habitat. Riparian habitat comprises a broad group of habitats and includes areas dominated by willow (*Salix* spp.) or alder (*Alnus* spp.), with a variety of understory plant species including California blackberry (*Rubus ursinus*), skunk cabbage (*Lysichitum americanum*), horsetail (*Equisetum* sp.), and stinging nettle (*Urtica* sp). Sword fern (*Polystichum munitum*) is a very good indicator of PAMB habitat, especially in more inland locations such as openings and riparian strips in coniferous forest. The riparian habitat type occurs within other vegetation types, such as coniferous forest, which can include redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii*), grand fir (*Abies grandis*), or Bishop pine (*Pinus muricata*).

Areas with brushy or herbaceous plant cover should be mapped and considered potentially suitable. Areas not considered suitable habitat would be those containing only grasses (with no brushy or herbaceous species), or those comprised of conifers or hardwoods with little or no vegetation on the forest floor. Poorly-drained or very rocky soils may not be suitable. Even small pockets of potentially suitable habitat may be habitat and must be surveyed.

5. Other biological resources

5.1. Other species. MRC will assess and mitigate potential impacts to other species on a THP and site-specific basis. THPs will disclose their scoping process, and their assessment of potential impacts including any surveys needed to consider presence or absence, and the means of avoiding significant impacts from their proposed timber operations.

5.2. Habitat elements (snags/downed logs). MRC will retain snags in accordance with Section 919.1 (b). In the event MRC federal and state safety laws require the removal of a snag, such removal is allowed under Section 919.1(b). If MRC removes a snag greater than 20 inches dbh for this reason and there are less than 2 snags per acre upland (outside of WLPZs) or 3 snags per acre when within the WLPZ, a tree of equal value will be retained and girdled as a replacement in a similar landscape position for future snag development. The wildlife agencies will be advised when such an action has been implemented, and MRC will allow the agencies to review the product.

Except for sanitation/salvage THPs, pre-existing downed logs will not be harvested. In sanitation/salvage THPs, the THP shall describe the distribution, density, and condition of downed logs and the recruitment potential that will exist post harvest.

5.3. Hardwoods. With the exception of rehabilitation and variable retention harvests, MRC will not harvest non-tan oak native hardwoods unless necessary for safe harvest operations. In all THPs, hardwoods will be retained at no less than 15% of the pre-harvest basal area, provided hardwoods comprised 15% of the pre-harvest basal area. Retention shall be concentrated in the largest 10 % diameter of hardwoods and those that exhibit high wildlife value. Deviations from the 'largest size class' goal are appropriate when groups of hardwoods are retained in the unit to achieve other conservation goals. The post harvest stand shall have a similar relative native hardwood species proportion of the pre harvest stand.

5.4. Old growth. MRC has identified approximately 85 acres of (FSC Type I) old growth stands. These acres will be permanently protected by MRC from any kind of harvesting. MRC has approximately 868 acres of previously harvested (FSC Type II) old growth stands where significant old growth characteristics are still present. The residual old growth trees and late successional characteristics of these stands are protected and only silviculture such as thinning from below is allowed to enhance or extend these stands.

5.4.1. Individual old growth trees. The remaining previously logged second growth forests on MRC lands are estimated to contain up to 12,000 scattered residual old growth trees in very low densities. These old trees are being preserved based on a policy that protects them by age, size, function and characteristics specific to particular species. As far as we know, MRC is the only large industrial forestland owner to have such a comprehensive old growth protection policy. Trees preserved from harvesting include:

- Any redwood tree, 48" dbh and larger, established prior to 1800.
- Any Douglas fir tree, 36" dbh and larger, established prior to 1800.
- Any tree established prior to 1800 (conifer or hardwood), regardless of diameter size, with a preponderance of species-specific old growth characteristics.
- In addition to the above, MRC retains any tree (conifer or hardwood), established prior to 1800, that cannot be replaced in size or ecological function within 80-130 years, regardless of diameter or presence of old growth characteristics (generally most applicable to areas of exceptionally low site, for example- pigmy forest, pigmy transition soil, serpentine soils, site five and shallow rocky outcroppings).

5.4.2. Screen trees. In addition to the policies above, generally it's been MRC practice to maintain screen trees around retained old growth trees. Where they exist, screening trees are generally maintained to provide additional cover. The screen trees will usually be immediately adjacent trees or trees, which are, close enough to influence the growth and form of the retained old growth tree. These may have intermingling crowns or crowns, which if left to grow will eventually intermingle with the retained old growth crown. For redwoods, trees with shared root systems (i.e. crown sprouts) indicated suitable candidates for screen trees.

5.4.3. Special circumstances. In rare instances, the cutting of old growth trees is required for road construction, skyline corridors, or for other workplace safety considerations. If MRC

determines that an old growth tree as defined in #1 above should be felled for these reasons, MRC will contact DFG. If requested by DFG, a site visit will be arranged within 10 working days. MRC and DFG will confer to identify alternatives to removal, or mitigation (e.g., marking for permanent retention a tree most likely to replace the lost values in the shortest time) for removal of the old growth tree, consistent with federal and state safety laws. Trees cut under these special circumstances will be left in the forest to provide large wood on the forest floor and for wildlife refuge. If old growth trees are mistakenly cut due to misjudgment of age, they will also be left in the woods.