

Appendix F: Public Comment on EA and Responses

Two comments were received on the EA, one from the one from the Lahontan Regional Water Quality Control Board and one from California Department of Fish and Game.

COMMENT 1: Lahontan Regional Water Quality Control Board

From: Douglas Cushman [mailto:DCushman@waterboards.ca.gov]

Sent: Wednesday, May 16, 2012 5:19 PM

To: Christopher Fichtel

Subject: Comments on Independence Lake Forest Thinning Project

Hi Chris,

I left you a voice mail a short time ago regarding our comments on this project. I am submitting the comments below as a place holder prior to discussing the comments with you directly. I can be reached at my contact info below. There is some room for modifying the comments, but I wanted to get you this by today.

Thank you,
Doug

Chris Fichtel
The Nature Conservancy
One East First Street
Reno, NV 89501

COMMENTS ON THE INDEPENDENCE LAKE FOREST THINNING AND HAZARDOUS FUELS REDUCTION ENVIRONMENTAL ASSESSMENT, THE NATURE CONSERVANCY

Thank you for the opportunity to provide comments on the Environmental Assessment (EA) for the Independence Lake Forest Thinning and Hazardous Fuels Reduction Project (Project). The Nature Conservancy (TNC) intends to use funding provided by the Bureau of Reclamation to implement this Project on 542 acres of land owned by TNC adjacent to Independence Lake. The proposed Project area is located within the Little Truckee River Hydrologic Unit (HU) in Sierra County, CA, approximately nine miles northwest of Truckee, California, and five miles west of State Route 89. The legal description of the project area is T19N, R15E, Sections 33, 34, and 35. The stated purpose of the Project is to protect Independence Lake's water quality and native fishery, including the federally listed Lahontan Cutthroat Trout (LCT), by implementing forest health activities to reduce the risk of damage from high severity wildfire that could affect water quality.

The EA includes a “No Action” alternative and a “Proposed Action” alternative. Under the Proposed Action Alternative, the TNC proposes to implement a forest thinning and hazardous fuel reduction project, including 432 acres of mechanical thinning and aspen restoration treatments, 150 acres of follow-up prescribed underburning, and 110 acres of prescribed underburning in areas outside these proposed timber management boundaries, which were mechanically treated in 2009 and 2010. Timber harvest activities would follow the California Forest Practice Rules, primarily using conventional ground-based machinery on slopes less than 40 percent, and hand work in sensitive areas, such as the aspen groves. Three 12-inch squashed culverts would be used on an existing low water crossing of a Class I watercourse for one season of use. Two waterholes would be established, one on Independence Lake, and the second on the Class I watercourse; however, no water impoundments or diversions would occur. Slash will be masticated, chipped, or burned in piles. All operations are proposed to occur in the summer or early fall.

Under EA Section 4, “Coordination and Cooperation,” page 78, a number of federal laws, executive orders, and legislative acts are listed, which the Bureau of Reclamation intends to comply with. State laws are not listed, however, the EA does state on page 75 that “Future projects must comply with CEQA, NEPA, California Forest Practice Rules, Federal Threatened & Endangered Species Act, Lahontan Regional Water Quality Control Board oversight, and local Sierra and Nevada County rules and regulations. If all appropriate rules and regulations are adhered to on these projects, negative environmental impact are minimized or mitigated to a level of no significance” (emphasis added.) The EA also states that the Project would occur under an “approved California Timber Harvest Plan” and lists, on page 50, the beneficial uses of the Project watercourses, “according to the Lahontan Regional Water Quality Control Board’s (RWQCB) Truckee River Basin Plan.” Please note that current projects, not just future projects, must comply with the listed rules and regulations. The correct reference for the Basin Plan is the *Water Quality Control Plan for the Lahontan Region* (Basin Plan), which covers the entire Lahontan Regional Water Quality Control Board (Water Board) area, not just the Truckee River Hydrologic Unit. Further, the “California Timber Harvest Plan” (THP), as noted in the EA, must be approved by the California Department of Forestry and Fire Protection (CAL FIRE), and the THP must meet the conditions and criteria of the Water Board’s Board Order No. R6T-2009-0029 (the 2009 Timber Waiver). Lahontan staff has the following comments.

A. 2009 Timber Waiver

1. Application. As noted above, this Project must be enrolled under the 2009 Timber Waiver. The 2009 Timber Waiver can be found on our website at http://www.waterboards.ca.gov/lahontan/water_issues/programs/waste_discharge_requirements/timber_harvest/timberwaiver.shtml.

2. Consistency between Project Design Features and Permitting Requirements. The EA Appendix A, contains Design Features, Environmental Commitments, and Mitigation Measures, some of which conflict with the statements in the body of the EA. These Design Features are therefore unenforceable under, or in conflict with, the 2009 Timber Waiver criteria and conditions.

Please review the 2009 Timber Waiver to understand the criteria and conditions. This will allow you to tailor your Project Design Features, Environmental Commitments, Mitigation Measures, and environmental analysis to incorporate those requirements rather than conflict with them. This will streamline your 2009 Timber Waiver application (and other permit) process(es) and avoid Project delays. If your Project does not meet the 2009 Timber Waiver criteria and conditions you may need to submit a report of waste discharge and apply for individual waste discharge requirements (WDR). WDRs require payment of an annual fee and Water Board approval.

Please construct and remove temporary crossings as per Timber Waiver, Attachment N, Table N-1, to avoid the need for a Basin Plan prohibition exemption (discussed in detail below).

3. Watercourse Classifications and Waterbody Buffer Zones. Some of the waterbody buffer zones (WBBZs) proposed in the EA conflict with either the 2009 Timber Waiver or with that stated in the EA Appendix A. The 2009 Timber Waiver uses a watercourse classification system which categorizes watercourses according to their biologic habitat and ability to transport sediment, as defined by the California Code of Regulations, Title 14 (2011 Forest Practice Rules). The classification determines the necessary buffer zone width for watercourses and other waterbodies. If your Project involves operations within WBBZs, you must clearly and consistently specify mitigation measures or project modifications to avoid any adverse impacts to water quality.

B. Waste Discharge Prohibitions

The Basin Plan contains prohibitions against waste discharges (as defined below) to 100-year floodplains in the Little Truckee Hydrologic Unit. The EA proposes to use three squashed culverts to temporarily span an existing low-water crossing, back-filled with ¾-inch aggregate base. If the base material can be completely removed within one season of use, the Project will not require an exemption to this Basin Plan prohibition. However, Water Board staff believe that this base material will become embedded into the 100-year floodplain and stream bed and banks during crossing use, and cannot be completely removed. Please be aware that this constitutes discharge of materials which violate the Basin Plan prohibitions.

The Basin Plan prohibitions below are copied from page 4.1-7; 4(c) of the Basin Plan:

"The discharge, or threatened discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand and other organic and earthen materials to lands within the 100-year floodplain of the Truckee River or any tributary to the Truckee River is prohibited.

Chapter 4 (page 4.1-5) provides that exemptions may be granted for the following categories of projects that are applicable to timber harvest and vegetation management activities conducted under the Timber Waiver:

- Projects solely intended to reduce or mitigate existing sources of erosion or water pollution or to restore the functional value to previously disturbed floodplain areas.

- Bridge abutments, approaches, or other essential transportation facilities identified in an approved county general plan.
- Projects necessary to protect public health or safety or to provide essential public services.

To obtain an exemption for a waste discharge prohibition for timber harvest and vegetation management activities, applicants must provide Water Board staff with the information needed to justify the exemption, and allow for a 10-day public review and comment period. The Water Board's Executive Officer is authorized to grant these exemptions, therefore, no Water Board public hearing is typically required.

The nature of certain timber harvest and vegetation management projects makes them eligible for exemptions to the above-described prohibitions. Please review the 2009 Timber Waiver, Attachment N, which contains additional detail regarding the prohibitions and exemptions, including a table which describes specific timber harvest and vegetation management activities within 100-year floodplains which would not violate the waste discharge prohibitions.

The Basin Plan can be found on our website at http://www.waterboards.ca.gov/lahtontan/water_issues/programs/basin_plan/references.shtml.

C. Clean Water Act (CWA) section 404/401 Water Quality Certification

As stated above, the EA discusses the placement of a temporary crossing involving three squashed culverts, backfilled with ¾-inch aggregate base. Although the EA indicates that no displacement of material will occur during installation or removal of this crossing, it also states that an excavator, backhoe, or grader will be used to remove the ¾-inch aggregate. As this aggregate is likely to become embedded into the stream substrate during use, excavation of the 100-year floodplain and stream bed and banks is also likely to occur. When a project involves dredge and fill operations in a wetland, a Clean Water Act (CWA) section 404 permit from the U.S. Army Corps of Engineers (Army Corps) may be required.

The U.S. Army Corps of Engineers Sacramento Main Office can be contacted at [916-557-5250](tel:916-557-5250) for information on CWA section 404 permitting requirements. Please contact the Army Corps early in the project planning process to determine if they will require a CWA section 404 permit for the proposed dredging activity. Depending on the Nationwide Permit Number they intend to regulate the Project under, the Water Board may need to issue a 401 WQC, which would require compliance with the California Environmental Quality Act (CEQA), discussed below.

Information on our 401 WQC program may be viewed at the following webpage: http://www.waterboards.ca.gov/lahtontan/water_issues/programs/clean_water_act_401/index.shtml.

D. California Environmental Quality Act

The Water Board must comply with CEQA whenever it takes a discretionary action, including issuing a 401 WQC or Basin Plan Prohibition Exemption. For some projects, categorical

exemptions to CEQA may apply such that no environmental document is needed. For projects that do not qualify for a categorical exemption, the regulations that guide our compliance with CEQA direct us to work with federal agencies to streamline the environmental review process by preparing a combined environmental document (a joint NEPA/CEQA-compliant document). In that case, we would work with TNC staff to assist in supplementing your NEPA document to fully comply with CEQA, which would be circulated to meet the public notice and involvement requirements of CEQA. The Water Board would certify the environmental document at a public hearing. Please note that CEQA has many scoping and public notification requirements similar to NEPA. Water Board staff recommends that, if CEQA is required for this Project, our two agencies should coordinate ASAP to avoid Project delays by repeating the process twice.

E. National Pollutant Discharge Elimination System Storm Water permit.

If Project work includes other non-silvicultural construction activities not covered in this EA, you may also be subject to the NPDES Storm Water permitting requirements. Information regarding the NPDES permit may be found at http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml.

RESPONSE TO COMMENT 1: Lahontan Regional Water Quality Control Board

The Nature Conservancy (TNC) received comments from the Lahontan Regional Water Quality Control Board (LRWQCB) by email on May 16, 2012. TNC and Reclamation appreciates LRWQCB's interest in this project. The following are the responses to the comments.

Compliance with laws, executive orders, and legislative acts: This project will comply with all applicable local, State, and Federal laws and regulations. The wording in the Environmental Assessment (EA) has been corrected. Other than the follow up prescribed burning on forest stands treated in 2009 and 2010, the entire project is under an approved Timber Harvest Plan (2-11-069SIE), which can be accessed at ftp://thp.fire.ca.gov/THPLibrary/Cascade_Region/THPs2011/2-11-069SIE/

2009 Timber Waiver: THP 2-11-069SIE meets the condition and criteria of the LRWQCB's Timber Waiver Order R6T-2009-0029. The project is enrolled under the 2009 Timber Waiver: Waste Discharge ID# 6AT5412067, sent to Registered Professional Forester Kevin Whitlock via email from Ann Holden of the LRWQCB.

Consistency between Project Design Features and Permitting Requirements: After review of the Appendix A Project Design Features, Environmental Commitments, Mitigation Measures and the Environmental Assessment, inconsistencies were corrected in the EA and Appendix A. See response below regarding the low water crossing design.

Watercourse Classifications and Waterbody Buffer Zones The WBBZs are consistent with the Forest Practice Rules requirements for Watercourse and Lake Protection Zones (WLPZs). Please refer to page 53 of the THP. The inclusion of the Equipment Limitation Zone (ELZ) terminology in the EA was based on an early draft version of the THP. The terminology has been corrected in the EA.

Waste Discharge Prohibitions/ Clean Water Act (CWA) section 404/401 Water Quality Certification: The low water crossing design will be consistent with the requirements of the Basin Plan, i.e., $\frac{3}{4}$ " aggregate will not be used. An exemption for a waste discharge prohibition will not be necessary. Thank you for pointing out conflicting wording in the EA; the conflicting language has been corrected. The THP will be amended to be consistent with the provisions of the Timber Waiver. In the case of a conflict between wording in the current THP and the Timber Waiver, the Timber Waiver would take precedence.

California Environmental Quality Act: The Timber Harvest Plan fulfills the requirements of CEQA and a separate document is not required. This has been clarified in the EA.

National Pollutant Discharge Elimination System Storm Water permit: All activities are forestry/silviculture-related and have been covered in the EA and/or THP. No other activities or construction work is included in the project. A NPDES permit is not required.

COMMENT 2: California Department of Fish and Game



State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95667
(916) 358-2900
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



May 16, 2012

Chris Fichtel
The Nature Conservancy
One East First Street
Reno, NV 89501

Subject: Environmental Assessment - Independence Lake Forest Thinning Hazardous Fuels Reduction Project

Dear Mr. Fichtel:

This correspondence responds to a request for comments on the Independence Lake Forest Thinning Hazardous Fuels Reduction Project Environmental Assessment (EA). As you know, Independence Lake offers truly unique natural resource values. The Department of Fish and Game (DFG) appreciates the careful forest management activities planned to reduce the threat of stand replacing wildfire and improve forest health in this area. The DFG has reviewed both the Environmental Assessment and the Independence Lake Timber Harvesting Plan (02-11-069-SIE) and offers the following comments.

Overall, both project plans show sensitivity to both rare plant and animal species protection. Timber harvest activities will be conducted only from August 31st to November 1st to avoid potential special-status species impacts. While the EA is very thorough in its discussion of the existing condition of Lahontan cutthroat trout, certain mammal species and botanical resources within the scope of the project area, the DFG believes it falls short in one major area, namely the consideration of State listed species and project activities planned outside of the scope of the timber harvesting plan (THP).

While special-status species scoping and analysis were thoroughly discussed in the THP, the mitigation focuses on establishing a limited operating period (LOP), thus avoiding impacts in the critical breeding season from timber operations. In contrast, the EA describes activities taking place in the spring during the breeding season and does not sufficiently address scoping, surveys, assessment and mitigation of potentially significant impacts to special-status species.

The EA states on page 41:

"Most wildlife species would not expect to be adversely affected by the project because of its timing, duration, and size. Disturbance could cause some animals to avoid the immediate area during project activities and could cause local, short-term interruption of breeding in the immediate area of active operations. The overall effect would be positive, because the risk of stand (habitat)-replacing wildfire would be greatly reduced. The more open, mature forest conditions, dominated by shade-intolerant tree species would better reflect the natural conditions of the eastside forest type. "

This EA covers activities, such as prescribed burning, planned to occur during the breeding season resulting in potentially significant impacts. From Appendix C, tables of potentially impacted special-status species and analysis of potential impacts derived from the THP are included. This analysis is not brought forward in the EA overall, which includes activities outside the LOP. This table is listed below.

Analysis of Special-Status Avian species that may occur within the Biological Assessment Area				
Scientific name Common name Status Federal/State	Habitat (Critical Period)	Analysis	Potential Impacts	Recommendation
<i>Accipiter gentilis</i> Northern Goshawk FS, MNB/CSC, CDF	Found in coniferous and aspen forest habitats; usually nests on north facing slopes, near water sources. High tree canopy closure for nest stands. Documented nesting in the Independence Lake USGS 7.5' Quadrangle (CNDDB 2011). March 15 - August 15	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting habitat. Increase in foraging habitat from marginal to moderate	Review of the site will be conducted within 10 days of the onset of operations by the RPF responsible for marking timber. If discovered, DFG will be contacted.
<i>Haliaeetus leucocephalus</i> Bald Eagle -/CE, CDF, CFP	The breeding range is mainly in mountainous habitats near reservoirs, lakes, and rivers. Large nests are normally built in the upper canopy of large trees, usually conifers. Documented nesting in the Independence Lake USGS 7.5' Quadrangle, including just southwest of Independence Lake (CNDDB 2011). January - August	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting habitat. No impact to foraging habitat.	Review of the site will be conducted within 10 days of the onset of operations by the RPF responsible for marking timber. If discovered, DFG will be contacted.

<i>Strix occidentalis</i> California Spotted Owl FS, MNB/CSC	Large old trees and snags, high basal area of trees and snags, dense canopies(>70) canopy closure, multiple canopy layers, and downed woody debris (Verner et al. 1992a). Documented nesting in the Independence Lake USGS 7.5' Quadrangle (CNDDDB 2011). March 15 – September 15	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting habitat. Increase in foraging habitat from marginal to moderate.	Review of the site will be conducted within 10 days of the onset of operations by the RPF responsible for marking timber. If discovered, DFG will be contacted. To protect the 432 acres from disturbance, implement a limited operating season in so that activities do not occur between March 1 through and including August 31 Apply a limited operating period from January 1 to August 31 to avoid adverse impacts to potential breeding
<i>Strix nebulosa</i> Great Gray Owl FS/CE, CDF	Found in or near meadows. During the breeding season nesting takes place in the broken tops of snags or large conifer trees, 35 feet or more from the ground. Documented at Perazzo Meadow (CNDDDB 2011). February - September	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting habitat. Increase in foraging habitat from marginal to moderate	Review of the site will be conducted within 10 days of the onset of operations by the RPF responsible for marking timber. If discovered, DFG will be contacted.
<i>Grus canadensis tabida</i> Greater Sandhill Crane -/CT	Summers and breeds in open terrain near shallow lakes or freshwater marshes; winters in plains and valleys in flooded rice fields or near bodies of fresh water. Documented in the Independence Lake USGS 7.5' Quadrangle (CNDDDB 2011).	Potentially suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting habitat. Increase in foraging habitat from marginal to moderate	No measures required.
<i>Empidonax traillii</i> Willow Flycatcher FS/CE, CDF	Typically found in riparian areas often dominated by willow and/or alder, and permanent water in the form of low gradient watercourse, ponds, lakes and wet meadows. Documented nesting in the Independence Lake USGS 7.5' Quadrangle, including adjacent to Independence Lake (CNDDDB 2011). May - September	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting or foraging habitat.	No measures required.
<i>Dendroica petechia brewsteri</i> California Yellow warbler -/CSC	Nests and forages in riparian habitats dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral; in migration may also use oaks, conifers, and urban centers near stream courses	Suitable habitat for nesting. Suitable habitat present for foraging.	No impact to nesting or foraging habitat	No measures required.

Analysis of Special-Status Mammal species that may occur within the Biological Assessment Area				
Scientific name Common name Status Federal/State	Habitat (Critical Period)	Analysis	Potential Impacts	Recommendation
<i>Martes pennanti pacifica</i> Pacific fisher FPE, FS, BLM/CSC	Breeding, resting, and foraging habitat <u>usually consists of old-growth or late successional coniferous</u> forests with greater than 50% canopy closure (Zeiner et al. 1990b). Uses cavities in trees, snags and logs March 1 – July 31	No suitable breeding habitat, but suitable habitat may be present for foraging, however, very unlikely as most documented records south of the project area (CNDDDB 2011). Project located within the historic range.	Increase in foraging habitat from marginal to moderate	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations within 0.25 mile
<i>Martes Americana sierrae</i> Sierra Marten FS/CSC	Inhabits late successional forest communities throughout North America. Optimal habitats include various mixed conifer forests with more than 40% canopy. Riparian forest for foraging. Documented in the Independence Lake USGS 7.5' Quadrangle (CNDDDB 2011). March – August	Suitable habitat and documented occurrence at the adjacent Sagehen Creek Field Station (CNDDDB 2011). Project located within the historic range	Increase in foraging habitat from marginal to moderate	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations with .25 mile
<i>Gulo gulo luteus</i> California Wolverine FS/CT, CFP	Inhabits a variety of habitat types within an elevation range between 1,800 feet and 14,200 feet. Prefers areas of low human disturbance. Uses caves, hollows in cliffs, logs, and burrow for cover, generally in denser forest stages. Documented in the Independence Lake USGS 7.5' Quadrangle (CNDDDB 2011). Breeding: May-July Birth: January - April	Suitable habitat may be present for foraging-very unlikely but an individual has been recorded at Sagehen Creek Field Station (CNDDDB 2011).	Increase in foraging habitat from marginal to moderate	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations with 0.25 mile
<i>Vulpes vulpes necator</i> Sierra Nevada red fox FS/CT	Preferred habitat appears to be red fir and lodgepole pine forests in the subalpine zone and alpine fell-fields of the Sierra Nevada between 4,000 and 12,000 feet. Hunts in forest openings and meadows, and barren rocky areas. Documented in the Independence Lake USGS 7.5' Quadrangle (CNDDDB 2011). February - July	No suitable habitat, but project located within the historic range	No impact to suitable habitat	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations with 0.25 mile

<i>Taxidea taxus</i> American badger -JCSC	Suitable habitats include herbaceous and shrub communities and open stages of most other habitats with dry, friable soils where dens are excavated; home ranges can be up to 243 hectares	Suitable habitats include herbaceous and shrub communities and open stages of most other habitats with dry, friable soils where dens are excavated; Documented in the Independence Lake USGS 7.5 Quadrangle (CNDD B 2011).	No impact to suitable habitat	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations within 0.25 mile
<i>Aplodontia rufa californica</i> Sierra Nevada mountain beaver -JCSC	Moist montane and eastside riparian thickets; burrows within and under dense understory vegetation; does not build dams. Documented in the Independence Lake USGS 7.5 Quadrangle (CNDD B 2011).	Suitable habitat and documented occurrence at the adjacent Sagehen Creek Field Station (CNDD B 2011). Project located within the historic range	No impact to suitable habitat as all riparian zones will be avoided	Report any sightings to CAL FIRE & DFG; Leave den sites and habitat components undisturbed, stop operations within 0.25 mile
<i>Lepus americanus tahoensis</i> Sierra Nevada snowshoe hare -JCSC	Found in dense thickets of conifers, riparian vegetation, or chaparral in boreal life zones. Documented in the Independence Lake USGS 7.5 Quadrangle (CNDD B 2011).	Suitable habitat and documented occurrence at the adjacent Sagehen Creek Field Station (CNDD B 2011). Project located within the historic range	Increase in foraging habitat from marginal to moderate	
<i>Lasiurus blossevillii</i> Western Red Bat FS/CSC	Habitat includes forests and woodlands from sea level up through mixed conifer forests. Roosts in trees, found in wooded, riparian, and edge habitats adjacent to streams, fields, or urban areas. April - August	No suitable habitat, usually found at lower elevations associated with agriculture lands.	Not applicable	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise.
<i>Corynorhinus townsendii</i> Townsend's big-eared bat FS, BLM/CSC	Suitable roosting sites are restricted to caves and cave-like structures such as tunnels, mines, and bridges. April - August	No suitable habitat, not usually found east of the coast range.	Not applicable	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise.
<i>Myotis yumanensis</i> Yuma myotis BLM/-	Suitable roosting sites are restricted to caves and cave-like structures such as tunnels, mines, and bridges. Found in open forests and woodlands and is almost always associated with water. May - July	No suitable habitat.	Not applicable	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise.

<i>Myotis evotis</i> Long-eared myotis BLM/	Found in brush, woodland and forests habitats up to 9,000 feet, possibly preferring coniferous woodlands and forests, found using rock outcroppings, crevices, mines, caves, loose bark on trees and snags May - July	Suitable habitat may be present	Potential Impacts mitigated to negligible	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise. Note: Due to the sensitive nature of maternity bat roosts (potentially large numbers and non-volant young), if a maternity bat roost is discovered in a tree marker for harvest, the marked roost tree shall remain until after the critical period (June-July), when young bats are able to fly.
<i>Euderma maculatum</i> Spotted bat BLM/CSC	Found in brush, woodland and forests habitats. Horizontal rock crevices provide the optimal roost sites (Watkins 1977) although they may occasionally use caves and buildings as well. May - July	Suitable habitat may be present	Potential Impacts mitigated to negligible	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise. Note: Due to the sensitive nature of maternity bat roosts (potentially large numbers and non-volant young), if a maternity bat roost is discovered in a tree marker for harvest, the marked roost tree shall remain until after the critical period (June-July), when young bats are able to fly.
<i>Eumops perotis californicus</i> California mastiff bat BLM/CSC	Roost in crevices in vertical cliffs, usually granite or consolidated sandstone, and in broken terrain with exposed rock faces. Inhabits arid and semiarid lowlands in the lower sonoran life zone. March - August	No suitable habitat.	Not applicable	No measures required
<i>Myotis thysanodes</i> Fringed myotis BLM/CSC	Found in brush, woodland and forests habitats. Suitable roosting sites are restricted to caves and cave-like structures such as tunnels, mines, and bridges. April - August	Suitable habitat may be present	Potential Impacts mitigated to negligible	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise. Note: Due to the sensitive nature of maternity bat roosts (potentially large numbers and non-volant young), if a maternity bat roost is discovered in a tree marker for harvest, the marked roost tree shall remain until after the critical period (June-July), when young bats are able to fly.
<i>Myotis ciliolabrum</i> Small-footed myotis BLM/	Found in arid wooded and brushy uplands near water. Suitable roosting sites are caves, buildings, mines, crevices, and occasionally under bridges and under bark. May - June	Suitable habitat may be present	Potential Impacts mitigated to negligible	As a precaution prior to felling, any tree with a hollow, or opening in the bole, the fallers will hit the tree with their falling ax to make noise. Note: Due to the sensitive nature of maternity bat roosts (potentially large numbers and non-volant young), if a maternity bat roost is discovered in a tree marker for harvest, the marked roost tree shall remain until after the critical period (June-July), when young bats are able to fly.

Analysis of Special-Status Aquatic species that may occur within the Biological Assessment Area				
Scientific name Common name Status	Habitat (Critical Period)	Analysis	Potential Impacts	Recommendation
<i>Rana sierrae</i> Sierra Nevada Yellow-Legged Frog FPE, FS/GSC	Rocky streams and rivers with rocky substrate and open, sunny banks. Isolated pools, vegetated backwater, and deep, shaded, spring-fed pools. Documented in the Independence Lake USGS 7.5' Quadrangle (CNDDB 2011). April - September	Suitable habitat in creeks tributary to Independence Lake in the project area, but these would be entirely avoided.	Not applicable 1. The following mitigation is provided to avoid impacts to MYLF, at all drafting sites to be used: Each year, prior to the limited operating period (Aug 31 st to Nov 1 st), the project area targeted for treatment will be surveyed for mountain yellow-legged frogs.	To reduce the potential of impacts to mountain yellow-legged frog (MYLF), the following mitigation is provided: Limited operating period (LOP) of August 31 to November 1st. This LOP is needed to avoid possible interference with MYLF during a time when they may move away from stream courses Nov - July. 2. If MYLF is found to be present, the biologist will determine whether water drafting mitigations measures are needed. Use suction strainers with screens less than 2 mm in size. Place draft suction strainer in a bucket to avoid substrate and amphibian disturbance. Draft from deepest water source, near bottom.
<i>Oncorhynchus clarki henshawi</i> Lahontan Cutthroat Trout FTL	A large population exists in Independence Lake, the only existing wild population (CNDDB 2011)		No impact to suitable habitat as all riparian zones will be avoided by equipment.	No mechanical operations will occur within 150 feet miles of the lakeshore.

Avian Species

There are known willow flycatcher, northern goshawk, California spotted owl, and greater sandhill crane occurrences within the biological assessment area. The Assessment identifies sightings of bald eagle at Independence Lake. For the eagle, nests are generally found within one mile of lakes or rivers. In several instances, the analysis acknowledges that suitable nesting habitat exists. While sufficient species scoping has taken place for the THP which will conduct activities outside of the breeding season, pre-project nest surveys have not been documented nor are they proposed for other activities (such as burning) associated with the project. The conclusion that these species will not be impacted is not substantiated. The recommendation of completing a casual survey during tree marking activities ten days prior to project implementation is not sufficient for listed species, in particular, great grey owl (GGOW), willow flycatcher, greater sandhill crane and bald eagle, when operating within the breeding season.

In the EA, Appendix A, mitigation measure 59 states that two years of survey for GGOW will be conducted, but surveys for other special-status species listed in the table are not mentioned. The document should describe how the project will avoid any listed species with the potential to occur in the project area.

As you are aware, a GGOW pair was detected within The Nature Conservancy (TNC) Independence Lake boundaries on May 11, 2012. The location of the nest/activity center is not known and the project has the potential to take this species. Additionally, fuel reduction activities from this project have the potential to impact complex forest/meadow structure used by the owl into the future. The DFG will require consultation for this species to avoid take under the California Endangered Species Act (CESA). At this time, no further survey activity is recommended without the oversight and guidance of the DFG. In the future, if surveys are conducted, the DFG recommends the use of the protocol entitled, "Survey Protocol for the Great Gray Owl in the Sierra Nevada" by Beck and Winter, 2000. This provision should be included in Appendix A, Mitigation Measure 59. If the project proponent determines that take is unavoidable, an incidental take permit under CESA will be required. Information on the application process can be found at <http://dfg.ca.gov/habcon/cesa/>.

Amphibians

Mountain yellow-legged frogs were found in Independence Creek (USFS 8/22/97). The EA assumes presence (p. 35). Page 42 states, *"A scheduled pre-operation amphibian survey would provide information about the potential for amphibians to be in the proximity of the thinning and fuel treatment sites."*

Appendix A, Mitigation Measure 63 states: *"The limited operating period (LOP) is observed to avoid possible interference with mountain yellow-legged frog during a time when they may move away from stream courses. Each year, prior to the limited operating period (Aug 31 to Nov 1), the water drafting areas will be surveyed for mountain yellow-legged frogs (MYLF) by a representative from, TNC, TRWC, or the RPF. If MYLF are detected, DFG and the U.S. Fish and Wildlife Service will be notified"*.

The DFG recommends that pre-project surveys also be included for any activities taking place during both the breeding and overland migration seasons for mountain yellow-legged frog.

Mammal Species

Appendix A, Mitigation Measure 61, – *"During timber operations, if a fisher, marten, wolverine, Sierra Nevada red fox, American badger, or Sierra Nevada mountain beaver are observed CAL FIRE and DFG shall be notified immediately."* This mitigation measure does not suggest any pre-project surveys be conducted prior to spring burning operations. Pre-project surveys are necessary to determine species presence/absence, wildlife use patterns for adaptive management and to establish subsequent mitigation/avoidance strategies. This information directs management goals that balance the need to reduce wildfire severity and improve wildlife habitat in the long term.

Smoke entering the confined spaces of caves or roost sites could have a significant impact on bat species. Should any caves or roost sites suitable for maternal bat colonies occur within the project site or its associated airshed, the DFG recommends these locations be surveyed prior to any ignition to determine use or modify the smoke management plan to address this concern.

Appendix A, Mitigation Measure 67 – “To promote aspen restoration, aspen stems shall be retained by the LTO and not damaged. All conifers (<12”DBH) within the confines of the aspen stands will be targeted for removal. Hand crews will be used to remove small conifers from aspen stands. Equipment, located outside of the stand may be used for end-lining large trees.”

The DFG recommends that incidental retention of conifers less than 12 inches in diameter breast height (dbh) be included for age class and overall stand diversity. A forest mosaic of age classes and vegetation should be the overall goal of the project. For example, while aspen stands need reduced competition from conifers, complete elimination of all conifers, both small and large, is inadvisable.

Should special-status species be discovered within the project area, their habitat use patterns should drive future decisions regarding long term forest management and retention of habitat elements (snags, downed wood, cavities, concealment cover, resting sites, etc).

The DFG would be happy to provide pre-project consultation regarding survey and assessment requirements under the CESA and the Lake and Streambed Alteration Program. Please contact Julie Newman at 530-283-6866 or jnewman@dfg.ca.gov.

Other than the concerns listed above, the EA was well written and covered most biological resource issues very well. The DFG thanks the authors and the project proponent for the opportunity to review this project. If you have any questions regarding the specific comments, please contact Lorna Dobrovolny at (916) 543-3659 or ldobrovolny@dfg.ca.gov.

Sincerely,



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Response to COMMENT 2: California Department of Fish and Game

The Nature Conservancy (TNC) received the Department of Fish and Game (DFG) comment letter dated May 16, 2012. TNC appreciates DFG's cooperative involvement in work at Independence Lake and DFG's support for efforts to reduce the threat of stand-replacing wildfire at the Independence Lake Preserve. The following are responses to your comments.

Consideration of species that could be affected by activities outside the scope of the Timber Harvest Plan (THP), i.e., spring burning; pre-project surveys for State special-status species; and request for consultation on great grey owl.

The federal action under consideration and analysis in the EA is allowing TNC to use grant funds appropriated by Congress to implement forest treatments that would reduce the risk of watershed damage from high severity wildfire on TNC's Independence Lake Preserve. Because federal funds would be used, an EA was prepared to meet requirements of the National Environmental Policy Act. A Biological Assessment was prepared to meet the requirements of the (federal) Endangered Species Act (ESA). The federal agency funding the proposed action is not required to address state listed species; however as noted below TNC includes wide-ranging efforts for protection and monitoring of all species at Independence Lake and coordinates extensively with partner organizations.

Compliance with California's Endangered Species Act was achieved through measures in the approved Timber Harvest Plan (THP), a CEQA-equivalent document. DFG did not comment on the proposed THP during the review process.

Project planners generally used a holistic, habitat-based approach for species that are not federally listed. By implementing restoration methods that are current and based on sound scientific research, and applying those methods over a large part of the Preserve, populations of native wildlife species are expected to benefit from the treatments over the long term. While Reclamation and TNC support obtaining more information about individual species at the Preserve, the need for data such as pre-project surveys has to be balanced with the need to treat sufficient forest stands to reduce the threat of stand-destroying wildfire and subsequent damage to the watershed.

The Independence Lake Preserve was acquired and has been managed with the help of many partners, including California DFG, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the U.S. Geological Survey, the U.S. Bureau of Reclamation, and the Truckee River Watershed Council. These agencies and organizations provide funding, technical assistance, research and monitoring. Surveys at Independence Lake are performed by qualified TNC employees, agency partners, and contractors. Resident staff and partner agencies at Independence Lake are familiar with the biological resources at the Preserve. Monitoring and survey work is ongoing, with the objective of building a comprehensive biological inventory over time, using funding as effectively as possible.

A cooperative relationship over the past years with partner organizations and agencies has resulted in a large amount of information about aquatic and terrestrial species at Independence Lake. TNC encourages research and monitoring work to increase its knowledge base and better manage the Preserve. TNC looks forward to a continuing partnership with DFG to meet that goal.

In regard to DFG's concern about potential impacts of early spring burning, in addition to burn planning and permits required by local or State agencies, TNC has its own burn planning process. The specific steps and requirements can be found online. The Site Fire Management Plan (<http://www.tncfiremanual.org/sfmp.htm>) details specific ecological and technical information needed to justify a fire management program at a site. It is intended to ensure that background information about the site has been researched and reviewed, and that a burn program is both ecologically justified and technically feasible. The "Key Constraints" section is where consideration of rare species would be addressed. Both Federal and State species would be discussed in this section.

The Prescribed Burn Unit Plan (<http://www.tncfiremanual.org/burnplan.HTM>) is a site-specific document, and is required for all broadcast burns. It is much more detailed than the Site Fire Management Plan and requires various levels of review before implementation.

TNC is recognized as a leader in the use of fire to restore rare habitats in the United States and several other countries. TNC burns where and when the benefits to biodiversity clearly outweigh the costs and potential negative consequences. TNC burns approximately 100,000 acres on its own land and assists partners in prescribed burns on another 150,000 acres annually. TNC staff is skilled in fire planning, fire use, suppression operations, and monitoring. TNC was an early advocate for restoring fire to fire-dependent ecosystems. The eastside mixed conifer type at Independence Lake is an example of a fire-adapted ecosystem that has been degraded, in part, by a major change to the natural fire regime as a result of fire exclusion. Fire is an essential ecological process in this forest type.

TNC's Fire Management Manual contains a section on collaborative planning. DFG, along with other State, Federal, and local agencies will be included in the burn plan process at Independence Lake, and full consideration of State listed species will be given during that process. If pre-project surveys are determined to be necessary, they will be conducted.

Broadcast burning will be undertaken as funding and weather conditions allow. A combination of fall burning and a limited amount of spring burning is anticipated. Burning would take place over several years, so patch size would be limited in scope in any one year.

Retention of small conifers in aspen stands. As discussed in the EA, most remnant aspen stands in the eastern Sierra are in poor condition, in large part because of

competition from encroaching conifers. Conifers invade aspen groves in the absence of periodic understory fire. Many aspen groves have disappeared or greatly decreased in size. Healthy aspen groves are a rare habitat type today and a key objective in forest and riparian restoration at the Independence Lake Preserve. By removing understory conifers from aspen stands, a mosaic of conifer-dominated and hardwood-dominated patches of various size and age classes can be restored to the landscape. Structural diversity would be achieved by a mosaic of patches rather than within an individual patch, similar to conditions prior to widespread fire exclusion and livestock grazing.

An extensive amount of scientific research has been done regarding restoring aspen in California and the western U.S. Removing encroaching understory conifers is a critical step because large and small conifers compete with aspen for site resources (light, moisture). A large component of conifers in otherwise pure aspen stands is an artifact of fire exclusion. An example of one research paper is a 2005 publication titled “Removal of Encroaching Conifers to Regenerate Degraded Aspen Stands in the Sierra Nevada” (Restoration Ecology Vol. 13, No. 2, pp. 373–379). The authors concluded, “The results demonstrate that mechanical removal of conifers is an effective treatment for restoring aspen.” TNC supports the objective of providing structural diversity, but at a scale and configuration that would occur under a natural fire regime for the eastside mixed conifer type. A goal of this project is to restore that type of small-patch mosaic, including aspen groves with few or no understory conifers.

Consultation on great grey owl (GGO) In regard to GGO, TNC is currently working with DFG to construct nest platforms, modify silvicultural treatments near a meadow, and to conduct future GGO surveys.