May 13, 2024

Christopher Stubbs, Forest Supervisor
Los Padres National Forest
1980 Old Mission Dr.
Solvang, CA 93464

Re: Documentation of New Information for Tecuya Ridge Project

Dear Supervisor Stubbs:

On July 1, 2022, you signed a Decision Memo (DM) authorizing the Tecuya Ridge Shaded Fuelbreak Project ("Tecuya Ridge Project") in the Los Padres National Forest's Mt. Pinos Ranger District. The DM authorizes the U.S. Forest Service to remove trees, logs, downed woody debris, and other vegetation across over 1,600 acres along Tecuya Ridge in the San Emigdio Mountains.

As detailed below, there is new information available that is relevant to the project and which requires further analysis. Specifically, the yellow-blotched Ensatina (*Ensatina eschscholtzii croceater*) has been recently documented at several locations within the project area. Project activities may result in significant impacts to this rare species and its habitat.

We are submitting this letter pursuant to the Forest Service's procedures regarding the incorporation of new information or changed circumstances into previously approved projects. Specifically, the Forest Service's National Environmental Policy Act (NEPA) Handbook states:

> If new information or changed circumstances relating to the environmental impacts of a proposed action come to the attention of the responsible official after a decision has been made and prior to completion of the approved program or project, the responsible official should review the information carefully to determine its importance. Consideration should be given to whether or not the new information or changed circumstances are within the scope and range of effects considered in the original analysis.

FSH 1909.15, Chapter 18.1 ("Review and Documentation of New Information Received After Decision Has Been Made"). This review should be documented in a "supplemental information report (SIR)" which concludes "whether or not a correction, supplement, or revision is needed, and

if not, the reasons why." *Id*. The SIR "is not a NEPA document and therefore cannot be used to fulfill the requirements for a revised or supplemental EA or EIS. A SIR cannot repair deficiencies in the original environmental analysis or documentation, nor can it change a decision." *Id*.

In light of the requirements outlined above, and the new information outlined below, we request that the Forest Service prepare a SIR for this Project, appropriate NEPA documentation, and a revised decision to ensure the protection of yellow-blotched Ensatina. We request that implementation of the Tecuya Ridge Project not take place until this review and revision is complete.

The yellow-blotched Ensatina or yellow-blotched salamander is a member of the Plethodontidae family (lungless salamanders) classified as Sensitive by the U.S. Forest Service. It is a small (<6 inches in total length), elongated salamander with distinctive irregular yellow patches on its otherwise dark skin (Figure 1). The Los Padres National Forest is one of only two national forests where this subspecies is known to occur (the other being Sequoia National Forest, particularly near Breckenridge Mountain). A substantial portion of the subspecies' range is comprised of private land in the Tehachapi Mountains (Figure 2), with the Los Padres National Forest representing the southwestern edge of its range.

Despite the *E. eschscholtzii* complex being relatively well-studied in recent decades, effects of land use on the yellow-blotched subspecies are less understood. Moreover, there appear to have been few focused surveys in the westernmost and southernmost portions of the subspecies' range. This portion of the subspecies' range is biogeographically important in the context of the entire *E. eschscholtzii* complex (see Exhibit A). This presents a problem with both knowing where the subspecies occurs as well as how it is or might be impacted by past, present, and future land management activities.

When the Tecuya Ridge Project was first approved in a DM in 2019, the U.S. Forest Service briefly analyzed potential impacts to the subspecies in its 2018 Biological Evaluation ("BE") for the project (which was prepared for both the Tecuya Ridge Project and the adjacent Cuddy Valley Forest Health/Fuels Reduction Project). The BE initially found that impacts from the Tecuya Ridge Project were possible and therefore an analysis was needed. The subsequent analysis was about 1.5 pages of the 42-page BE. The final determination (on page 30) for this subspecies, relating to the Proposed Action, was:

> It is my determination that the Tecuya Ridge Shaded Fuelbreak Project may impact individuals, but is not likely to result in a loss of species viability in the planning area, nor cause a trend toward federal listing of yellow-blotched Ensatina due to the potential for permanent changes to microhabitat and injury or mortality to individuals.

This determination was based on a few things, but importantly, the BE stated on page 29:

> Suitable habitat for this species is present within the project area, but it has not been documented there.

Before the initial DM was issued, our organization submitted a comment letter illustrating that the subspecies had been documented in the Tecuya Ridge Project area, once in 1981 and again in 2013 (see Exhibit B). The information about these two observations were obtained via personal communication with one of two herpetologists who observed the subspecies in 1981 and via iNaturalist, where a "Research Grade" observation had been made in 2013. We provided this information on September 10, 2018, and the BE was signed on September 13 that same year. The DM, which was signed in April 2019, again stated that "the species has not been documented" in the Tecuya Ridge Project area (page 11). A revised DM signed on July 1, 2022 contains this same determination and statement. It is unclear why data showing that the subspecies had been documented previously within the Tecuya Ridge Project area was ignored in both DMs, but further evidence now exists that the subspecies not only has been documented within the Tecuya Ridge Project area in the past but is currently occupying the area.

Recent Observations of Yellow-Blotched Ensatina on Tecuya Ridge

Earlier this year, the California Natural Diversity Database ("CNDDB") was updated to include multiple observations of yellow-blotched Ensatina in the Mount Pinos Ranger District (see Exhibit C for detailed information from the CNDDB). Two observations dated May 2023 are located within both the western and eastern portions of the Tecuya Ridge Project area, as well as two other observations dated May 2023 that are within 0.07 and 0.78 miles, respectively, of the Tecuya Ridge Project Area (Figure 3). One of the observations within the Tecuya Ridge Project area (in the eastern portion, just west of Tecuya Mountain) was of two individuals—an adult and a juvenile—both found in decaying logs on May 15, 2023 according to the CNDDB. The other observation within the Tecuya Ridge Project area was of an adult individual nearly 6 miles west on a "rocky slope with mixed conifer habitat consisting of pinyon pine, white fir, Jeffrey pine, and sugar pine" on May 17, 2023. The other two observations that occurred outside of but within close proximity to the Tecuya Ridge Project area were of an adult and a sub-adult on May 16 and May 18, respectively. Both were found in decaying logs according to the CNDDB.

These recent observations are incontrovertible evidence that the Tecuya Ridge Project area is indeed occupied by yellow-blotched Ensatina, and that they are specifically occupying decaying logs. Without additional, focused surveys in and around the Tecuya Ridge Project area, their true extent along Tecuya Ridge will remain relatively unknown, leaving the population vulnerable to significant impacts including local extirpation. However, the information above now provides an impetus for revisiting the determination made in the Tecuya Ridge Project BE and DM and for conducting more focused surveys by qualified biologists with familiarity of this subspecies to better understand the size and distribution of its populations in the area.

Direct Effects to Yellow-Blotched Ensatina Are Significant

We believe that, in light of this new information, extraordinary circumstances are now present which would necessitate preparation of an Environmental Impact Statement (EIS) for the Tecuya Ridge Project. The Forest Service Handbook 1909.15 states in section 31.2:

> In considering extraordinary circumstances, the responsible official should determine whether or not any of the listed resources are present, and if so, the degree of the potential effects on the listed resources. If the degree of potential effect raises uncertainty over its significance, then an extraordinary circumstance exists, precluding use of a categorical exclusion.

In considering the degree of the potential effect on a listed resource (in this case, a sensitive animal species), the U.S. Forest Service must analyze both direct and cumulative effects. In terms of direct effects, the BE already provides some insight. On page 29, the BE states:

> Thinning mixed conifer stands to a range of 40 to 60 square feet basal area per acre has the potential to negatively impact yellow-blotched Ensatina microhabitat in the project area by reducing canopy cover that could increase temperatures and decrease moisture, thereby rendering it unsuitable. In addition, removal of downed logs and woody debris would remove habitat elements that could lead to injury or mortality of individuals, should they be present.

Thus, direct effects are likely due to alteration and removal of the specific habitat structures that this subspecies relies on, such as downed logs. Tecuya Ridge Project activities—including tree and shrub grinding and removal—will damage and degrade the essential habitat elements that yellow blotched Ensatina require for survival. Specifically, the Tecuya Ridge Project calls for removal of downed woody debris such as decaying logs and other vegetation that provide cover for yellow-blotched Ensatina. In this regard, the DM states on page 7 (emphasis added):

> **Existing** and operations-generated slash, small trees, and shrubs would be tractor piled or masticated with a track-mounted masticator. Mastication or tractor piling would occur shortly after thinning is completed. Post-harvest machine piling and burning of piles would occur as necessary to reduce surface fuels to less than 10 tons per acre. Mastication may be substituted for tractor piling where surface fuels can be more effectively treated by this method and where maintaining or increasing soil cover is a higher priority.

The DM also states on page 19:

> Dead and down material left after treatment should be less than 10 tons per acre in the forested treatment areas where available.

Furthermore, Tecuya Ridge Project activities may also impact subsurface microhabitat features that are important to yellow-blotched Ensatina (see Exhibit A).

Tecuya Ridge Project activities—including use of heavy equipment—can also directly crush and kill yellow-blotched Ensatina in the project area. The design features in the Tecuya Ridge Project DM Appendix A were not established or evaluated in the context of protecting yellow-blotched Ensatina. The DM does not require surveys of the project area to identify locations of yellow-

blotched Ensatina in the project area and does not evaluate the extent of project impacts to the subspecies. The few design criteria that may incidentally apply to the protection of yellow-blotched Ensatina are not adequate to protect the subspecies and must be evaluated in a NEPA document to assess their validity and sufficiency with respect to yellow-blotched Ensatina. For example, the DM references Land Management Plan (LMP) standard S14 on page 20:

> Where available and within the capability of the site retain a minimum of six downed logs per acre (minimum 12 inches diameter and 120 total linear feet) and 10 to 15 hard snags per five acres (minimum 16 inches diameter at breast height and 40 feet tall, or next largest available). Exception allowed in Wildland/Urban Interface Defense Zones, fuelbreaks, and where they pose a safety hazard.

However, as stated in the language of S14, exceptions are allowed in fuel breaks such as the Tecuya Ridge Project. It is therefore unclear to what extent this standard would be followed.

The BE also claims that individuals "might benefit from the edge created between dense and sparse vegetation as the result of the proposed action" (page 29), but no literature was cited to support this. We know of no studies that have shown that this subspecies benefits from or prefers such edge habitat. Stewart et al. (2005) in U.S. Forest Service General Technical Report (GTR) PSW-GTR-195 state this on page 189 (see Exhibit D) regarding habitat preferences for this subspecies:

> The yellow-blotched salamander occurs in a wide variety of vegetation associations including oak (*Quercus douglasii* and *Q. kelloggii*) woodlands, pine (Pinus jeffreyi and P. ponderosa) and fir (Abies concolor) forests, and open chaparral (Jennings and Hayes 1994a, Stephenson and Calcarone 1999). It typically is found under downed logs, leaf litter and duff, woody debris, and medium-to-large rocks (Goodman pers. observ., Jennings and Hayes 1994a). As with most other southern California salamanders, the habits of this subspecies are poorly known, although surface activity generally peaks during the winter months. Gravid females have been observed in April and May (Jennings and Hayes 1994a).

This excerpt is the entirety of what the GTR says about yellow-blotched Ensatina habitat. Regardless of habitat preferences, the U.S. Forest Service has already stated in the BE that there are potential direct effects, but these effects may have been largely overlooked when making the effects determination for the subspecies due to the agency's assumption that the subspecies does not occur within the Tecuya Ridge Project area.

We note that, while the BE states that 6,200 to 6,700' is "toward the upper known elevational limit of this species" (page 29), there have been recent observations of yellow-blotched Ensatina at 7,560' and 8,350' on Mt. Pinos in 2018 and 2023, respectively, according to the CNDDB (see Element Occurrence Index [EOndx] 126982 and 126983). Another observation was made previously in 1999 (by famous herpetologist, Dr. Robert Stebbins) at a little over 8,000' near the top of Frazier Mountain according to VertNet data (see Exhibit E). Therefore, the subspecies clearly occurs at the highest elevations found in the Los Padres National Forest, well above the elevations found throughout the Tecuya Ridge Project area (Figure 4; which range from a little over 5,100' to over

7,100' with an average elevation of about 6,350' according to elevation data obtained from LANDFIRE). The possible presence of yellow-blotched Ensatina across the entire project area constitutes new information that must be considered.

The Tecuya Ridge Project will likely have direct effects on yellow-blotched Ensatina, which the U.S. Forest Service must analyze in addition to analyzing cumulative effects to the species. FSH 1909.15 section 15.1 (as amended in 2023) defines cumulative effects and the framework for analyzing them:

> Individual actions when considered alone may not have a significant impact on the quality of the human environment. Groups of actions may have collective or cumulative impacts that are significant. Cumulative effects must be considered and analyzed without regard to land ownership boundaries or who proposes the actions. Consideration must be given to the incremental effects of the action when added to the past, present, and reasonably foreseeable related future actions of the Forest Service, as well as those of other agencies and individuals, that may have a measurable and meaningful impact on particular resources.

Cumulative Impacts to Yellow-Blotched Ensatina Are Significant

Importantly, the U.S. Forest Service must consider past, present, and future activities on both National Forest System land as well as land owned and managed by other entities, including private lands. The BE has a short cumulative effects analysis regarding yellow-blotched Ensatina on page 29:

> The proposed action, when combined with other similar current or future proposals on federal, state, and private lands, would impact about 10,810 acres, or about 4 percent, of the roughly 250,000 Mount Pinos Ranger District. In addition, preferred habitat for this species (moist, north-facing slopes) is limited in the project area relative to that across the Mount Pinos Ranger District. Jeffrey pine, black oak, and white pine are common habitat types across and Mount Pinos Ranger District, and large amounts of this type of habitat would remain across the landscape and in areas of higher suitability.

The BE's cumulative effects analysis methodology states on page 12 that the spatial boundary is the Mt. Pinos Ranger District and the temporal boundary is 10 years from the Tecuya Ridge Project decision date. This, unfortunately, does adequately cover potential cumulative effects for yellow-blotched Ensatina.

First, there is no consideration of the now foreseeable Wildfire Risk Reduction Project (WRRP; proposed in 2022 and currently undergoing analysis), the project boundary of which alone covers approximately 82,986 acres of the Mt. Pinos Ranger District (about 17%; see Figure 5). This project is the largest vegetation removal project ever proposed in the Los Padres National Forest, and it would involve "mechanical or hand thinning of trees and shrubs, mechanical and/or hand-piling and burning of cut material, mechanical mastication or chipping of smaller trees and shrubs,

prescribed pile burning and/or underburning, targeted grazing, mowing, weed-whipping and planting and seeding along roads and in buffers" according to the project's 2022 proposed action (page 13; Exhibit F). Nearly the entire Tecuya Ridge Project boundary is adjacent to the WRRP, and thus the WRRP would function as a *de facto* major expansion of the Tecuya Ridge Project. The WRRP would also occur farther downslope on the north side of Tecuya Ridge, where yellow-blotched Ensatina may be even more likely to occur.

The WRRP in combination with the other past, present, and future Los Padres National Forest projects in the Mt. Pinos Ranger District considered in the BE's cumulative effects analysis, would cover a total of 93,796 acres or about 19% of the Mt. Pinos Ranger District. And while this number itself is substantial, the Mt. Pinos Ranger District should not be considered, in its entirety, suitable habitat for yellow-blotched Ensatina. Consider that the subspecies has only been observed on Frazier Mountain, Mt. Pinos, Cerro Noroeste, and Tecuya Ridge according to the CNDDB, with an isolated observation near Alamo Mountain in 1985 according to VertNet data, and an isolated observation near Quatal Canyon in 2013 according to iNaturalist data. If we draw a two-mile buffer around all CNDDB, VertNet, and research grade iNaturalist (only those with unobscured geolocation data) observation and measure the area of the combined buffer zones, the total area is 82,658 acres (Figure 6). Approximately 36,023 acres within this combined two-mile buffer zone, or about 44%, has been, is currently being, or may be impacted by a vegetation removal project similar to what has been approved in the Tecuya Ridge Project (and including the Tecuya Ridge Project itself).

While focused surveys would likely result in more known occurrences of yellow-blotched Ensatina in certain areas within the Mt. Pinos Ranger District, the fact that 44% of the area within two miles of all known occurrences on the ranger district is part of a vegetation removal project that could impact the subspecies is significant, especially considering that not all of the land within two miles of these occurrences may be suitable habitat for the subspecies. This major potential cumulative impact could lead to the loss of viability of the subspecies in the planning area (the four southern California national forests, of which only the Mt. Pinos Ranger District contains occupied yellow-blotched Ensatina habitat) and may warrant an emergency listing under the California Endangered Species Act and the federal Endangered Species Act. At the very least, it illustrates that there is uncertainty surrounding the degree of cumulative effects on yellow-blotched Ensatina in the area, thus an extraordinary circumstance exists and precludes the use of a categorical exclusion (FSH 1909.15 section 31.2).

However, the cumulative effects analysis should also be expanded to consider other U.S. Forest Service projects within the range of the subspecies in the Sequoia National Forest. The fact that the northernmost and southernmost extent of the yellow-blotched Ensatina's known range are both within national forests underlies the importance of conducting a thorough cumulative effects analysis for any project that may impact this subspecies. We examined GIS data from the Forest Activity Tracking System (FACTS) and found multiple vegetation management activities within close proximity or overlapping known yellow-blotched Ensatina occurrences in the Sequoia National Forest. For example, approximately 1,250 acres of the Sequoia National Forest's Breckenridge Forest Health and Fuels Reduction Project either overlaps or is within 300'of four yellow-blotched

occurrences in the CNDDB and 13 occurrences in the Museum of Vertebrate Zoology, UC Berkeley Herp Collection (according to VertNet data; Figure 7). However, the BE for that project similarly contains a relatively short analysis of potential impacts to the subspecies and does not acknowledge the 17 different occurrences that occur within or adjacent to that project area despite all of these occurrences being dated to before the year its decision notice was signed (see Exhibit G). Moreover, the cumulative effects analysis for that project was confined to the immediate Breckenridge Mountain area and therefore did not consider other similar projects—such as those in the Los Padres National Forest—across the subspecies' range. Interestingly, that project's decision notice stated that 10 – 15 tons per acre of large woody debris would be retained, which contrasts with the Tecuya Ridge Project (< 10 tons per acre of woody debris retained). The BE for the Breckenridge project also stated that logs at least 20" in diameter at the small end would be retained, but this design criteria was not included in the decision notice, which selected Alternative 2. The determination in that project was that the "direct, indirect or cumulative impacts of [Alternative 2] would not cause or contribute to a trend leading to protection under the Endangered Species Act or loss of viability" for the subspecies.

Numerous vegetation removal activities in the southern Seqouia National Forest have been implemented under projects that used a CE and did not have a DM, many of which overlap known occurrences of yellow-blotched Ensatina. There are likely other projects that have similarly been approved or implemented in areas where the subspecies is known to occur within the Sequoia National Forest, and they should be considered as part of a cumulative effects analysis.

As the U.S. Forest Service prepares an updated effects determination, vegetation management activities on nearby private land should also be considered as part of the cumulative effects analysis. The Kern County Fire Department approved and implemented the Tecuya Ridge Shaded Fuelbreak Project under the CalVTP in 2022 and 2023. Based on satellite imagery, this included about 73 acres of actual work completed, which comprised of mastication and thinning. Our own visits to the that project area revealed heavy ground disturbance and removal of nearly all downed woody debris (see photos in Figure 8). The "CalVTP Project-Specific Analysis for the Tecuya Ridge Shaded Fuelbreak Project, Kern County, California" dated February 2022 did not contain any analysis of potential effects on yellow-blotched Ensatina.

Additionally, a relatively small fire atop and on the north slope of Tecuya Ridge just west of Tecuya Mountain resulted in suppression activities near known occurrences of yellow-blotched Ensatina. These activities included fire line construction and a patch clearcut, both of which involved heavy ground disturbance and modification of downed woody debris habitat (Figure 9). These activities—as well as other activities such as off-highway vehicle use and trespass on Tecuya Ridge—should be considered as part of an updated cumulative effects analysis.

Request for Supplemental Information Report and Updated NEPA Documentation

In addition to the data we have already submitted with our scoping comments, the information above constitutes new information, and the U.S. Forest Service must prepare a SIR to determine whether extraordinary circumstances exist with respect to yellow-blotched Ensatina. In summary,

we are requesting that the U.S. Forest Service not take any actions to implement this project until the following steps are completed:

- Prepare a SIR to evaluate the data we provided in our scoping comments and the new information contained in this letter with respect to the yellow-blotched Ensatina.
- Provide us with a copy of the SIR immediately upon completion.
- Follow the U.S. Forest Service's NEPA Handbook Chapter 18 (Reconsideration of Decisions Categorically Excluded From Environmental Documentation) to determine whether to prepare an EA or Environmental Impact Statement.

The U.S. Forest Service must ensure that any potential impacts to yellow-blotched Ensatina are minimized or avoided. We hope that you understand the need to fully evaluate the Tecuya Ridge Project's potential effects on the subspecies and to do so in a transparent way that complies with federal law and the agency's own guidelines regarding new information. Thank you for your consideration of this request.

Sincerely,

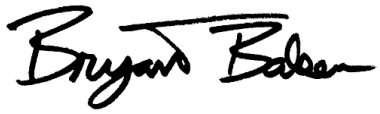

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Figure 1. Yellow-blotched ensatina.

Figure 2. The most up-to-date yellow-blotched Ensatina occurrence data within the subspecies' known range. Only the Los Padres and Sequoia national forests (and Wilderness area within those forests) are shown.

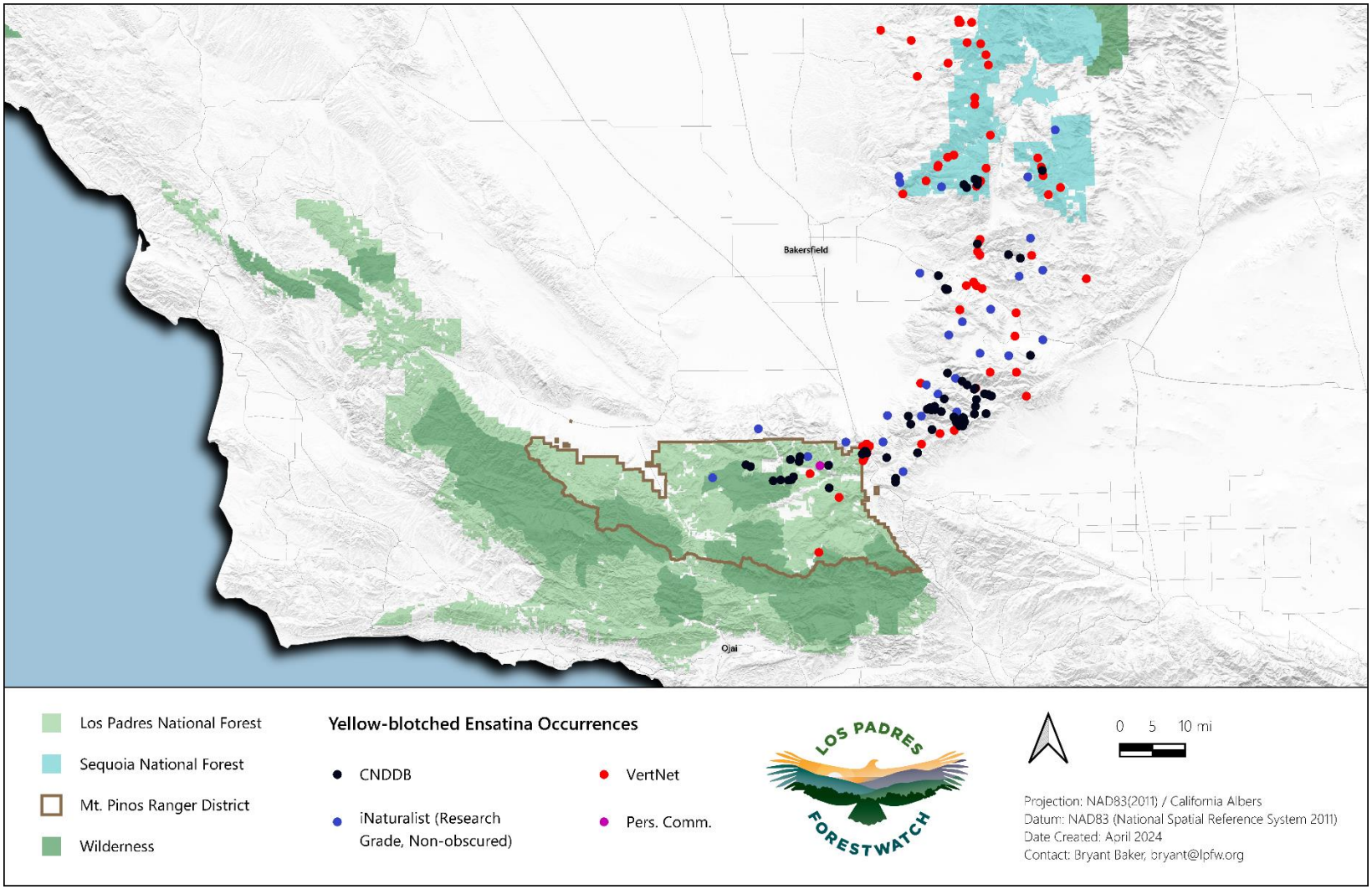

Figure 3. The most up-to-date yellow-blotched Ensatina occurrence data in relation to the Tecuya Ridge Project area..

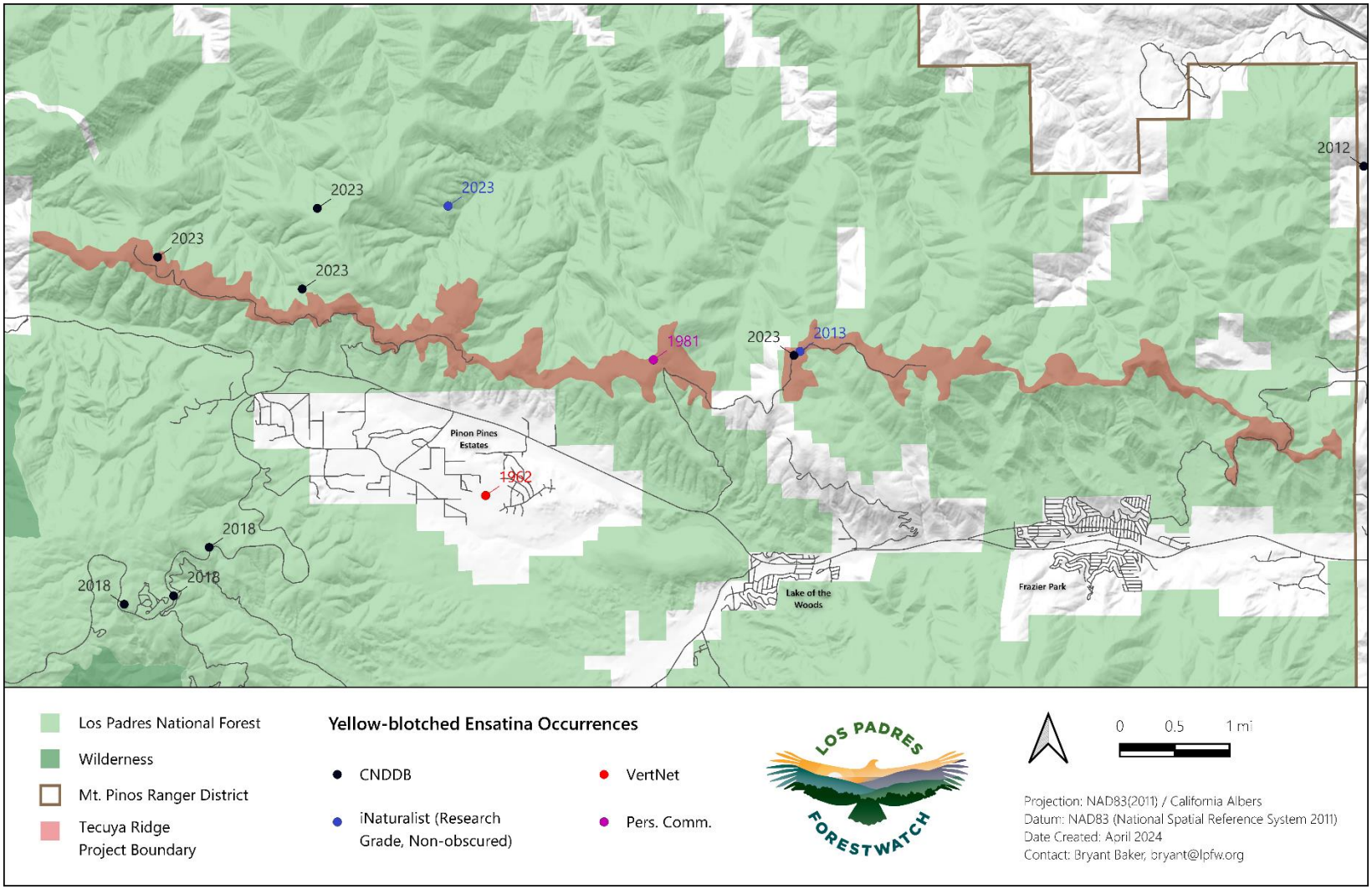

Figure 4. Yellow-blotched Ensatina occurrences and elevation in the Mt. Pinos Ranger District.

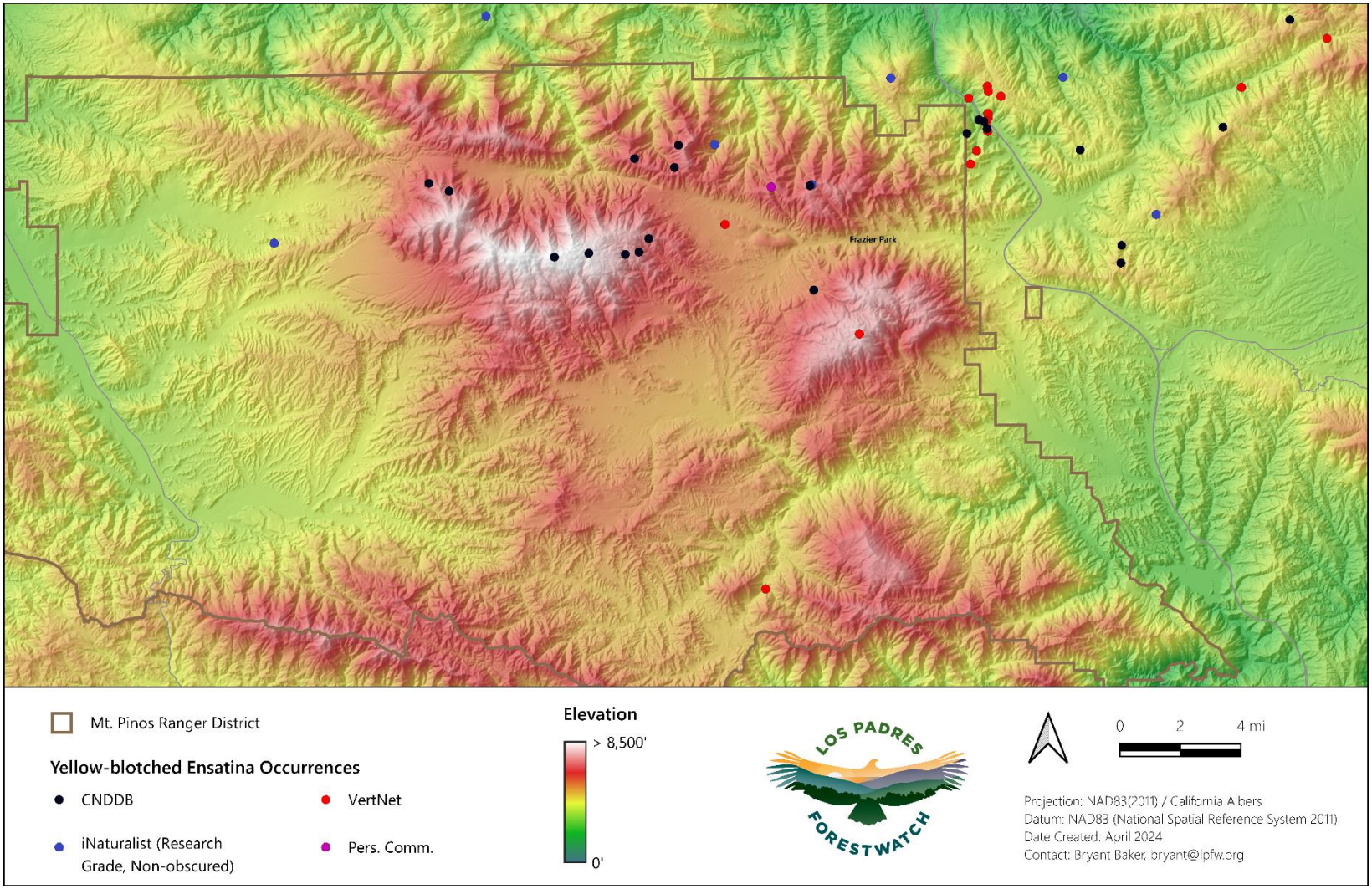

Figure 5. Proposed, approved, or ongoing vegetation removal projects within the Mt. Pinos Ranger District (with the exception of the Reyes Peak Forest Health and Fuels Reduction Project, which is likely outside of where yellow-blotched Ensatina occurs), in relation to yellow-blotched Ensatina occurrences.

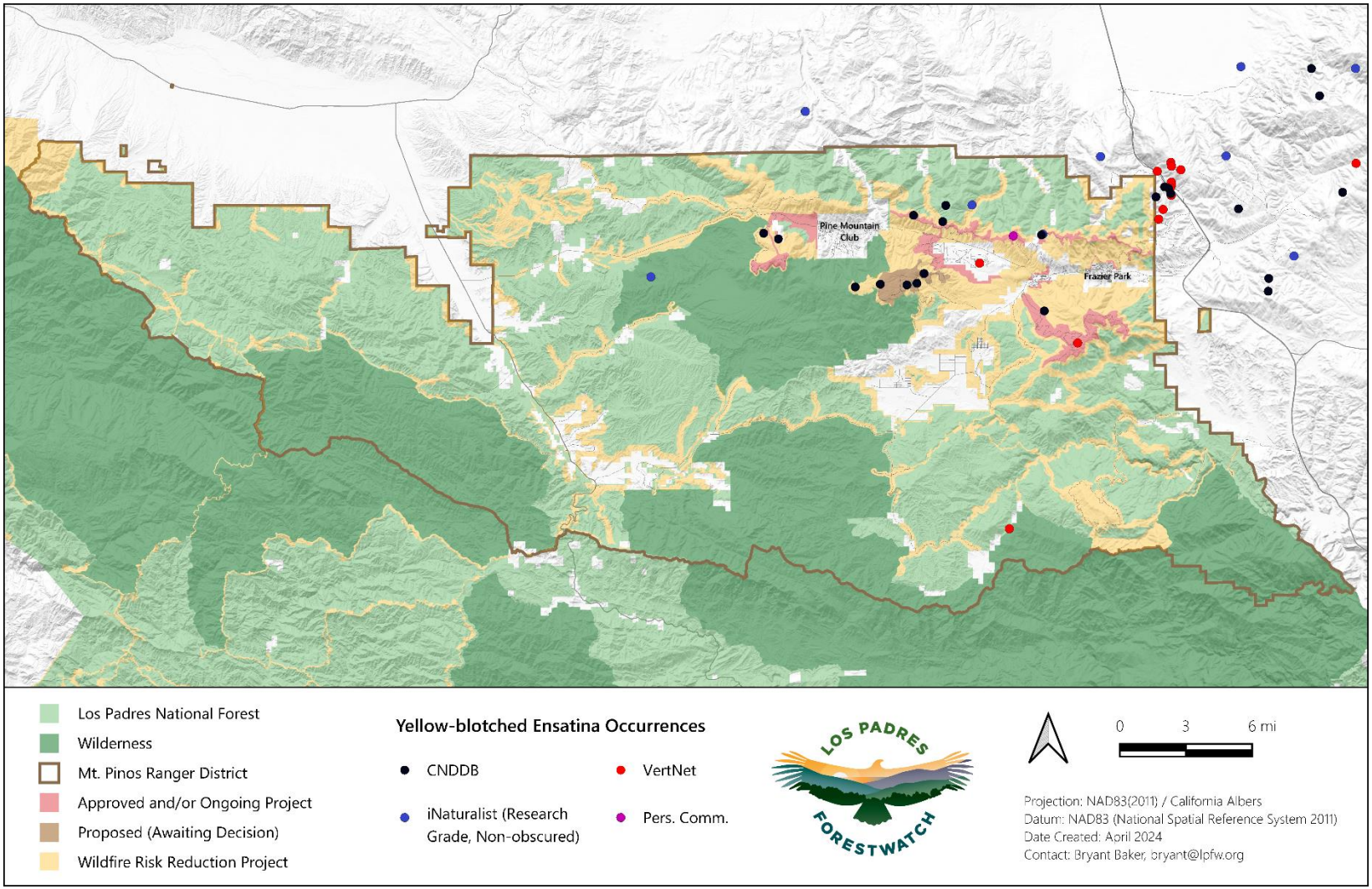

Figure 6. Proposed, approved, or ongoing vegetation removal projects within the Mt. Pinos Ranger District (with the exception of the Reyes Peak Forest Health and Fuels Reduction Project, which is likely outside of where yellow-blotched Ensatina occurs) in relation to yellow-blotched Ensatina occurrences and two-mile buffer zones around those occurrences.

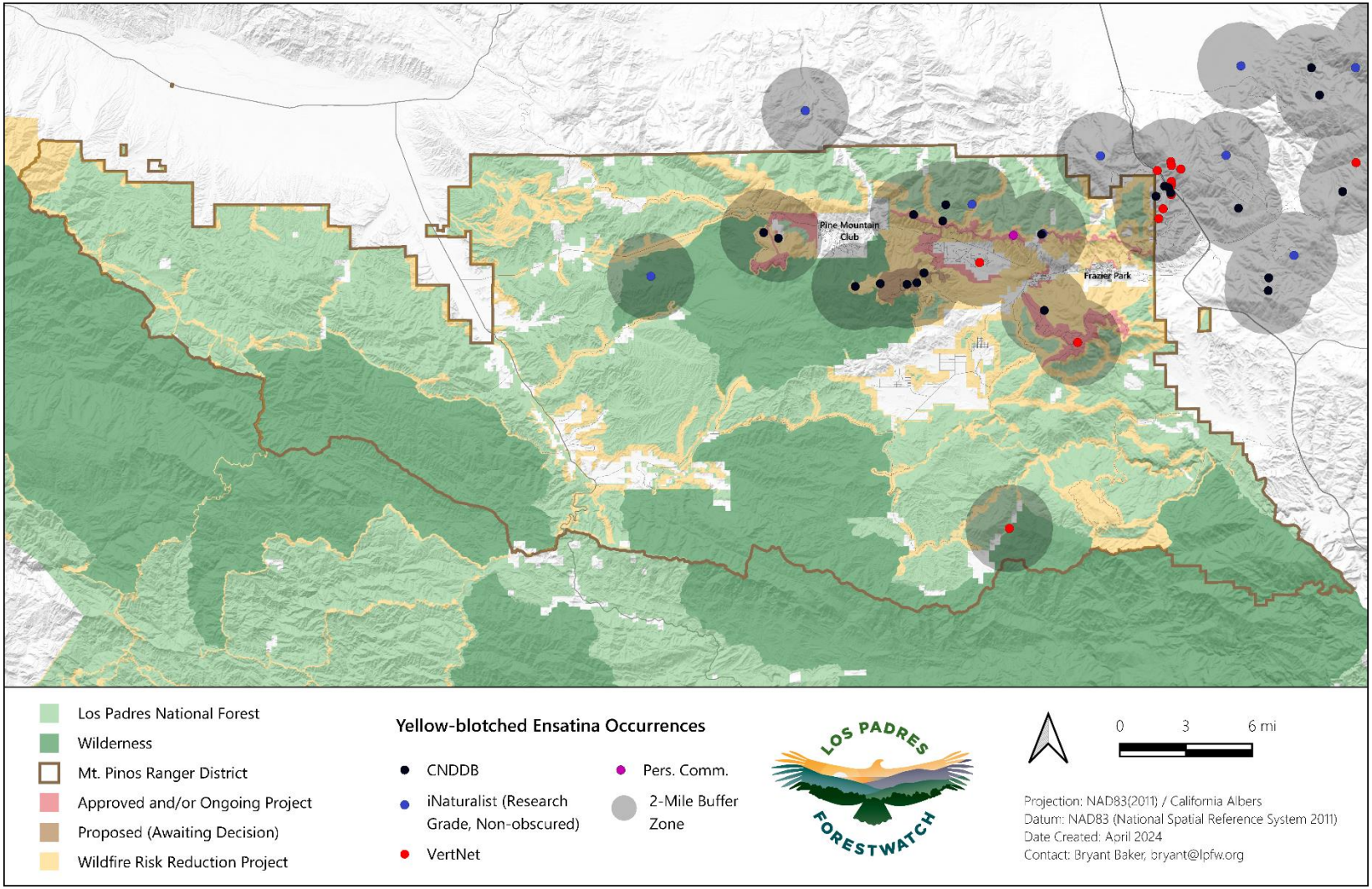

Figure 7. Work completed or planned, according to FACTS, as part of the Breckenridge Forest Health and Fuels Reduction Project in the Sequoia National Forest, with yellow-blotched Ensatina occurrences shown.

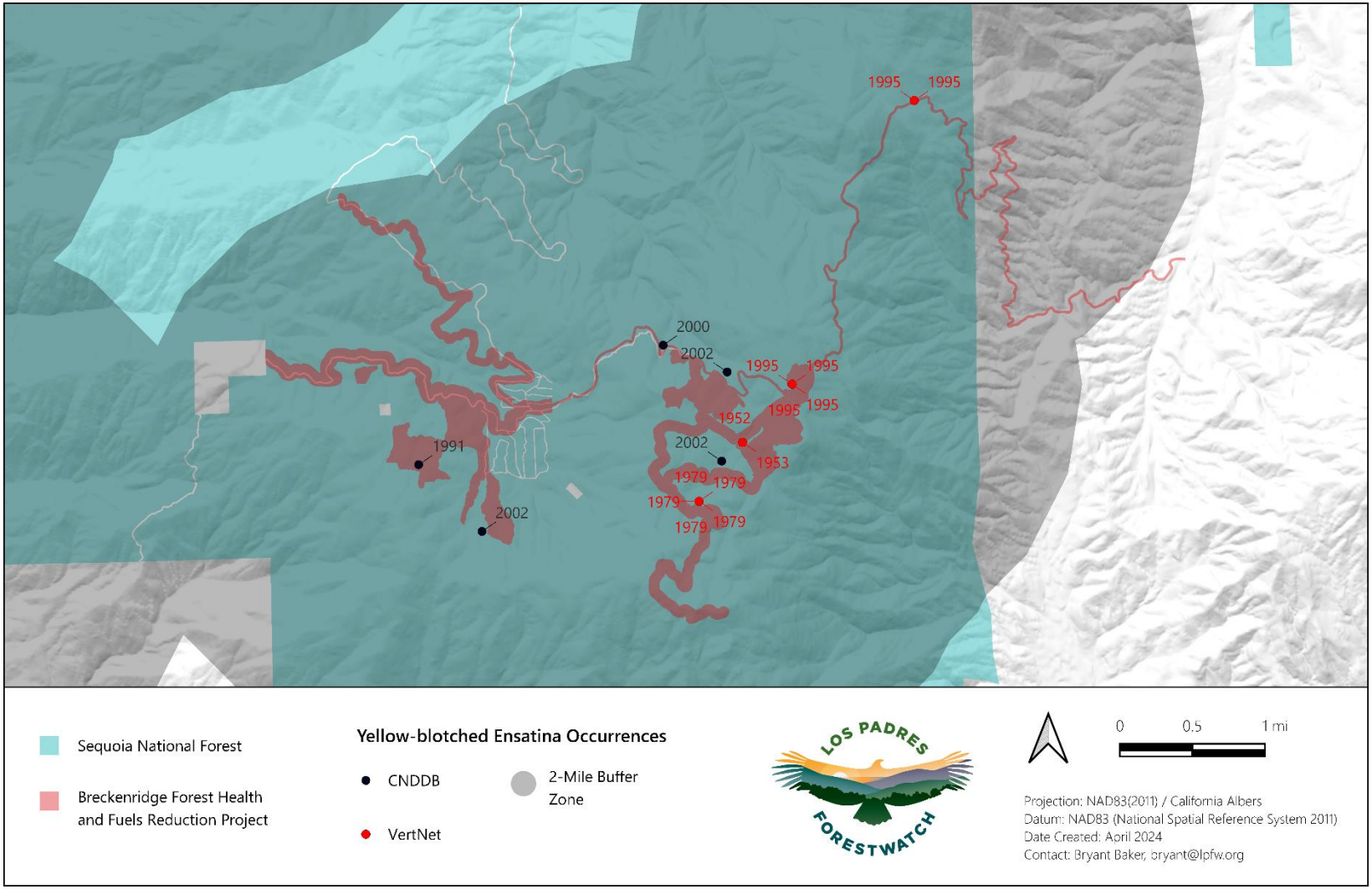

Figure 8. Photos taken in February 2023 shortly after the Kern County Fire Department project on Tecuya Ridge had been implemented.

Figure 9. Suppression activities implemented in 2023 during the Tecuya Fire, within the Tecuya Ridge Project boundary.