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*Via facsimile and mail*

Ginevra Chandler, Esq.  
California Department of Forestry and Fire Protection  
Legal Department  
P.O. Box 944246  
Sacramento, CA 94244-2460

Re: *Bohemian Grove* NTMP 1-06NTMP-011 SON

Dear Ms. Chandler:

I write for two reasons on behalf of my client the Bohemian Redwood Rescue Club regarding the above-referenced nonindustrial timber management plan (plan or NTMP).

First, my client was informed by Cal-Fire personnel that the Bohemian Club's efforts to qualify for an NTMP by reducing its timberland through a conservation easement has been undergoing review by Cal-Fire's legal counsel as well as the California Resources Agency. I write to inquire if this is true, and, if true, to object in the strongest terms.

Second, the Bohemian Club's attempt to use a conservation easement to reduce its timberlands and thereby qualify for an NTMP is unlawful. Under California law, a conservation easement is intended to preserve land in its natural condition. Here, the purpose is to acquire a logging permit. I urge Cal-Fire not countenance such a stratagem. It would set a destructive precedent, transforming a valuable conservation tool into a vehicle for logging and land alteration.

**CAL-FIRE SHOULD DISCLOSE WHETHER IT OR OTHER CALIFORNIA AGENCIES HAVE BEEN REVIEWING THE BOHEMIAN CLUB'S PROPOSED CONSERVATION EASEMENT**

The Bohemian Club has proposed to donate a conservation easement to reduce its timberlands to less than 2,500 acres to qualify for an NTMP.<sup>1</sup> Several newspapers, including the San Francisco Chronicle, have quoted Mr. Ron Pape to the effect that Cal-Fire is awaiting the easement to settle the issue of the Grove's acreage.

More recently, Mr. Pape represented to my client that the Club's proposed use of an easement to qualify for an NTMP had been reviewed by Cal-Fire's legal counsel and by the Resources Agency.

On behalf of my client and the interested public, I respectfully request that you confirm or deny whether Cal-Fire or any other California agency has been in contact with the Bohemian Club or any of its representatives and agents regarding the Club's effort to reduce its timberland by granting a conservation easement. This request does not include any communications that are documented in the public administrative file for the NTMP at the Cal-Fire Santa Rosa office.

Cal-Fire's role vis a vis a landowner's attempt to obtain a logging permit is precisely defined by the Forest Practice Act and its Rules. Those laws contemplate an arms-length, public process of review. None allows Cal-Fire—unbeknownst to the public—to endorse a landowner's strategy for plan approval. Such a closed-door approach would prejudice Cal-Fire's later consideration of the public's comments and objections to the plan. This is not to say that an applicant for a permit should not be allowed to ask procedural and technical questions regarding the permitting process. But that is a far cry from the Club's token use of a conservation easement to qualify for an NTMP.

Cal-Fire's review of the Club's efforts to reduce its ownership to qualify for an NTMP should be part of the administrative proceedings and public record. Anything else violates the law.

I therefore request that you let me know at your earliest convenience whether Cal-Fire or another agency has been involved or participated in, or reviewed in any manner the Bohemian Club's efforts to reduce its timberland by donation of a conservation easement.

By separate letter, I am today making a Public Records Act request for immediate production all documents related to the NTMP, including but not limited to all communications between Cal-Fire, the Resources Agency, and Department of Fish and Game and the Bohemian Club and its agents, attorneys, and representatives.

### **THE BOHEMIAN CLUB'S PROPOSED USE OF A CONSERVATION EASEMENT TO REDUCE ITS ACREAGE IS UNLAWFUL**

Because the Bohemian Club apparently owns in excess of 2,500 acres of timberland, it does not qualify for an NTMP. To get around that problem it has proposed to donate a conservation easement of approximately 160 acres of its timberland to the Rocky Mountain

Elk Foundation. Notably, the easement covers old growth redwood that was already protected from logging under the terms of the NTMP. Thus the Club proposes to donate less than two hundred acres of already-protected timberland to obtain a permit to log over two thousand. Not surprisingly, the proposal has generated considerable concern within the conservation community for a number of reasons.

At best the Club's proposed conservation easement is an unprecedented and cynical ploy to obtain logging rights. Few land trusts would accept a conservation easement under such conditions. It protects nothing that was not already protected and it exposes a far greater amount of land to potential environmental harm.

The proposed easement is also contrary to law. The California Legislature has defined "conservation easement":

"[C]onservation easement" means any limitation in a deed, will, or other instrument in the form of an easement...*the purpose of which* is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.

(Cal. Civ. Code, § 815.1, italics added.)

The proposed easement does not satisfy this definition. Its purpose is not to retain land in its natural state, but to log far more than is supposedly being protected. One cannot even say that a secondary purpose of the easement is preservation. Not only was the land at issue already protected, the Club's proposed donation did not arise until the Club realized it needed a way to reduce its acreage to qualify for an NTMP.

As an agency entrusted with protection of natural resources, Cal-Fire should not tolerate the Club's proposed stratagem: it is contrary to the spirit and letter of the law. Moreover, the precedent that will be set will be difficult to control. Landowners with more than 2,500 acres will seek ever more novel ways to reduce their land through easements, say, by donating their most degraded timberland, because it is not worth cutting; or their land in WPLZs, since cutting there is restricted; or the land surrounding a nesting pair of owls, since cutting there is not allowed.

In short, Cal-Fire should reject any attempt by the Club to qualify for an NTMP through the use of a conservation easement.

Oddly, even though Mr. Pape has said that Cal-Fire is awaiting the easement to resolve the question of the Club's timberland acreage, the Club or its representatives have said that the easement is not necessary to get the Club below 2,500 acres. If that is the case, the controversy can be easily avoided: The Club should donate the easement *after* its NTMP is approved.

Please respond at your earliest convenience to my inquiry regarding Cal-Fire's or any other agencies' contact with the Club regarding the proposed easement.

Very truly yours,

Paul V. Carroll

cc: Administrative file for NTMP 1-06NTMP-011 SON  
Rueben Grijalva, Director, CDF  
Mike Chrisman, Secretary, California Resources Agency  
Leslie Markham, CDF  
Ron Pape, CDF  
Rocky Mountain Elk Foundation, Board of Directors  
The Bohemian Club, Board of Directors

**(Footnotes)**

<sup>1</sup> To qualify for an NTMP, the landowner

“means an owner of timberland with less than 2,500 acres.

” (Pub. Res. Code, § 4593.2(b).)