

**Petition of the Governor of California to the U.S. Secretary of Agriculture for  
Protection of National Forest System Inventoried Roadless Areas in the  
State of California  
July 12, 2006**

As Governor of the State of California, I hereby petition the U.S. Secretary of Agriculture pursuant to Sections 294.10 to 294.18 of title 36 of the Code of Federal Regulations to promulgate regulations protecting all 4.4 million acres of Inventoried Roadless Areas (IRAs) within the national forests in California. As defined in Section 294.11, IRAs consist of those “[a]reas identified in a set of inventoried roadless area maps, contained in the U.S. Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, and any subsequent update or revision of those maps through the land management planning process.” IRAs provide important environmental, recreational and tourism opportunities, clean water, wildlife habitat and scenic beauty throughout California. I have determined that it is in the best interest of the people of California to provide protection of these IRAs for current and future generations. Existing maps of individual inventoried roadless areas within the State of California are attached in Appendix 1.

I urge the Secretary to expedite consideration of this petition so as to provide full protection at the earliest possible date.

The following paragraphs provide the information required in Section 294.14 of title 36 of the Code of Federal Regulations. *[All section references below refer to title 36 of the Code of Federal Regulations, unless otherwise stated.]*

*(1) The location and description of the particular lands for which the petition is being made, including maps and other appropriate resources in sufficient detail to enable consideration of the petition. Section 294.14.a.1*

This petition is being made for all 4.4 million acres of IRAs within the national forests in California. Location, description and maps of these IRAs are within the control and possession of the United States Forest Service (U.S. Forest Service), and attached in Appendix 1. However, pursuant to management requirement 2, described below, California requests that the IRA boundaries be corrected whenever new information discloses that the current IRA boundaries are inaccurate.

*(2) The particular management requirements recommended for the lands and any exceptions. Section 294.14.a.2*

*History of California’s recommended management requirements.* The State of California has a keen interest in all aspects of the conservation and management of IRAs in national forests located within California. The preservation of roadless areas protects both economic and intrinsic values for current and future generations of Californians. In the coming years, California will face the challenge of dramatic population growth, growth that is expected to add 12 million people to the state by 2030. Accompanying that population growth will be tremendous pressure to encroach upon undeveloped lands. Therefore, California is at a critical juncture and it is imperative that we act swiftly and decisively in order to permanently preserve roadless areas before it is too late.

With respect to protection of roadless areas in California, the state historically relied on the federal rule which established nationwide prohibitions generally limiting, with some exceptions, timber harvest, road construction, and road reconstruction within IRAs. This rule was repealed on May 13, 2005, when the Secretary of Agriculture published a final rule that allowed a state governor to petition the federal government to promulgate federal regulations governing the management of IRAs within the state's national forests.<sup>1</sup> Previous to the repeal of the federal rule, the U.S. Forest Service promulgated Interim Directive 1920-2004-1, which generally maintained the level of protection of roadless areas that had been provided by the repealed 2001 rule.

In order to ensure that roadless areas would remain roadless in California during the period before a final California-specific roadless rule has been promulgated by the U.S. Forest Service, Resources Agency commenced negotiations with the U.S. Forest Service. These discussions resulted in a letter dated January 27, 2005, from the Regional Forester of Region 5 to the California Secretary for Resources, whereby the Regional Forester agreed to follow the guidance from the Interim Directive 1920-2004-1, with certain specified modifications, until a final roadless rule was completed for California. Interim Directive 1920-2004-1 has now been extended to July 16, 2007, per Interim Directive 1920-2006-1.

*California's recommended management requirements.* California is recommending the following management requirements that are designed to protect the 4.4 million acres of roadless areas in national forests within state boundaries. California has an overall goal of ensuring no net loss of this IRA acreage within the state. These management requirements are generally consistent with the agreements set forth in the January 27 letter from the Regional Forester of Region 5 and with current U.S. Forest Service management practices of California's national forests. The general management requirements are as follows:

1. The U.S. Forest Service will not authorize road construction or reconstruction projects in IRAs except under the following circumstances:
  - a. A road is needed to protect public health or safety in cases of an imminent threat of flood, fire, or other catastrophic event, that without intervention would cause the loss of life or property. Temporary roads may be constructed during a fire event for the purpose of aiding fire-fighting efforts provided that they are decommissioned as quickly as feasible upon the resolution of the fire event. Such a temporary road must be decommissioned as soon as its intended use has concluded. Road removal must be conducted in a manner that aims to minimize or eliminate environmental degradation and, to the extent feasible, restore the function

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<sup>1</sup> California's Attorney General is currently involved in litigation against the U.S. Department of Agriculture in which the goal is to enjoin operation of the 2005 rule governing roadless areas and reinstate the 2001 roadless rule. I have not taken a position on this litigation, and submission of this petition should be viewed as separate from the Attorney General's action. In the event that California's Attorney General is successful in his litigation, and the petition process established by the 2005 rule is invalidated, the state reserves the right to continue to seek the protections outlined in this petition through federal rulemaking processes.

of natural processes that were present prior to road construction or reconstruction.

- b. A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural restoration action under CERCLA, section 311 of the Clean Water Act, or Oil Pollution Act. If such road is a temporary road, it will be decommissioned as soon as its intended use has concluded in the manner described in management requirement 1(a).
- c. A road is needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands that are under lease by the Secretary of the Interior as of the date of this petition or for a new lease issued immediately upon expiration of an existing lease. Such road construction or reconstruction must be conducted in a manner that minimizes effects on surface resources, prevents unnecessary or unreasonable surface disturbance, and complies with all applicable lease requirements, land and resource management plan direction, regulations, and laws. Roads constructed or reconstructed pursuant to this paragraph must be decommissioned when no longer needed for the purposes of the lease or upon termination or expiration of the lease, whichever is sooner.
- d. Road access is needed pursuant to reserved or outstanding rights or as provided by statute or treaty.
- e. Road realignment is needed to prevent resource damage by an existing classified road that is deemed essential for public or private access, management, or public health or safety, and where such damage cannot be corrected by maintenance. Road realignment may occur under this paragraph only if the road is deemed essential for public or private access, natural resource management, or public health and safety.

In authorizing any road construction or reconstruction projects in IRAs pursuant to the exceptions listed above, the U.S. Forest Service will take necessary steps to ensure no net increase in miles of roads in IRAs within each national forest in California.

- 2. The U.S. Forest Service will update and share maps of the IRAs (attached in Appendix 1) with the state to confirm that the maps accurately reflect current conditions.
  - a. Where roads exist in IRAs, the U.S. Forest Service and the state will work together to conduct thoughtful, common sense-based reviews of whether those roads should be actively managed or decommissioned according to the standards set forth in management requirement 1. For example, existing roads that provide access for Native American Tribes to widely acknowledged sacred sites, meet legitimate public safety objectives, or facilitate well-managed recreational use should be actively managed. Existing roads that cannot be managed to mitigate sedimentation in sensitive watersheds should be decommissioned. To the extent consistent

with confidentiality concerns related to archeological sites or other sites of special concern, the public will be informed and given an opportunity to comment on decisions to manage or decommission the roads in question. In addition, when a decision is made to manage rather than decommission roads in IRAs, the U.S. Forest Service will take steps necessary to meet the goal of no net increase in miles of roads in IRAs within each national forest in California.

- b. The U.S. Forest Service and state will work together to identify additional roadless areas to be included in maps of IRAs.
  - c. The corrected maps will be deemed to be the IRAs for purposes of these management requirements.
3. Timber may not be cut, sold, or removed in IRAs except in one of the circumstances described below. The cutting, sale, or removal of timber in these areas is expected to be rare.
- a. The cutting, sale, or removal of generally small diameter timber is needed for one of the following purposes:
    - i. To improve threatened, endangered, proposed, or sensitive species habitat; or
    - ii. To maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period. Such risk reduction activities may include cutting, sale, or removal of generally small diameter timber around a communities in or adjacent to IRAs only if, and to the extent that, the effectiveness of thinning in protecting such communities from the threat of catastrophic wildfires has been established by scientific analyses, and is consistent with any fire protection plan developed by that community through an appropriate public process.

In addition, the cutting, sale or removal of generally small diameter timber must be necessary in order to maintain or improve one or more of the following: high quality or undisturbed soil, water, and air; sources of public drinking water; protection of communities in or adjacent to IRAs from wildfire risks; diversity of plant and animal communities; habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land; primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation; natural appearing landscapes with high scenic quality; traditional cultural properties and sacred sites; and other locally identified unique characteristics.

- b. The cutting, sale, or removal of timber is incidental to the implementation of a not otherwise prohibited management activity.
- c. The cutting, sale, or removal of timber is needed and appropriate for personal or administrative use, as provided for in 36 CFR part 223.

- d. Roadless characteristics have been substantially altered in a portion of an IRA due to the construction of a classified road and subsequent timber harvest. Both the road construction and subsequent timber harvest must have occurred after the area was designated an IRA and prior to the date of this petition. Timber may be cut, sold, or removed only in the substantially altered portion of the IRA.

(3) *The identification of the circumstances and needs intended to be addressed by the petition, including conserving roadless area values and characteristics; protecting human health and safety; reducing hazardous fuels and restoring essential wildlife habitats; maintaining existing facilities such as dams, or providing reasonable access to public and private property or public and privately owned facilities; and technical corrections to existing maps such as boundary adjustments to remove existing roaded areas. Section 294.14.a.3*

The management requirements set forth in section 2 above address each of the circumstances and needs identified above.

California's roadless policy is intended to continue the existing protections of pristine areas of national forestland. The great value placed by Californians on protecting these areas must be balanced by a small number of important needs that may require maintaining existing roads, constructing roads under limited circumstances, and cutting, sale or removal of timber under limited circumstances. These purposes include the protection of health and human safety, the provision of access to private inholdings, the protection or restoration of habitat needed to recover a threatened or endangered species, and certain limited personal or administrative needs on federal lands. The need to invoke these exceptions is expected to be rare. The following paragraphs identify some of the circumstances and needs addressed by this petition and explain how these circumstances and needs are addressed by the management requirements in section 2.

1. California's management requirements are intended to address the need to conserve roadless area values and characteristics, including minimization of timber harvesting in roadless areas.

Roadless areas are few and far between in the United States and total roadless acreage is declining nationally. According to U.S. Forest Service records, roads have been built in 2.8 million of the 58.5 million total acres of IRAs.

Although rare, roadless areas are a vital and vibrant part of California's landscape. They are important for health, recreation and general enjoyment. The ability to recreate in and enjoy natural places has long been a central component to the high quality of life for the citizens of California and for those who travel long distances to witness the beauty of our great state's diverse forest landscapes. Moreover, roadless areas are economically important. Tourism is an expanding industry in California and the income generated by residents and travelers helps to diversify and stabilize rural economies. Hunting, fishing, cycling and hiking are among a myriad of activities that draw visitors from far and wide to the roadless areas in California's national forests. The tourism industry is a major employer of Californians and contributes greatly to the gross state product.

In light of the rarity of roadless areas, and given both their high value for the quality of life of Californians and for the continued prosperity of our vibrant tourism industry, it is important to safeguard remaining roadless areas in California.

Roadless areas are typically characterized by high quality and undisturbed water, air and soil upon which humans, flora, and fauna depend. Ecological diversity abounds and flourishes in roadless areas as the absence of roads and road-related disturbances allows species to thrive. Additionally, certain lands contained within IRAs are of distinct cultural and historical importance and embody unique characteristics and values. High quality water flowing from roadless lands supplies drinking water and reduces water filtration costs for dozens of communities throughout the state.

Each of the proposed management requirements in paragraph (a)(2) are designed to limit road construction and reconstruction and timber harvest in IRAs. These limitations are intended to protect specific inventoried areas of national forestland and the habitat and resources contained therein from the pressures of a rapidly growing population and to preserve roadless area values and characteristics permanently and for the enjoyment of all.

2. California's management requirements are intended to address the need to protect health and human safety and provide sufficient flexibility to intervene in the event of a threat to public safety.

Public safety has always been a fundamental policy goal of any California natural resource management strategy. Accordingly, fire fighting and fire prevention have long been of paramount importance to California's policy of forest management. Forestland in close proximity to businesses, residences, utilities or recreation sites can pose particular danger to the public if not appropriately managed. California's Blue Ribbon Fire Commission and the California Department of Forestry and Fire Protection have both identified fuels reduction as one of their highest priorities for forest management. This petition, therefore, seeks to permanently encapsulate California's commitment to public safety in the long-term management of IRAs.

Management requirement 1(a) of California's petition allows road construction or reconstruction in IRAs for the purpose of protecting public health and safety "in cases of an imminent threat of flood, fire, or other catastrophic event, that without intervention would cause the loss of life or property." Management requirement 1(a) further permits the construction of temporary roads during a fire event "provided that they are decommissioned as quickly as feasible upon the resolution of the fire event." Management requirement 1(b), which allows roads to be built in IRAs in cases involving CERCLA, addresses the need for road construction for the purpose of public safety in cases of an oil spill or other release of hazardous substances. Management requirement 1(e) allows for road realignment in IRAs when it is deemed essential for public health and safety, among other exceptions. Finally, management requirement 3(a)(ii) allows for the removal of generally small-diameter timber for the purposes of wildfire prevention and risk reduction. Forest health activities, such as thinning, are routinely employed to reduce the threat of catastrophic wildfires. However, the current body of research on this subject does not establish the effectiveness of these activities in IRAs. California's petition requests that the federal rulemaking process analyze the effectiveness of routine

forest health activities in roadless areas in protecting communities from the threat of catastrophic wildfires.

3. California's management requirements are intended to address the need to restore essential wildlife habitat.

Roadless areas within California provide essential habitat for an array of fish and wildlife species. For example, the remaining habitat for the state fish, the California Golden trout, is found in lands without roads. High elevation roadless areas are sources of important water quality for downstream fisheries. For example, roadless national forest lands in the Sierra Nevada, north and east of Yosemite, are the headwaters of the West Walker River, the East Fork Carson River, and the mainstem Stanislaus River. The East Fork Carson harbors native Lahontan cutthroat, and all three rivers are excellent fisheries.

High quality wildlife and fish habitat is inherent in undisturbed, ecologically intact lands, such as those found in IRAs. Unfortunately, habitat disturbance and destruction can and does occur as a result of human or natural impact. Any disturbance that greatly alters fish or wildlife habitat or that otherwise interferes with the functioning of a given ecosystem may create a need for habitat restoration. In the Forest Service Roadless Area Conservation Final Environmental Impact Statement (November 2000), the agency determined that no new roads were needed in IRAs for wildlife habitat restoration. In certain cases when a recovery plan for a threatened or endangered species necessitates such action, road construction, reconstruction, or timber removal may be permitted in order to access and refurbish damaged habitat. Management requirement 1(b) allows for the construction of roads when needed for a response under CERCLA, including for the purpose of natural restoration. Management requirement 1(e) intends to preclude the need for habitat restoration efforts by allowing for the construction or reconstruction of roads in IRAs when necessary to prevent natural resource damage. Finally, management requirement 3(a)(i) allows for the removal of small-diameter timber for the purpose of improving habitat for threatened, endangered or sensitive species.

4. California's management requirements are intended to address the need for maintaining existing facilities such as dams and the need to provide reasonable access to public and private property or public and privately owned facilities.

IRAs may currently contain, or represent the only access point to, publicly or privately owned property and/or facilities.

As stated in management requirement 1(e), the construction or reconstruction of roads in IRAs is allowed if "(r)oad realignment is needed to prevent resource damage by an existing road that is deemed essential for public or private access, management, or public health or safety, and where such damage cannot be corrected by maintenance."

California's proposed policy additionally allows for road construction in conjunction with the continuation, extension, or renewal of permit or approval issued for mineral leasing operations (management requirement 1(c)) or when needed pursuant to reserved or outstanding rights or as provided by statute or treaty (management requirement 1(d)). Additionally, timber harvest is permitted by management requirement 3(c) when necessary "for personal or administrative use, as provided for in 36 CFR part 223."

5. California's management requirements are intended to address the need for technical corrections to existing maps and a correction of the boundaries of the IRAs protected by these management requirements.

Detailed and accurate maps are essential to the proper management of IRAs. For some time, California has requested that the U.S. Forest Service update and share maps of roadless areas with the state. Based on our review, we believe that some of those maps contain inaccuracies and do not reflect current conditions. Technical corrections should be made as soon as possible to ensure that the proposed management principles can be successfully implemented in a way that minimizes impact to roadless areas.

In order to address the dearth of accurate map information, California's proposed petition requires that the U.S. Forest Service "update and share maps of IRAs with the state to confirm that the maps accurately reflect current conditions" (see management requirement 2).

*(4) A description of how the recommended management requirements identified in paragraph (a)(2) of this section differ from existing applicable land management plan(s) or policies related to inventoried roadless area management, and how they would comply with applicable laws and regulations. Section 294.14.a.4*

The management requirements recommended in paragraph (a)(2) of this section would continue the existing policies relating to IRA management. California has a long-established policy of protecting the natural character of forests within its boundary.

In light of a judicial ruling enjoining the implementation of the 2001 federal roadless rule, and the repeal of the 2001 roadless rule, the state entered into negotiations with the U.S. Forest Service to ensure a continuation of the existing protection of the roadless areas in national forests within California. These negotiations resulted in an exchange of letters in December 2004 and January 2005, reconfirmed in April 2006, which in essence maintained the status quo protections of roadless areas until a state-specific regulation could be promulgated. The letters exchanged between the state and the U.S. Department of Agriculture and Region 5 of the U.S. Forest Service are attached as Attachment A.

California's recommended management requirements are consistent with California's applicable land management policies. California's policy is to protect forest lands and aquatic resources by focusing on protection of wildlife habitat, rare plants, and biodiversity; maintenance of habitat connectivity and related values; protection of riparian habitats, oak woodlands, ecological old growth forests, and other key forest types and seral stages that are poorly represented across landscapes and regions that support biodiversity and maintenance and restoration of natural ecosystem functions. (California Public Resources Code, Section 12210, California Forest Legacy Program Act of 2000).

It is California's long-standing policy that land-use decisions affecting timber production should balance the need for timber production against the state's desire to prevent environmental damage and the public's need for non-timber values (values other than those associated with traditional timber commodity extraction) derived from forests and forest land. (See California Board of Forestry and Fire Protection's Policy for Timber Supply (0334)).



California's policy requires the state to discourage urban expansion into timberland and conversion (California Timberland Productivity Act of 1982) and to protect California's land resource, to ensure its preservation and use in ways which are economically and socially desirable in an attempt to improve the quality of life in California (Government Code Section 65030, Declaration of State Policy and Legislative Intent for the Environmental Goals and Policy Report).

California's policy requires the state to support and encourage voluntary, long-term private stewardship and conservation of California's oak woodlands to promote biologically functional oak woodlands over time and protection of oak trees providing superior wildlife values on private lands (California Fish and Game Code Section 1362, Oak Woodlands Conservation Act).

The California Wild & Scenic Rivers Act (Public Resources Code Sec. 5093.50 et seq.) further encourages the state to protect designated rivers possessing extraordinary scenic, recreation, fishery, or wildlife values.

In addition to conserving forested areas, California's policy is to acknowledge and address the threats that fuels management issues can raise to human health and safety. California's Blue Ribbon Fire Commission, formed to evaluate fire response in the aftermath of the destructive 2003 Southern California wildfires, identified fuels reduction and better federal, state, and local coordination as priorities for effective wildfire prevention. Additionally, California's 1996 Fire Management Plan included a section on prefire management as part of its five-part fire plan framework. According to the plan, projects would combine fuels reduction, ignition management, fire-safe engineering activities, and activities to promote forest health.

The California Department of Forestry and Fire Protection (CDF) has additionally begun implementation of a new fuels reduction program funded with more than \$2 million annually by Proposition 40, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002. The goal of the CDF Proposition 40 Fuels Reduction Program is to reduce wildland fuel loading that poses a threat to watershed resources and water quality.

This petition, therefore, requests management requirements that continue existing applicable protections relating to IRA management. As a continuation of the status quo, these management requirements are consistent with all state and federal laws and regulations.

*(5) A description of how the recommended management requirements identified in paragraph (a)(2) of section 294.14 compare to existing State or local land conservation policies and direction set forth in any applicable State or local land and resource management plan(s). Section 294.14.a.5*

As explained above, the management requirements identified in Section 294.14(a)(2) are a continuation of the status quo level of protection of roadless areas within forests in California. Moreover the management requirements are consistent with California's policies to preserve and enhance private and public forest lands consistent with ensuring human health and safety.

California has long recognized the importance of forest lands and the need to discourage further expansion into forested areas, which can be triggered by providing additional road access.

The strong commitment to protection of wild areas in California forests is balanced by recognition of the need to take prudent steps to protect public health and safety. For example, California forest policy includes flexibility for development of roads necessary to address public health and safety concerns, including protecting the public from devastating forest fires. California forest policy also allows for creation of roads for remediation efforts, to provide access for Native American tribes to widely acknowledged sacred sites, or to meet legitimate public safety objectives or well-managed recreational use. These policies are consistent with the proposed management requirements.

Moreover, the management requirements identified in Section 294.14(a)(2) are consistent with California's policy to require local jurisdictions to plan for the protection of natural resources, consistent with public safety. In California, local governments have significant discretion to make decisions on planning and land use matters. (See Cal. Const. Art. XI, § 7.) Nevertheless, the state policy for land conservation and resource management sets the minimum baseline for local governments to follow.

California state law requires every city and county to have a general plan that addresses, to the extent relevant, seven mandated elements: housing, land use, open-space, circulation, noise, safety, and conservation. (See Govt. Code, §§ 65300, 65302.) The Governor's Office of Planning and Research produces and updates the *General Plan Guidelines*, a state policy document that describes each of the mandatory elements and gives detailed directions for city or county general plan development. Where the management of IRAs is concerned, the land use, open-space, conservation, and safety elements of a local general plan are particularly germane.

According to state statute, the land-use element must designate the general distribution, location, and use of land for housing, business, industry, education, open space, including agriculture, natural resources, recreation, enjoyment of scenic beauty, and other purposes. (See Govt. Code, § 65302, subd. (a).)

The conservation element of a general plan should include policies and proposals for the conservation, development, and utilization of natural resources including water, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. Furthermore, "(t)he conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands..." (Govt. Code, § 65302, subd. (d).)

The open-space element should detail plans and measures for the long-range preservation and conservation of open-space lands. This includes the preservation of open space for natural resources, outdoor recreation, and public health and safety. Open-space used for the "managed production of resources," such as in the case of forest or range lands should also be identified and addressed in a local general plan as well as open space areas of outstanding historic, scenic, or cultural value. (See Govt. Code, § 65560, subd. (b)(2).)

Finally, the safety element of a general plan establishes policies and programs to protect the community from risks associated with wildfire hazards, among others. (See Govt. Code, § 65302, subd. (g).)

Although the state does not mandate that a local government adopt a specific approach in developing the elements of the general plan, the California statutory requirement that each local government substantially address these issues underscores California's commitment to the proposed management requirements for IRAs.

*(6) A description of how the recommended management requirements identified in paragraph (a)(2) of this section would affect the fish and wildlife that utilize the particular lands in question and their habitat. Section 294.14.a.6*

The recommended management requirements limit road construction and reconstruction projects, as well as timber harvest, in IRAs.

The limitations on road construction and reconstruction would benefit fish and wildlife that use the lands in question and their habitat because roads have direct and indirect adverse impacts on fish and wildlife and their habitat. Direct adverse effects include a permanent loss of habitat at the footprint of the road. Indirect adverse effects include disturbance to fish and wildlife and their habitat in surrounding areas from: vehicular traffic; human activities such as poaching, pollution, and arson; and the introduction of invasive species that roads invite.

To the extent the management requirements include specific exceptions to the limitation on road construction and reconstruction, these exceptions are limited. Moreover, some of the exceptions are for purposes that could benefit fish and wildlife and their habitat. For example, one exception is for a road that is needed for a response action under CERCLA or the conducting of a natural restoration action under CERCLA or the Oil Pollution Act. These actions would be taken to minimize and mitigate adverse effects to fish and wildlife and their habitat.

California's recommended management requirements additionally restrict timber harvest and sales in IRAs. Such restrictions are beneficial to fish and wildlife and their habitat due to the historic adverse impacts of timber harvest and related activities on overall forest health. Woodland birds of prey and woodland owls, for example, are tree dependent for all or part of their lifecycle. Soil erosion, sedimentation, and other effects of timber harvest practices indirectly affect wildlife in a negative manner due to the resulting changes in the physical features of the forest ecosystem. Timber removal reduces hiding cover, standing snags, and down woody material as habitat and as food sources for birds and mammals. Logging also has the potential to affect hydrologic balance and water quality, thereby impacting fish and wildlife. Valuable nutrients are removed from forest ecosystems as a side effect of timber harvest activities, posing a threat to biodiversity within and among species.

To the extent the management requirements allow exceptions to the restrictions on timber harvest and sales, these exceptions are limited. Notwithstanding the prohibitions contained in this petition, in the event that limited timber removal may benefit species, management requirements 3(a)(i) and 3(a)(ii) include exceptions for the purpose of improving threatened, endangered, proposed, or sensitive species habitat and ecosystem

maintenance or reconstruction. Furthermore, the management requirements include exceptions to the general prohibition of timber harvest in IRAs when it is deemed necessary to maintain or improve soil, air or water quality, or in the case that inaction poses a threat to biodiversity. These exceptions are meant to ensure the protection and health of fish and wildlife and their habitat.

*(7) A description of any public involvement efforts undertaken by the petitioner during development of the petition, including efforts to engage Tribal and local governments, and persons with expertise in fish and wildlife biology, fish and wildlife management, forest management, outdoor recreation, and other important disciplines. Section 294.14.a.7*

California's development of its management requirements has been informed by ongoing public involvement efforts starting more than a decade ago through the efforts of the Board of Forestry and Fire Protection (Board of Forestry).

The Board of Forestry is the state body responsible for developing the general forest policy of the state, for determining the guidance policies of CDF and for representing the state's interest in federal forestland in California. By statute, the Board of Forestry is authorized to develop California's policy with respect to national forests. Under Section 740 of the Public Resources Code, "The board shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal matters pertaining to forestry and shall determine, establish, and maintain an adequate forest policy." The Board of Forestry is also charged with protecting the forest resources of all the wildland areas of California that are not under federal jurisdiction.

In discharging its statutory mandates, the Board of Forestry has regularly convened public meetings to discuss forest policy issues and obtain public input from a diverse range of stakeholders, including tribal and local governments and stakeholders with expertise in fish and wildlife biology, fish and wildlife management, forest management, outdoor recreation, and other important disciplines. Beginning in the early 1990s, the U.S. Forest Service regularly reported on forest issues at public Board of Forestry meetings, including reports on the status of management of roadless issues. Accordingly, these Board of Forestry public meetings provided a forum for public involvement on roadless issues.

In addition to discussion of forestry issues through the Board of Forestry's process, Californians participated in the formulation of the 2001 roadless rule. The U.S. Forest Service hosted approximately 617 public meetings nationwide, including more than 42 in the state of California, for the purpose of information sharing and comment collection during the federal rulemaking process which drew more than 39,000 people. The U.S. Forest Service additionally received comments via fax, mail, and electronic mail. By the close of the comment period, the agency had received more than one million public comments on the 2001 roadless rule. During the public comment period Californians overwhelmingly supported protection of IRAs. More than 140,000 Californians filed comments with the U.S. Forest Service, of which approximately 136,000 supported full protection of roadless areas in California's national forests.

In 2004, after the U.S. Department of Agriculture signaled its intention to repeal the 2001 roadless rule, Resources Agency engaged in multiple consultations with stakeholders

regarding differing views on how California should formulate its policy with respect to roadless areas in national forests in California. Resources Agency consulted with a wide range of stakeholders. Based on these consultations, the Secretary for Resources commenced negotiations with the U.S. Forest Service in late 2004. As noted above, these discussions resulted in an agreement set forth in the January 27 letter from the Regional Forester and confirmed in an exchange of letters in March 2005, which maintained the status quo protections of roadless areas until a state-specific regulation could be promulgated. (See Attachment A.)

Further consultation with stakeholders resulted in a decision by Resources Agency to petition for a continuation of the protection of roadless areas that had been set forth in the letter agreement with Regional Forester Jack Blackwell. Resources Agency commenced the process of developing a petition by initiating discussions with U.S. Department of Agriculture officials in Washington, D.C., representatives of the Pacific Southwest Region of U.S. Forest Service, interested state agencies (Board of Forestry, CDF, and Department of Parks, Off-Highway Vehicles Division) and various stakeholders, including environmental and conservation organizations, local government associations, business and industry groups, recreational user groups, tribal governments, and state agencies. In addition to these consultations, the Governor's office since January 1, 2006, has received more than 4,700 comments via fax, mail, and electronic mail from citizens regarding roadless area conservation, all of which supported the full protection of roadless areas in California's national forests.

*(8) A commitment by the petitioner to participate as a cooperating agency in any environmental analysis for a rulemaking process. Section 294.14.a.8*

The state will agree to serve as a cooperating agency in the U.S. Forest Service's NEPA process, subject to availability of resources. This will enable the state to have significant, ongoing input into the federal rulemaking process.

The federal adoption of California's policy in its regulations should not require substantial NEPA analysis. NEPA requires federal agencies to prepare a detailed environmental impact statement (EIS) for "every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C). However, where a proposed federal action would not change the status quo, an EIS is not necessary." *Upper Snake River v. Hodel*, 921 F.2d 232, 235 (9th Cir.1990). We understand that as a practical matter, the U.S. Forest Service has made no substantial change in its actual on-the-ground management of IRAs in national forests in California for more than five years, and these management practices are generally consistent with the management practices proposed in this petition.

**Attachment A**

**Letters exchanged between California and the U.S. Forest Service**

**Appendix 1**

**Maps of all Inventoried Roadless Areas in California**