

APPENDIX B

Brief History of the HERGER-FEINSTEIN QUINCY LIBRARY GROUP PILOT PROJECT

FISCAL YEAR 1998 Through **FISCAL YEAR 2003**

Background
HERGER-FEINSTEIN QUINCY LIBRARY GROUP
PILOT PROJECT
FY1998 Through FY2003

In October 1998, the Herger-Feinstein Quincy Library Group Forest Recovery Act¹ (HFQLG Act) was signed into law. The HFQLG Act was developed from the Quincy Library Group's (QLG) 1993 Community Stability Proposal² to test the benefits of a locally conceived forest management strategy for reducing forest fuels along with the risk of catastrophic wildfires, promoting forest health and restoring economic stability to rural communities. The Quincy Library Group's proposal envisioned a desired future condition of an all-age, multi-storied, fire resistant forest approximating conditions prior to European settlement.

From the inception of the Community Stability Proposal through passing of the HFQLG Act, the Forest Service implemented the Forest Health Pilot (FHP), which was the Administration's effort, through the Forest Service, to implement the kinds of activities advocated in the Quincy Library Groups' Community Stability Proposal. Approximately 56,900 acres of vegetation treatments were accomplished between 1995 and 1997, primarily through timber sale contracts.

The HFQLG Act specified a five-year Pilot Project to be implemented on the Lassen, Plumas, and Sierraville Ranger District of the Tahoe National Forests, and required completion of an Environmental Impact Statement (HFQLG EIS) within the first 300 days. In August 1999 the three Forest Supervisors of the Lassen, Plumas and Tahoe National Forests signed the HFQLG Record of Decision (HFQLG ROD). They selected Alternative 2, which most closely resembled the QLG Community Stability Proposal and the HFQLG Act. The HFQLG Act mandated:

1. Construction of Defensible Fuel Profile Zones (DFPZs), a network of shaded fuel breaks, designed to interrupt crown fire and provide a relatively safe location for fire crews to take action against large scale, high intensity wildfires;
2. Implementation of small group selection (GS) and individual tree selection (ITS) harvest methods to promote an all-age, multistory, fire resilient forest; and
3. Implementation of a riparian management program, including riparian protection zones and restoration projects to address soil erosion, stream channel sedimentation and wildlife habitat degradation.

Because of concerns over the California spotted owl, a mitigation measure designed to avoid impacts to owl habitat from this mandate was included in the HFQLG ROD, pending release of an owl management strategy for the Sierra Nevada Ecosystem. The mitigation required "At the site-specific project level, defensible fuel profile zones, group selection harvest areas, and individual tree selection harvest areas will be designed and implemented to completely avoid suitable California spotted owl habitat, including nesting habitat and foraging habitat".

Additionally, the HFQLG Act specifically provided for the application of an owl conservation strategy and stated, in part: *...All resource management activities required by subsection (d) shall be implemented to the extent consistent with applicable Federal law and the standards and guidelines for the conservation of the California Spotted Owl as set forth in the California Spotted Owl Sierran Province Interim Guidelines or the subsequently issued guidelines, whichever are in effect*³

¹ HFQLG Act, P.L. 103-354, Section 401(j), October 1998

² QLG Stability Proposal, November 1993

³ HFQLG Act, Section 401 (c), October 1998

Fiscal Year 2000

Implementation of the Pilot Project began in fiscal year (FY) 2000, while thirteen appeals on the HFQLG ROD were reviewed. The appeal period ended in October 1999 with 15 appeals received, 12 of which were deemed timely. In March 2000, the Regional Forester affirmed the HFQLG decision on all 12 timely appeals. A lawsuit was filed by one of the untimely appellants, Californians for Alternatives to Toxics (CATs). However, in April 2000 the Regional Forester agreed to accept and respond to the CATs appeal and the lawsuit was temporarily stayed. In June 2000, the Regional Forester again affirmed the HFQLG decision, and CATs resumed litigation.

Fiscal Year 2001

In October 2000, the Interior and Related Agencies Appropriation Act (Public Law 106-291) or Title IV directed the Secretary of Agriculture to publish in the Federal Register the Forest Service's Cohesive Strategy⁴ that led to the development of the National Fire Plan. The National Fire Plan goals of restoring damaged landscapes and forest ecosystem health through fuels management complimented the efforts being conducted under the HFQLG Act.

In December 2000, the Earth Island Institute filed a lawsuit seeking to halt over 200 timber sales approved after March 1, 1995, alleging that the Forest Service's continued reliance on the 1993 California spotted owl interim direction (CSAPO) was unlawful. In December 2000, the Regional Forester voluntarily agreed to suspend groundbreaking operations on existing timber sales within the Sierra Nevada planning area until 30 days after publication of the Sierra Nevada Forest Plan Amendment (SNFPA) or March 1, 2001, whichever came first. The District Court twice denied plaintiffs motion for a preliminary injunction and the Ninth Circuit upheld the denial of an injunction on October 3, 2001.

In January 2001 the Regional Forester issued a Record of Decision for the *Sierra Nevada Forest Plan Amendment* (SNFPA) Final EIS. This plan amendment provided a new owl conservation strategy that affected the Pilot Project by replacing the mitigation measure imposed by the HFQLG ROD, replacing the 1993 CASPO Interim Guidelines being used in project design, and establishing additional standards and guidelines related to other facets of the forest. HFQLG projects planned in FY01 complied with these new strategies, which included canopy closure and large tree retention requirements. The Pilot Project continued implementing as many of the HFQLG activities as possible, although the new owl strategy changed the extent of some treatments. Group selections that were planned in FY 01 in non-suitable owl habitat continued without modification.

SNFPA also called for a collaborative Administrative Study to be developed by the Pacific Southwest Research Station (PSW) in conjunction with Region 5 monitoring personnel and National Forest staff. This study includes portions of the HFQLG Pilot Project area and investigates how the California spotted owl and its habitat respond to various silvicultural treatments. Group Selection is identified as a major component of the study and did not expected to exceed 4,000 acres of owl habitat per year in the Treatment Units.

Two hundred and thirty-four appeals were received by the appeals officer, Forest Service Chief Dale Bosworth, against SNFPA. The Quincy Library Groups was one of the appellants.

Between February and May 2001, an Administrative Science Team was assembled and the first draft of the Study Plan was released. Projects planned for FY2002 were being developed in conjunction with the strategy to implement the Administrative Study identified in the SNFPA decision. The Administrative Study included five research modules on (1) effects on and subsequent response of the California spotted owl, (2) small mammals (prey-base for the spotted owl), (3) fire and fuels, (4) vegetation growth, and (5)

⁴ Cohesive Strategy, April 13, 2000

land birds. The Study would contribute to the Adaptive Management Strategy of the SNFPA and has been designed to improve knowledge on key areas of uncertainty identified in the SNFPA decision. In June 2001, Judge Lawrence K. Karleton, U.S. District Court for the Eastern District of California, ruled on the CATs lawsuit. In resolving the case the court dismissed several of CATs' claims, but upheld the claim that the Forest Service failed to consider the environmental effects of maintaining DFPZs in the future. The court held that, in relation to DFPZ construction, maintenance was both a connected action and a cumulative action, and therefore had to be analyzed within the HFQLG Final Environmental Impact Statement (HFQLG FEIS). The court ordered the Forest Service to supplement the HFQLG FEIS by analyzing the environmental effects of maintaining DFPZs in the Pilot Project area. Ongoing Pilot Project activities were allowed to continue provided the Supplemental Draft EIS (SDEIS) was released for public comment within 120 days of the Court decision.

Fiscal Year 2002

In October 2001, the HFQLG Draft Supplemental EIS was published in the Federal Register on October 5, 2001, 115 days from the judge's decision.

In November 2001, the Chief affirmed the Regional Forester's SNFPA decision by saying that the minimum requirements of Federal law and regulation were met. However, the Chief also said that he believed opportunities existed for refining the decision for greater consistency with current agency policy. The Chief asked that certain aspects of the decision be subject to additional review and analysis. The relationship between the SNFPA and the HFQLG Act was one of the areas of concern that the Chief asked the Regional Forester to review. He stated that further review would be necessary to ensure that the five problem areas identified in SNFPA were adequately balanced with the goals of the HFQLG Act.

The Quincy Library Group voted to "suspend regular public meetings because the Sierra Nevada Framework has effectively killed our project and until it is removed there is no effective way to implement our project as designed by the QLG and passed by Congress". The Regional Office awarded a contract for a cumulative effects analysis for the Administrative Study.

In December 2001, the Regional Forester issued an action plan that outlined what the Region will be doing to comply with the Chief's direction and the timeframe in which to accomplish the action plan. A review team was assembled to look at how to fully implement the DFPZ strategy of the Pilot Project, and how to implement 8,700 acres of group selection annually. At that time, the Regional Forester said that, based on the results of the review, he would likely propose a SNFPA amendment which will allow implementation of the Pilot Project.

In March 2002, a revised Draft Plumas Lassen Administrative Study was released, and a revised group selection strategy for the Administrative Study was finalized. Also, the Plumas Forest Project and the Forest Conservation Council filed a lawsuit challenging the Crystal Adams DFPZ and Group Selection project planned on the Plumas National Forest.

Between April and June 2002 the Pilot Project adopted a new NEPA strategy for the Lassen Plumas Administrative Study, which resulted in assembling an interdisciplinary team. Approximately 20,000 acres of the FY02 program of work tied to the Administrative Study were delayed. The Quincy Library Group solicited funds from counties for their anticipated lawsuit against the SNFPA. And the QLG resumed public meetings when USDA Deputy Undersecretary Dave Tenny visited the Pilot Project.

In July 2002, all National Forests were directed by the Chief to defer spending due to the cost of wildfire suppression throughout the nation. Approximately \$1.3 million of HFQLG funds were contributed to national fire suppression activities. Regular work on project implementation, administration, and monitoring continued to take place throughout the summer, as well as field trips, meetings, and forums

with QLG and other interested people. Also, Forest Service staff within the Pilot Project forests worked with local Fire Safe Councils and newly formed Resource Advisory Committees (RACs) to align efforts with the National Fire Plan and the President's August 2002 Healthy Forest Initiative with HFQLG. In December 2002, the Notice of Intent was published in the Federal Register for the Administrative Study Proposed Action. The Regional Forester announced that the Draft Supplemental EIS for the SNFPA would be released in June 2003. He expected that the Record of Decision for the Final Supplemental EIS would be signed in October 2003.

Fiscal Year 2003

In February 2003, the President signed the FY03 Interior and Related Agencies Appropriations Act which extended the HFQLG Pilot Project legislation by five years. The new termination date is the end of fiscal year 2009. Also, settlement discussions between Plaintiffs in the Crystal Adams DFPZ/Group Selection project, the Department of Justice, and the Forest Service resulted in a Settlement Agreement.

In March 2003, the QLG filed a lawsuit in U.S. District Court against former Regional Forester Brad Powell, current Regional Forester Jack Blackwell, Chief Dale Bosworth and Undersecretary of Agriculture Mark Rey. The lawsuit asked, among other things, that a preliminary injunction be issued restraining the Forest Service from implementing any part of the SNFPA ROD that interfered with implementation of the HFQLG Act. The Forest Service filed a motion to dismiss the case and the QLG did not oppose the dismissal. However, the lawsuit was dismissed without prejudice and the QLG revised their complaint and resubmitted it.

In April 2003, Californians for Alternatives to Toxics (CATs), and three other environmental groups filed suit against the Forest Service, challenging seven site-specific DFPZs and Group Selection projects. The Plaintiffs allege that the DFPZ and Group Selection decisions violate various environmental laws. Their primary concerns include the effects of DFPZs on California spotted owl and the northern goshawk, DFPZ maintenance, and that the release of the Final Supplement has been unlawfully delayed.

Also in April 2003, following a review of scoping comments and preliminary project design efforts, the Plumas and Lassen Forest Supervisors, in coordination with the Sierra Nevada Research Center of the Pacific Southwest Research Station (PSW), withdrew the Notice of Intent and Proposed Action for the Administrative Study. They concluded it is in the best interest of the Lassen and Plumas National Forest's programs to change the scope of the Administrative Study. The area covered by the study was extensive and the study design for the one, large, site specific decision was so complex, continuing it would have markedly reduced the Forests' ability to accomplish both the Study and their commitments to the Herger-Feinstein Quincy Library Group (HFQLG) pilot project within the pilot time period, even with the recent legislative extension.

In June 2003, the Regional Forester released a Draft Supplement to the SNFPA to document new information and to analyze the effects of the proposed improvements. A Final SEIS and new Record of Decision was expected to be published in October 2003. The preferred alternative will implement the HFQLG Pilot Project including DFPZs, group selection, and individual tree selection. The preferred alternative treats about 5,500 acres more of group selection than current direction.

In July 2003, approximately 25 months after the Judge's June 2001 ruling, the Pilot Project Forests released a Final Supplemental EIS concerning maintenance of DFPZs. The Forest Service analyzed a number of maintenance options for DFPZs because the court concluded that fuel-break maintenance was an essential element of the Pilot Project, and held that in relation to fuel-break construction, fuel-break maintenance was both a connected action and a cumulative action. Alternative E, which was the selected Alternative, includes a combination of prescribed fire (48% of DFPZs), mechanical treatment (40% of

DFPZs), hand treatment (4% of DFPZs), and herbicide treatment (7% of DFPZs). There are no significant adverse effects from implementing this alternative.

In August 2003, due to the severe wildfire season, funds were withdrawn from the Pilot Project to contribute to the national wildfire suppression effort, and to respond to the regional request for emergency funding for the San Bernardino National Forest. Regular work on project implementation, administration, and monitoring continued to take place throughout the summer, as well as field trips, meetings, and forums with QLG and other interested people. Also, Forest Service staff within the Pilot Project forests continued working with local Fire Safe Councils and Resource Advisory Committees (RACs) to align efforts with the National Fire Plan and the President's Healthy Forest Initiative with HFQLG.

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