

inactive nests or habitats used by spotted owls.

The CDFG has identified the California spotted owl as a Species of Special Concern (CDFG 1978). This status applies to animals not listed under the Federal or the California Endangered Species Act but which appear to be vulnerable to extinction. The intent of this designation is to obtain special consideration for these species in the project planning process and to focus attention on the species to avert the need for listing under either State or Federal laws. CEQA requires that impacts to such species be mitigated. Although state and local agencies have discretion to approve projects that impact a Species of Special Concern, such impacts must be mitigated.

In 1970 the State of California enacted the CEQA (CEQA 1996a). CEQA requires a full disclosure of the potential environmental impacts of public or private projects carried out or authorized by nonfederal agencies within the state of California. The stated goals are to, "identify the significant environmental effects of their actions; and, either avoid those significant environmental effects, where feasible; or mitigate those significant environmental effects, where feasible." The CEQA Guidelines provide criteria to the State or local public agency with permitting authority or jurisdiction over a project (lead agency) in determining whether a project may have significant effects (CEQA 2001b). Section 15065 of the CEQA Guidelines, as amended, requires a finding of significance if "[t]he project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species' (CEQA 2001b).

CEQA requires review of any project that is undertaken, funded, or permitted by a State or local governmental agency. If a project with potential impacts on the California spotted owl were reviewed, CDFG personnel could determine that, although not listed, the spotted owl is a *de facto* endangered, threatened, or rare species under section 15380 of CEQA. Once significant effects are identified, the lead agency has the option of requiring mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible (§ 21002) (CEQA 1996a), although such an

override requires justification and is rarely implemented.

The lead agency is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. If significant effects are identified by the lead agency, an Environmental Report (EIR) must be prepared that analyzes the effects of the action, proposed mitigation, and explains why any potential mitigation measure is not feasible. After review of the EIR by the public and relevant agencies, the lead agency has the option of disapproving the project, requiring mitigation for effects through changes in the project, or to decide that overriding considerations make mitigation infeasible and allow the project to go forward.

If a project with potential impacts on the California spotted owl were reviewed, CDFG personnel could determine that, although not listed, the spotted owl is a *de facto* endangered, threatened, or rare species under section 15380 of CEQA. Once significant effects are identified, the lead agency has the option of requiring mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible (§ 21002)(CEQA 1996a). CEQA analysis and subsequent requirements for mitigation (e.g., legacy hardwoods) would result in protection of spotted owl habitat components. However, CEQA does not compel a comprehensive strategy for protection of this species.

Under provisions of CEQA, an independent regulatory program can be certified by the Secretary of the Resources Agency, and allow submission of a plan in place of an EIR. In 1973 the State of California enacted the Z'berg-Nejedly Forest Practice Act of 1973 (CDF 2000), to ensure that timber harvest was done in a manner that would preserve fish, wildlife, forests, streams and other water sources. Additional rules, called Forest Practice Rules (FPR) (CDF 2002), were promulgated by the State Board of Forestry and Fire Protection and are administered by the California Department of Forestry and Fire Protection (CDF) to carry out the intent of the Forest Practice Act. CDF ensures that private landowners abide by the FPRs when harvesting trees. Although there are specific exemptions in some cases, compliance with the Forest Practice Act and Board rules apply to commercial harvesting operations for landowners of all sizes. The FPRs require landowners prepare and submit for approval by CDF, a Timber

Harvesting Plan (THP). A THP is the blueprint outlining what timber will be harvested, how it will be harvested, and the steps that will be taken to prevent damage to the environment. A THP functions as the equivalent of an EIR under CEQA.

THPs are prepared by Registered Professional Foresters (RPF) who are licensed to prepare detailed plans pursuant to California's Professional Foresters Law (PFL) of 1972 (CDF 2002). A RPF is defined as "...a person who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services, including, but not limited to, consultation, investigation, evaluation, planning or responsible supervision of forestry activities when [such] professional services require the application of forestry principles and techniques". A person must have seven years experience in forestry work and may substitute a Master of Forestry or Bachelor of Science of Forestry degree in lieu of four years of forestry work experience and must pass a comprehensive examination administered by the Professional Foresters Examining Committee.

The FPRs provide that a THP must contain information on the presence and protection of known habitat or individuals of any listed species and information on the presence and protection of non-listed species that may be impacted by the timber operation. If information provided in a proposed THP is incorrect, incomplete or misleading in a material way, or is insufficient to evaluate significant environmental effects, the FPRs require disapproval of the THP. Under the FPRs, a species can be classified as a "sensitive species" if it is found that the California population requires timberland as habitat for foraging, breeding, or shelter, the California population is in decline or there is a threat from timber operations, and continued timber operations under the current rules of the Board will result in a loss of the California population viability. The California spotted owl is not currently listed as a sensitive species. The FPRs require a cumulative effects assessment to address any significant known wildlife or fisheries concerns where there is a substantial reduction in required habitat or the project will result in significant interference with the movement of resident or migratory species. The CDF requires measures including, but not limited to, a buffer that protects the nest, screening, perch, and replacement trees if a spotted owl nest is sighted