

Data Submitted (UTC 11): 3/3/2026 8:00:00 AM

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March 3, 2026

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CSERC COMMENTS ON THE DEIS, PART 2, FOR THE (MAC) PROJECT

A reminder why ACCG's agreements matter

As we shared in our initial MAC Project comments, since the formation of ACCG, our Center has worked to find areas of collaborative agreement. A key objective has been to partner with other ACCG members and the Forest Service to identify treatments that reduce the risk of high-severity wildfire damage, can reduce the extent of tree mortality from drought and insect outbreaks, and can protect the health of watersheds that are vital to water quality, wildlife, and recreation.

CSERC recognizes that there are many diverse interests and differing perspectives about

forest management. But collaboration depends upon finding areas of agreement. Consensus agreements are built upon trust, respect for differing views, and a willingness to compromise.

Based on the limited time for review of the detailed and lengthy MAC Project documents, we believe that the MAC DEIS, Part 2 project proposal has honored the process of ACCG collaboration led by UMRWA. For key issues with potential controversy - including DBH limits, whether to allow mechanized treatments in Inventoried Roadless Areas, fuel break widths, and the extent of herbicide use - the DEIS and the Proposed Action have kept intact ACCG's carefully negotiated agreements.

If the ROD's on both forests reflect the Proposed Action as it is spelled out in the DEIS, CSERC can publicly support the MAC Project as designed.

NEW INFORMATION IN THE DOCUMENTS LEADS TO REQUESTS FOR ADJUSTMENTS

Buffer Zones for the Application of Herbicides and Fungicide Near Water

In the Biological Evaluation for Botanical Species, Table 2, buffer zones for chemical treatments near water are described. Our Center believes three of the described Management Practices are inadequate for sufficiently protecting water quality:

* ID #9 Chem-2 / BMP 5.12: "10-ft no-spray buffer on water for backpack applications of non-aquatic herbicide formulations."

o A 10-foot buffer from water for non-aquatic herbicide formulations is atypical and inadequate. CSERC asks that this buffer be increased to 25 feet to err on the side of protecting water quality in this expansive project area.

* ID #2 Chem-2 / BMP 5.12: "Do not apply fungicide within 10 feet of surface water, when rain is falling, or when rain is likely that day (i.e., National Weather Service forecasts 50% or greater chance)."

o Fungicides should not be applied within 10 feet of water in any circumstance. CSERC simply asks that the caveat about "when rain is falling or likely" be dropped.

* ID #10 Chem-2 / BMP 5.12 "Aquatic-approved herbicides may be applied up to the waterline, but not in water."

o Whether or not it is legally permissible to apply a chemical treatment to the very edge of a stream, pond, lake, or wetland area, the vast majority of citizens will not support applying chemicals to the waterline. CSERC asks that at least a 10-foot buffer be the required buffer distance for aquatic-approved herbicides.

A KEY PERSPECTIVE CONCERNING BUFFERS

Just because there is a very low likelihood of significant water quality degradation by keeping the minimum buffers (or no buffer) described in the BE, that doesn't mean that it's necessary nor strategically beneficial to have so little buffer protection for water.

In the big picture, the tiny amount of acreage that may be affected by switching from limited buffers to slightly expanded buffers will be meaningless in terms of the overall MAC Project. In contrast, adjusting (expanding) those buffers for the MAC Project will almost certainly be favored by many ACCG interests and representatives who've helped promote this project - not just CSERC.

When the envisioned Implementation Plan for the MAC Project comes up for discussion, CSERC (and likely others) will only advocate for State grant funds if there are at least reasonable, meaningful required buffers for chemical applications in proximity to water. Making the minor expanded buffer adjustments is truly a logical, strategic action. And CSERC openly acknowledges that the local

Audubon and Sierra Club groups would be alarmed if CSERC accepted narrower or no buffers.

30" DBH vs 40" DBH DIAMETER LIMITS IN CSO FOREST PLAN AMENDMENTS

As our staff has shared in direct communications with Forest staff, there was strong support among all the members of ACCG who participated in over a year of discussions related to a consensus for a DBH limit for the MAC Project. ACCG formally chose to support the Regional CSO standard DBH limit of 30" DBH with exceptions up to 35" DBH for operability or matters of safety. In CSERC's previous comments, we questioned why there is a 40" DBH limit in the Project-Specific Forest Plan Amendments. While we are still not fully understanding the reason for that to be in the document, we are fully accepting of the very clear reading on page 164 that emphasizes: "The MAC Project does not authorize the additional felling for removal of trees described in item b." "The DBH limits presented in Table 2 are considered in the analysis and are the only DBH limits that may be authorized in the decision." Pg. 164

CSERC strongly supports the MAC Project DBH limit as spelled out in the document.

WILD AND SCENIC RIVER COMMENTS

Issue 4 in the EIS addresses potential impacts to the free-flowing character and Outstandingly Remarkable Values (ORVs) of rivers that are Eligible, Suitable, or state-designated for the Wild and Scenic River (WSR) system. While no federally designated W & S Rivers exist within the project area, several segments possess values such as scenic, recreational, fish, wildlife, and cultural significance that must be protected.

To safeguard the integrity of the river segments that are listed in Table 23, CSERC supports the prohibition of temporary road construction within a $\frac{1}{4}$ -mile buffer on each side of all identified W & S River segments identified in the Table on page 79.

These river corridors are rich with Cultural Resources. Accordingly, extensive and careful surveys should be conducted to provide for conservative equipment exclusion zones if mechanical treatments occur within Eligible W & S River segments and to dictate when only manual treatments and/or low-intensity burning should take place.

To maintain the primitive character of the North Fork Stanislaus River, we support the directive that mechanical thinning will not be a treatment (except for limited fuel breaks within two of the four sections) and that instead prescribed fire will be the treatment.

The proposed forest thinning (2,167 acres), fuel reduction (1,622 acres), and fuel break construction (496 acres) within Eligible W & S segments of the Middle Fork Cosumnes River has led to significant controversy outside the ACCG collaborative. Based on our staff reaching out for clarification, we now know that there are zero thinning or fuel reduction treatments in any Suitable W & S River segments. We support that plan to avoid mechanical treatments in Suitable segments.

However, we are aware that there still are proposed Fuel Breaks planned that would be constructed in Suitable W & S River segments. CSERC asks that Forest Service staff consider adjusting the prescription for fuel breaks within Eligible W & S River segments to reduce scenic impacts (for instance, when viewed from within the corridor from the opposite hillside) and to further minimize potential for sediment discharge downslope into receiving waters.

As spelled out in the EIS, we agree that there are multiple reasons to do treatments to reduce the risk of stand-replacing, high-severity wildfires that could significantly degrade the values within W & S River segments. Maximizing the use of prescribed fire and minimizing mechanical treatments in the acres of Eligible segments can reduce short term Project impacts.

TEMPORARY ROAD CONSTRUCTION

CSERC consistently opposes new road construction for multiple reasons. The Stanislaus Forest in past Travel Management planning set a goal to significantly reduce the extent of roads within the Forest due to the inability for the USFS to have sufficient funding to maintain all the roads as well as due to the fact that many roads are redundant and unneeded. Yet when a decision was made, the Forest increased the number of designated roads, rather than reduced miles of roads.

Second, new roads add cumulatively to the overall amount of sediment discharge into receiving waters within the forest. Third, new roads intrude into unroaded habitat and results in more disturbance and risk for wildlife. And fourth, roads result in a statistical increase in the potential for human-caused wildfire ignitions.

Within the MAC Project area, the proposed action would result in 76 miles of new temporary roads. The EIS attempts to mitigate to some degree for the negative impacts of the roads by providing this requirement:

"The Forest Service is committed to ensuring that all temporary roads constructed as part of this Project are fully decommissioned and closed within five years of construction, or within two years after the road is no longer needed, whichever occurs sooner." Pg. 105

CSERC strongly supports this commitment to decommission and close temporary roads. However, with full respect for good intentions, we can point to decades of forest watchdog monitoring where we have identified to Stanislaus Forest staff many temporary roads that were never decommissioned and closed as was required by previous NEPA decisions.

With this comment, we ask that a requirement that Forest Service staff deems feasible and measurable be added to the Project to actually ensure that the pledged decommissioning and closing of temporary roads is done in compliance with the good intention.

For example, the final Decision could include a directive for each of the two national forests to have staff prepare at least once each year a list of the MAC Project's temporary road segments that have

been constructed and the date of their construction so as to actually keep track of when decommissioning and closure must occur.

HERBICIDE TREATMENTS IN THE PROJECT AREA

As mentioned briefly on the first page of these comments, CSERC strongly advocates for keeping all carefully developed ACCG agreements. One of those agreements was to accept up to 300 acres of herbicide treatments per district each year for fuel break maintenance in contrast to the far higher proposed amount of herbicide use than was originally put forward by USFS staff. CSERC accepts that 600 total acres of herbicide treatments per year is the maximum acreage of treatments for fuel break maintenance within the two districts.

Although we accept the herbicide treatment acres, we do identify the following specific herbicide-related issues.

The Wildlife BE analyzes for the potential impacts of individual herbicides on wildlife, but it does not consider potential effects of these herbicides and other reagents in tank mixes often used in the field. The potential synergistic effects of combining more than one herbicide can often be different and more harmful than the effects of the herbicides individually. Surfactants, colorants, and other additives may also be harmful in themselves, or increase the harm of herbicides to exposed wildlife. These potential effects of combined herbicides and additives on wildlife and rare plants should be analyzed. Accordingly, CSERC requests that the Project spell out that herbicide formulations approved for use either for fuel break maintenance or for invasive weed treatments will NOT be mixed together, but that formulations shall be applied individually.

Also, the MAC draft BA states that "CRLF" often move upslope from aquatic breeding habitats to forage and will seek suitable upland habitat if aquatic habitat is not available. This associated foraging/sheltering habitat consists of areas within 300 feet of the edge of the riparian vegetation, comprised of grasslands, woodlands, and/or wetland/riparian plant species that provides the frog with shelter, forage, and predator avoidance (Rathbun et al. 1993; Bulger et al. 2003; Tartarian 2008, USFWS 2010)" [p. 13].

The MAC draft BA also states that "CRLF have been documented to travel as far as 2.2 miles (3.6 kilometers) from non-breeding to breeding habitats (Bulger et al. 2003). These long-distance movements are assumed migrations rather than use of corridors for moving between habitats (USFWS 2010). These movements have also been found to be with apparent disregard to topography, vegetation type, or riparian corridors (Bulger et al. 2003; Fellers and Kleeman 2007). The USFWS concludes that 2.2 miles (3.6 kilometers) is likely the upward limit of dispersal capability for the CRLF and that a 1-mile dispersal distance will allow for sufficient connectivity between breeding habitats, non-breeding aquatic habitats, and areas of upland habitat. (USFWS 2010)". [p. 14] Yosemite toads are known to travel nearly 1 mile from aquatic breeding sites to upland foraging and overwintering areas and western pond turtles are known to venture as far as a quarter to a half a mile from aquatic habitats to lay eggs and overwinter.

While CSERC does not expect that there is a feasible measure that can fully protect at-risk, listed amphibian species and western pond turtles from potential exposure to herbicides, we do ask that where the Forest Service staff is aware of the presence of any of the listed species, that riparian no-spray buffers be expanded to 50 feet both sides of streams or rivers so as to at least provide some reduction in chemical exposure risk.

And finally, regarding the California red-legged frog, foothill yellow-legged frog, Sierra Nevada yellow-legged frog, Yosemite toad, and western pond turtle; the BE relies heavily on historical data rather

than recent, project-specific field surveys. Given that these herps are elusive and can recolonize areas, where the agency's staffing capacity and resources allow, CSERC advocates for updated protocol-level surveys for these species across areas of suitable habitat that are slated for mechanical or chemical treatment.

POTENTIAL FOR WOLVES IN THE PROJECT AREA

The Wildlife BE (p. 8) states that gray wolves are not considered in the analysis because there are no wolf territories in the proposed project footprint. However, the BE also says that since wolves are expanding their range in the Sierra Nevada, wolves have been tracked passing through or near the project area, and that packs already occur to the north and south. It is not unlikely that wolves may establish territories in the project area in the near future. For this reason, the BE should at least identify which project treatments, if any, pose risk for gray wolves, given there is a reasonable chance that a wolf territory will be established within the proposed project time frame. If specific project treatments are judged by USFS biologist to pose risk, then the final decision should include direction to take steps to minimize project impacts to wolves in specific areas where they are detected prior to project implementation.

TARGETED GRAZING AND POTENTIAL EFFECTS FOR TURTLES

On page 39, the Wildlife BE states:

"Targeted grazing: Livestock grazing can have a positive effect on northwestern pond turtles and can be used to maintain suitable nesting habitat (Tesauro and Ehrenfeld 2007; CDFW 2015). A study on bog turtles (*Glyptemys* (=Clemmys) muhlenbergh), found that bogs and meadows grazed at low intensity had more turtles, including more juvenile turtles, greater cover of low-growing vegetation

and lower heights of woody vegetation than control sites (Tesauro and Ehrenfeld 2007)... Overall, grazing can be a useful tool for maintaining appropriate nesting habitat for northwestern pond turtles..."

The conclusions of the Tesauro and Ehrenfeld 2007 study (on bog turtles) cannot be applied to the western pond turtle - they have entirely different behaviors, life histories, and habitats. Also, the CDFW 2015 reference is provided in the text, but does not appear in the references cited section and we could not find it in an internet literature search.

The 2015 "CDFW" turtle study may be a reference to a 2015 ODFW (Oregon Department of Fish and Wildlife) turtle study.* The 2015 ODFW study is not listed in the reference cites section either.

Regarding livestock grazing, this study concluded that "phosphate, ammonia, nitrate/nitrite, pH, dissolved oxygen, and sedimentation negatively affected habitat quality and the overall health of some species of turtles. Health indicators negatively affected were turtle body condition, body size, egg size, and clutch size. It is well known that cattle can degrade water quality and alter water chemistry such that certain aquatic invertebrates are negatively affected and primary production (plant growth) can increase...There is some concern that livestock could crush hatchlings that have emerged from their nest and are on their way to water. It is recommended that, except under very controlled conditions, livestock be kept out of streams, wetlands, and other waterbodies to protect water quality and habitat for the benefit of fish and wildlife."

*Oregon Department of Fish and Wildlife, 2015, "Guidance for Conserving Oregon's Native Turtles Including Best Management Practices"

PIVOTAL ISSUE OF PROJECT TREATMENTS AFFECTING CSO PACs AND TERRITORIES

Given the combination of the highly abbreviated comment period along with the power outage that left our Center without power or Internet for 5 days, it was challenging to be able to dig deeply into all the Project documents in the allotted time. Nevertheless, thanks in part to the responsive

feedback from Forest staff to our requests for clarification, CSERC provides our general support for the MAC Project's proposed treatments, adjustments, revisions, and associated commitments for the CSO.

In past comments, CSERC raised the request that there be a comparison of the Regional Directives for CSO Management that were previously being required under a different Administration. That was done. In the documents, the FS asserts:

"Comparison to "June 2024" Desired Condition: We were asked to evaluate how well the MAC proposed action aligns with the territory desired conditions outlined in the Region 5 June 2024 Plan Amendment (DC-TERR1B). The June 2024 amendment establishes slightly higher habitat thresholds than those used in the MAC Project (MAC: 40 percent dry / 50 percent moist; June 2024: 50 percent dry / 60 percent moist). When applying the updated thresholds, only seven of the 110 territories (meeting the MAC desired condition) within the Project area fall short of the June 2024 desired condition (DEIS Table 20).

These shortfalls are minor, with most of the affected territories retaining more than 55 percent suitable habitat and missing the cut off by only a few percentage points. In addition, the majority of these territories (AMA0013, AMA0017, AMA0022, CAL0060, CAL0093, and ELD0132) contain substantial acreage within the WUI defense zone and the proposed fuelbreak network. This distinction is important because, consistent with the MAC Project, both areas are recognized as exceptions under the June 2024 Plan Amendment (STD-TERR-1B).

Accordingly, the modeled post-treatment estimates of suitable habitat in these territories are considered acceptable under the exception criteria. This reflects the understanding that limited short-

term impacts are necessary to achieve long-term effectiveness, ensuring that treatments both reduce wildfire risk and promote resilient forest conditions supportive of CSO persistence." Pg 61

Based upon CSERC's review of the EIS and Response to Comments, we accept the position of the USFS is that there is not a significant difference between complying with the June 2024 Regional Office forest plan amendments and with applying the MAC project-specific forest plan amendments.

CSERC sees that with the proposed MAC Project, the Forest staff prioritizes the value of doing treatments near communities and that the agency prioritizes the effectiveness of fuel breaks as higher priorities than sustaining short term suitable habitat for CSO and other species that benefit from closed canopy habitat.

Our staff accepts the prioritization of protecting communities as a higher priority than meeting all CSO habitat objectives.

PROJECT EFFECTS ON SUITABLE HABITAT OF THE OWL

Our staff is aware that a matter of contention with some conservation groups is that applying the planning approach of the MAC Project will significantly reduce the amount of suitable habitat within the Project area for the CSO, (which is a species that still may be listed despite a pause in that listing process by the UFWFS).

Table 16 clearly shows that suitable habitat for the owl would be diminished by 37,000 acres. Based upon our communications with Forest staff and our extensive review of the EIS and the Response

to Comments, our staff understands that the reduction in suitable habitat is almost entirely based upon a reduction in canopy cover. With full respect for others who do not support short-term impacts for long-term forest ecosystem and resiliency benefits, CSERC does not oppose that extent of change in canopy cover within the MAC Project. We accept it as the difficult choice between reducing high-severity wildfire vs habitat retention.

We point to the following text in the EIS that supports the treatments and their resulting effects:

"Modeling shows that 71 percent of the suitable habitat in CSO territories outside of PACs remains suitable post-treatment (Table 19). The largest residual change occurs in the acreage of highest quality habitat, where the structural balance shifts from very dense canopy (6-5D, 5D) toward moderate canopy (5M) (Table 19). Short-term, this can reduce nesting and roosting availability and increase distance between nesting and roosting patches. This reduction is offset by structural improvements that promote heterogeneity and reduce vulnerability to high-severity wildfire - a key resilience objective. The transition away from the densest canopy classes toward more moderate canopy conditions enhances edge habitat and foraging opportunities while retaining large trees and snags critical for nesting and roosting." Pg 59

"Achieving the full effectiveness of treatments within WUI defense zones and fuelbreaks is the highest priority, as these areas are essential for protecting communities and reducing wildfire risk. To ensure treatments function as intended, mitigation measures that would otherwise be applied to offset short-term habitat impacts are not implemented within these strategic zones. This approach recognizes that maintaining treatment effectiveness in defense zones and fuelbreaks outweighs the objective of meeting the desired proportion of CSO habitat retention." Pg 60

"Overall, the analysis demonstrates that the CSO territory desired conditions are met for the vast majority of territories both before and after treatment. Where exceptions occur, they are limited, documented, and justified under exception criteria such as WUI defense zone placement and critical fuelbreak alignment. The pattern confirms that the Proposed Action successfully balances habitat conservation with landscape resilience objectives, maintaining compliance with CSO strategy goals while reducing wildfire risk.

Reductions in habitat quality and the proportion of suitable habitat available within CSO territories represent a deliberate management strategy. These short-term changes are designed to create more resilient forest conditions that provide lasting benefits for the owl. Thinning treatments increase tree spacing and introduce openings while retaining clumps of denser trees to maintain essential cover. This approach promotes the desired heterogenous structure known as ICO - individual, clumpy, open - which supports both habitat diversity and long-term forest resilience." Pg 61

POSITIVE ADJUSTMENTS MADE TO MINIMIZE OWL IMPACTS

We note that it was difficult to pull together the scattered information concerning specific or general management direction for CSO. However, again thanking Forest Service staff for clarifying pieces of relevant information and for answering CSERC's questions, we point to what we believe are pivotal points relating to the overall potential impacts of the MAC Project on PACs and Territories.

First, we emphasize that it is highly significant that the Forest Service staff made adjustments referenced in Appendix G to reduce Project impacts to canopy cover in PACs. Based on our count, there are 40 separate PACs where the Forest Service staff chose to drop all forest thinning treatments in order to avoid decreasing canopy cover to be lower than 50%. This is a highly meaningful and highly positive adjustment in the Project.

In the EIS, our staff was concerned to see that in Table 18 that so many PACs had canopy cover drop

below 50% post-treatment. CSERC strongly advocates for doing sufficient treatments in PACs (and in Territories) so as to meaningfully reduce the threat of high-severity fires killing large, old trees or causing stand-replacing tree mortality. But we also believe that, where feasible, it makes for an overall better project to minimize impacts to suitable CSO habitat if canopy cover can be maintained at (or very close to) desired conditions.

Based on our conversations with Forest Service staff and our review of the Project documents, CSERC strongly supports the choice to eliminate forest thinning treatments in the PACs identified on pages 187-189 in Table G-12a and Table G-13b.

Furthermore, CSERC also strongly supports the choice to make many adjustments to the treatments proposed within Territories as described in Table G-2 so as to reduce the impacts to canopy cover objectives.

We believe that the willingness of Forest Service staff to switch forest thinning to fuel reduction and/or to make adjustments to at least ensure a minimum of 40% canopy cover in almost all of the Territories identified in the Table is a highly positive, beneficial choice that matches the objective to be consistent with Regional policies for minimizing project impacts to the CSO.

It is unlikely that groups providing criticism of the MAC Project will have had the time and capacity to have seen the adjustments that are spelled out in Appendix G. It would have been ideal to have summarized those highly responsive adjustments somewhere in the Response to Comments or elsewhere so that they might reduce controversy over the extent of project impacts to CSO habitat.

TERRITORIES THAT OVERLAP WITH SPI LANDS

CSERC supports the adjustments spelled out in Table G-3a and Table G-3b on pages 190 and 191 where the Forest Service staff either converted forest thinning to fuel reduction treatments or set a requirement for maintaining canopy cover of 40% for forest thinning outside of fuel breaks and WUI

defense zone in areas where Territories overlap with SPI lands.

It is our Center's experience that over time nearly all SPI land is managed by even-age logging treatments that are either clearcuts or visual retention treatments, both of which leave no suitable habitat for CSO or other mature forest favoring species. Accordingly, to address the cumulative impacts of the MAC Project's proposed treatments and the eventual even-age logging treatment that will be applied by SPI to its private timberlands, it is appropriate for the Forest Service to reduce loss of canopy cover within the Project area's treatments

We believe this was applied in SERAL, and our Center supports minimizing negative impacts to the CSO by maintaining taller trees and forest cover by converting proposed forest thinning to fuel reduction for the Territories identified in those two Tables.

Overall, our review of how the MAC Project may potentially affect the CSO is that we recognize the significant amount of effort and responsiveness that went into the Forest Service staff making so many adjustments to retain suitable habitat for the CSO by modifying the proposed treatments. Based upon the extensive adjustments described in detail in Appendix G combined with previous measures already planned for the MAC Project, CSERC believes that there has been a highly positive improvement in the Project in terms of reducing impacts to CSO habitat.

CONCLUSION

Our CSERC staff continues to emphasize that the degree of high-severity wildfire that has occurred across the Sierra Nevada region over recent decades is highly unacceptable and intolerable. We support the Project with hope that our recommended adjustments will be incorporated into the

final version.

We believe that implementing the MAC Project will significantly shift fuel loading, stand density, and fuel arrangement within the Project area and will greatly reduce the risk of stand-replacing wildfires and the resulting ecological harm. We support approval and moving forward.

Executive Director Program Director