

Memorandum

To: Mark Andre, Chairman, California Board of Forestry and Fire Protection's Forest Practice Committee

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Telephone: (916) 653-4995

Website: www.fire.ca.gov

From: Chris Browder, Deputy Chief, THP Administration, California Department of Forestry and Fire Protection

Subject: Suggested Changes to Activity Center Definition

At this past month's Board of Forestry and Fire Protection meeting, the Forest Practice Committee requested that CAL FIRE bring amended rule language for the definition, "activity center." The amended rule language would make the definition consistent with U.S. Fish and Wildlife Service 2012 northern spotted owl survey protocol definitions of "activity center" and "abandoned activity centers," as well as the section pertaining to determining activity center status. The amended rule language would also make the definition consistent with the U.S. Fish and Wildlife Service's recommendations for reproductive status ranking criteria. CAL FIRE staff produced draft rule language, but it is overly-complicated and will be difficult to implement by users. Therefore, more simplified rule language is provided for Board consideration. This language is consistent with the U.S. Fish and Wildlife Service 2012 northern spotted owl survey protocol definition of "abandoned activity centers" and the section pertaining to determining activity center status. However, the suggested rule language does not incorporate language consistent with the definition of "activity center" nor recommendations for reproductive status ranking criteria. The U.S. Fish and Wildlife Service 2012 northern spotted owl survey protocol definition of activity center has a term, "the best of detections," that is unclear to most readers. The reproductive status ranking criteria was supposed to clarify what "the best of detections" actually means, however, it only makes the definition more complex and does not clarify it.

The suggested language is attached. Pertinent language from the U.S. Fish and Wildlife Service 2012 northern spotted owl survey protocol and U.S. Fish and Wildlife Service's discussion of reproductive status ranking criteria are also attached.

Northern Spotted Owl Activity Center, 2013

DRAFT

Amend

14 CCR § 895.1 – Definitions

§ 895.1. Definitions.

*******Active Nest** means a bird nest site at which breeding efforts have recently occurred as determined by the Department of Fish and Game, as specified below:

For the Great Blue Heron, Great Egret, recently means within the last two years.

For the Golden Eagle, Osprey, Goshawk, recently means within the last three years.

For the Bald Eagle and Peregrine Falcon, recently means within the last five years.

Nests that have not been used within this time period are considered abandoned.

Activity Center means a known northern spotted owl site documented from detections, pursuant to the USFWS document “Protocol For Surveying Proposed Management Activities That May Impact Northern Spotted Owls” revised January 9, 2012 ~~March 17, 1992~~.

(a) An activity center is established by:

(1) Resident Single Status is established by any one of the following:

(A) The presence or response of a single owl within the same general area on three or more occasions within a breeding season, with no response by an owl of the opposite sex after a complete survey; or

(B) Multiple responses over several years (i.e., two responses in year one and one response in year ~~two~~ 2) from the same general area).

(2) Two Birds-Pair Status Unknown is where the presence or response of two birds of the opposite sex ~~where is detected but~~ pair status cannot be determined and where at least one ~~of the owls member must~~ meets the resident single requirements.

(3) Territorial Pair Status is established by any one of the following:

(A) ~~A wherein~~ a male and female are heard and/or observed (either initially or through their movement) in proximity (less than one-quarter mile apart) to each other on the same visit; or

(B) A male takes a mouse to a female; or

(C) A female is detected (seen or heard) on the nest; or

(D) ~~One~~ one or both adults are observed with young; or

(E) Young identifiable based on plumage characteristics observed late in the season by knowledgeable surveyors or young identifiable based on molecular data.

~~(4) Unoccupied Status where no responses have been obtained from a previously identified northern spotted owl activity center after 3 years of survey, barring other evidence to the contrary.~~

An activity center ~~with unoccupied status~~ will not be considered an activity center when it has been evaluated and a determination made by the Director. ~~The determination shall be based upon~~ an appropriate analyses by state or federal

~~agencies, which indicates the activity center is no longer likely to support territorial owls due to habitat changes or long-term surveys with negative responses or both available information on survey history, habitat conditions within the home range, and changes to habitat that may have occurred since the northern spotted owl site was first identified.~~

Adequate Site Occupancy means the range of stocking levels which provide a balance between the largest number of trees per acre capable of maximum individual tree growth on future crop trees and maximum overall stand growth. This balance is achieved when stocking levels are within Zones 2 and 3 of the Langsaeter curve, as shown in "The Practice of Silviculture", by David Smith (1962).*****

Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4561.6, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551, 4551.5, 4561, 4561.6, 4562, 4562.5, 4562.7, 4583.2, 4591.1, 21001(f), 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed following Section 15387 of Title 14 Cal. Code of Regulations), and *Laupheimer v. State*(1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

Pertinent Language from the U.S. Fish and Wildlife Service 2012 Northern Spotted Owl Survey Protocol

16.0. DETERMINING ACTIVITY CENTER STATUS

Depending on the use for which the survey data will be applied, determining the occupancy/reproductive status of sites may be necessary. This section provides guidance on the appropriate techniques to collect necessary information, and in correctly interpreting that information, to make the relevant determination. Verify the activity center status according to the following definitions (status visits can be day or night). The definitions may be somewhat different from the status definitions outlined in the density/demography survey guidelines, due to the different objectives of the guidelines for surveying proposed management activities.

16.1 Determining Resident/Territorial Spotted Owl Pairs or Singles

The following subsections for determining if an activity center is occupied by a territorial pair, and pair with status unknown, a resident single, or status unknown.

16.1.1 Territorial Pair Status.

Any one of the following criteria establishes *TERRITORIAL PAIR* status:

1. A male and female are heard and/or observed (either initially or through their movement) in close proximity (< ¼ mile apart) to each other on the same visit; or
2. A male takes a mouse to a female (see "mousing" clarification under section 15.0 or REPRODUCTIVE SUCCESS SURVEYS 17.5); or
3. A female is detected (seen or heard) on a nest; or
4. One or both adults are observed with young; or
5. Young identifiable based on plumage characteristics observed late in the season by knowledgeable surveyors or young identifiable based on molecular data.

16.1.2 Two Birds/Pair Status Unknown.

The presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 of the owls meets the resident single requirements establishes *TWO BIRDS, PAIR STATUS UNKNOWN*.

16.1.3 Resident Single Status

RESIDENT SINGLE STATUS is established by any one of the following criteria:

1. The presence or response of a single owl within the same general area on 3 or more occasions within the breeding season, with no response by an owl of the opposite sex after a complete survey; or

2. Multiple responses over several years (e.g., 2 responses in year 1 and 1 response in year 2) from the same general area.

A resident single may represent a succession of single owls of either sex within the same general area in a single or multiple years. Determining if the responses occur within the same general area should be based on topography and the location of any other owls known for the surrounding area. This should be determined by the wildlife biologist for the particular area.

16.1.4 Status Unknown

STATUS UNKNOWN is the appropriate determination, following a complete survey, whenever the response of a male and/or female does not meet any of the above site status definitions.

Appendix 1. Glossary of Terms

Many of these terms have a long history and various meanings in regard to spotted owl biology and management. This glossary defines the context in which they are used in this document.

Abandoned Activity Centers: Activity centers that have been determined through appropriate analyses with state or federal agencies, as no longer likely to be supporting territorial owls due to habitat changes and/or long-term surveys with negative responses. Synonymous with abandoned historical spotted owl site.

Activity Center: Spotted owls have been characterized as central-place foragers, where individuals forage over a wide area and subsequently return to a nest or roost location that is often centrally-located within the home range (Rosenberg and McKelvey 1999). Activity centers are a location or point representing “the best of” detections such as nest stands, stands used by roosting pairs or territorial singles, or concentrated nighttime detections. Activity centers are within the core use area and are represented by this central location.

Pertinent Language Related to Reproductive Status Ranking Criteria

From a 10-26-12 email from U.S. Fish and Wildlife Service to CAL FIRE:

When referring to "the best of locations" [the 2012 protocol definition of activity center] refers typically to a hierarchical decision based on reproductive status, but should also consider contemporary data.

In ranking from reproductive status, nest stands or stands where young were located rank highest, followed by stands used by roosting pairs, then daytime locations of territorial singles, then concentrated nighttime detections.

Contemporary data may also influence [activity center] locations because perhaps past data may have suggested a roosting pair in one location but recent data may have found roosting pairs (nonnesting) in a slightly different location[. T]he more recent should rank higher than older data. These 'gray' areas [are] why we suggest a thoughtful level of review to consider all available information if 'shifting' activity center locations (including review of aerial imagery). In addition, this is why the Service recommends avoiding any harvest within 1000 feet and a thorough analysis of timber management within the 0.5 mile core areas because of the disproportionate use of these areas.