CALIFORNIA CHAPARRAL INSTITUTE

...the voice of the chaparral

February 25, 2013

Board of Forestry and Fire Protection
Attn: George Gentry
Executive Officer
VegetationTreatment@fire.ca.gov
Sacramento, CA 94244-2460

Re: ADDENDUM to our January 25, 2013 comment letter on the Draft Program EIR (PEIR) for the Vegetation Treatment Program

Dear Mr. Gentry and Board Members,

Type conversion of native shrublands, the purpose of a Program EIR, and land planning were issues we addressed in our original letter of January 25, 2013. We would like to expand on these matters here. In addition, we are submitting a large number of exhibits for the administrative record including:

1. A petition with 3,080 signatures and comments requesting that the Board of Forestry retract its PEIR and to work with the California Natural Resources Agency and the Senate Committee on Natural Resources and Water to create a Comprehensive Fire Protection Program**.**

2. Scientific papers cited in this and our January 25, 2013 letter.

3. Our 2005 comment letter to Cal Fire on the NOP regarding the Vegetation Management Program DEIR identifying the need to incorporate current science into its planning process and to avoid using forest-based models when managing other ecosystems.

Type Conversion

As stated in our January 25, 2013 letter, contrary to statements in the PEIR, US Forest Service research has shown that most shrubland ecosystems within the four National Forests in southern California have **negative** departures from historical fire patterns, meaning the native shrublands are being threatened by too much fire as opposed to not enough. Based on this analysis, it is a fair assumption that many other native shrublands in State Responsibility Areas are being threatened by too much fire as well, and hence

type conversion. We have included US Forest Service research maps at the end of this letter showing these negative departures (In our previous letter we mistakenly termed negative departure as positive).

Program EIR: General

A regulation enacted under CEQA, Title 14 of Cal. Code of Regulations (CEQA Guidelines) § 15168 defines a "Program EIR," its uses, and whether a Program EIR can eliminate the need for further CEQA documents for site-specific projects (either "tiered EIRs" or "negative declarations") as follows:

> (a) **General**. *A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either*:
>
> (1) *Geographically,*
>
> (2) *As logical parts in the chain of contemplated actions,*
>
> (3) *In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program,* or
>
> (4) *As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar way*s. (Italics added)

The PEIR fails to meet these criteria for a program EIR.

We find that since the 38 million acres targeted by the PEIR are neither geographically (1) nor ecologically similar, it is impossible for the Board to conclude as it does in the PEIR that *the individual activities carried out* under its authority in the Program will have *similar environmental effects* which *can be mitigated in similar ways* (4). This is especially true since the PEIR was dominated by forest-based research, some of which was misinterpreted and misquoted, and fails to address specific regional differences in ecosystem type, biodiversity, and wildland-urban interface issues.

We also find the huge, 500% expansion of Cal Fire's previous Vegetation Management that this PEIR proposes does not qualify as *a continuing program* (3). The massive area proposed for treatments requires an entirely different analysis as explained in our previous letter.

And finally, the projects the PEIR are proposing occur in so many different ecosystems with so many different variables, that considering them *as logical parts of contemplated actions* (2) is equivalent to classifying developments on flood plains, earthquake faults, and along the coastal zone as exempt from independent review because they all involve housing subdivisions.

In addition, the CEQA guidelines state,

> (5) A program EIR will be most helpful in dealing with subsequent activities if it *deals with the effects of the program as specifically and comprehensively as possible*. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required. (Italics added)

We find the PEIR fails to meet this standard of dealing *with the effects of the program as specifically and comprehensively as possible* as explained in our previous letter.

Program EIR: Details

A treatise on CEQA, Remy, Thomas, Moose & Manley, Guide To CEQA (11th ed. 2007) (Guide To CEQA), discusses Program EIRs. They state that Program EIRs can serve an important function by,

> "*. . . providing a single environmental document that can allow an agency to carry out an entire 'program' without having to prepare additional site-specific EIRs or negative declarations.* To effectively serve this second function, a program EIR must be very detailed; in other words, *it must include enough site-specific information to allow an agency to plausibly conclude that, in analyzing 'the big picture,' the document also addressed enough details to allow an agency to make informed site-specific decisions within the program*. (Guide To CEQA, pp. 637-638; italics added)

The Board's PEIR does not contain site-specific information, and hence has failed this standard. It appears then that the Board is depending on the second step of environmental analysis, that is, to go through a "written checklist" to determine if the significant environmental impacts of a site-specific project have been evaluated in the Program EIR. Since the PEIR has failed to do this, then the Board is required to prepare site-specific "tiered" EIRs or negative declarations (The factors that a lead agency must examine in the written checklist are set forth in Public Resources Code § 15162).

There are no checklists within the PEIR specific to each plant community and region the Program will be treating. Therefore, it is impossible to properly evaluate the Program's impacts.

In addition,

> *. . .* (*T*)*he authors believe that a lead agency should clearly inform the public whether future CEQA documentations are anticipated.* Such information will

> affect the manner in which people review and criticize the 'first tier' EIR . . ." (Guide To CEQA, p. 638; italics added)

The PEIR has not done this.

After setting forth the definition of a "program" set forth in CEQA Guidelines § 15168(a), the Remy et al Guide To CEQA provides

> . . . **What is a 'Program'?**
>
> . . . The use of a program EIR allows a lead agency 'to characterize the overall program as the project being approved at the time.' . . . (A) program EIR acts as an analytical superstructure for subsequent more detailed analysis. *The program EIR should identify those probable environmental effects that can be identified.* For those impacts that cannot be predicted without undue speculation or for which the deferral of specific analysis is appropriate, the agency can defer such analysis until later points in the program approval or implementation process. . . . Subsequent EIRs need only focus on new effects that have not been considered before. . . ." (Guide To CEQA, pp. 638-639; italics added)
>
> . . . (F)or a program EIR to allow an agency to dispense with additional EIRs or negative declarations for later site-specific projects, the program document must be at once both comprehensive and specific. It must concentrate on a project's long-term 'cumulative' impacts, but must also contain enough details to anticipate 'many subsequent activities within the scope of the project.' CEQA Guidelines, § 15168, subd. (c)(5). . . ." (Guide To CEQA at p. 639)

For the reasons stated in our previous letter, the PEIR has failed to properly *identify those probable environmental effects that can be identified.* Specifically, the PEIR's cursory treatment of shrubland type conversion that can certainly be identified, the cumulative impacts of such a change on ecosystem health and diversity that are ignored, and its flawed, forest-based analysis of the entire state, are all significant and fatal flaws in the PEIR.

Poor Preparation

List of Preparers and Individuals/Organizations consulted in preparation for the PEIR is almost exclusively dominated by northern California, forest-based consultants and Cal Fire staff. Only one outside agency scientist who has had significant involvement in fire research over the past decade involving Southern California was included (Geographer P.W. Wohlgemuth with the USFS Riverside Fire Lab). We find this especially odd since the Board is involved with the California Fire Science Consortium which is focused on exchanging and distributing knowledge concerning the most recent research in fire science.

As a consequence, we are asking the Board the following questions concerning the preparation of the PEIR:

1. How were consultants for the PEIR selected?

2. Why did the Board not include well known scientists familiar with shrubland-based ecosystems, especially those in southern California?

3. Why did the Board exclude important conservation groups who the Board knows have been extremely active in commenting on fire management issues in California (such as the California Native Plant Society and the California Chaparral Institute)?

4. How were the citations in the PEIR vetted to ensure they were relevant to the statements and conclusions made in the PEIR?

5. Why is there a lack of shrubland-based citations and applications in the PEIR when the majority of the most damaging fires in California have occurred in shrubland ecosystems?

6. Why did the Board only provide alternatives focused on vegetation treatment rather than more comprehensive approaches of the type suggested in our January 25, 2013 comment letter?

7. How does the Board intend to use the comments being submitted about the PEIR? We ask this question because while CEQA indicates that "an EIR should summarize the main points of disagreement among the experts," we are hoping the Board will not merely attach submitted comments to satisfy this requirement. We are hoping the Board will actually *use* the submitted comments to develop a more comprehensive fire management program. Such use is true to the intent of CEQA.

Land Planning

We mention the importance of land planning in reducing wildand fire risk in our prior letter. We wanted to provide additional research that affirms the importance of providing a **Wildland-Urban Interface (WUI) alternative** to the Board's proposed Program as we offered in our January 25, 2013 letter.

After examining housing that borders public forestlands in the West, Gude et al. (2008) concluded,

> Most importantly, national, state, and local policies that address **wildland fuels management need to be coupled with policies that address existing and future development in fire-prone private lands.** (Emphasis added).

In a follow-up, comprehensive examination of wildfire suppression costs in the Sierra Nevada area of California, Gude et al. (2013) concluded,

> In light of mounting evidence that increases in housing lead to increases in fire suppression costs, future policies aimed at addressing the rising costs should attempt to either reduce or cover the additional costs due to future home development. **To ignore homes in future wildfire policies is to ignore one of the few determinants of wildfire suppression cost that can be controlled.** For example, governments have limited ability to control factors such as weather and the terrain in which wildfires burn.
>
> **The most obvious means of reducing additional suppression costs due to future home development would be to limit future home development in wildfire prone areas.** Based on our findings, future savings may be achieved by a combination of policies that aim to keep undeveloped land undeveloped and encourage new development within existing urban growth boundaries and existing subdivisions. (Emphasis added)

Failure to Incorporate Comments

According to the PEIR,

> All scoping comments received by the Department in response to its earlier NOP have been incorporated by the Board as a part of the scoping for the Vegetation Treatment Program EIR proposed herein. (PEIR 9-1)

We are not sure what the Board means by "incorporated," but we have found that prior comments provided by us to the Board appear to have been generally ignored.

For example, in our 2005 comment letter concerning the NOP we wrote,

> ... much of what is within the California Fire Plan tends to treat different types of fuels with the same broad brush, "one-size-fits-all" approach, failing not only to recognize the distinct differences between forest and chaparral, but also the important differences within chaparral types themselves. These differences have important fire management implications that need to be addressed. Not doing so will dramatically reduce the effectiveness of our state's fire management efforts."

Our January 25, 2013 comment letter repeats the same point:

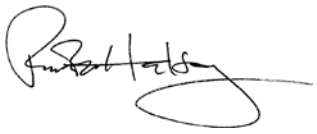
> The one-size-fits-all approach the PEIR takes regarding fire suppression is not scientifically supportable and raises serious questions about the PEIR's conclusions. For shrubland ecosystems, which have completely different fire regimes and responses to management than forests, there were less than a dozen

peer-reviewed papers referenced (out of nearly 1,000 literature citations) relating directly to fire.

The need to appropriately address and incorporate the different fire regimes of coniferous forest vs. chaparral and other ecosystems into the Program's vegetation treatment prescriptions is a substantial issue that was raised during the scoping process in 2005, and one that still remains inadequately addressed in the PEIR.

We urge the Board to take advantage of the the wealth of information available from independent scientists, conservation organizations, and private citizens who care deeply about California and use it to shape its future policy documents and fire management programs.

Sincerely,





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Justin Augustine
Attorney
Center for Biological Diversity

The California Chaparral Institute is a non-profit science and educational organization dedicated to promoting an understanding of and appreciation for California's shrubland ecosystems, helping the public and government agencies create sustainable, fire safe communities, and encouraging citizens to reconnect with and enjoy their local, natural environments. www.californiachaparral.org

The Center for Biological Diversity is a 501(c)3 nonprofit conservation organization with more than 450,000 members and online activists dedicated to the protection of endangered species and wild places. www.biologicaldiversity.org

New signatories to our letter:

Claudia Foster
Richard Foster
Board of Directors
Del Dios Volunteer Fire Department

Richard Foster
President
Del Dios Mutual Water Company

Terry Frewin
Chair
Sierra Club California/Nevada Desert Committee
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Las Virgenes Homeowners Federation
Kim Lamorie, president
Mary Ellen Strote, vice president
Kathy Berkowitz, secretary
Joan Yacovone, treasurer

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Prior signatories

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Pat Barnes
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Orange County Group Executive Committee
Sierra Club, Angeles Chapter

Monica Bond, Principal Scientist
Wild Nature Institute

Cindy Crawford
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Michael J. Connor, Ph.D.
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Save Hobo Aliso Task Force
Sierra Club

David Garmon, President
Tubb Canyon Desert Conservancy

George Hague
Co-Chair
Santa Ana Mountains Task Force
Sierra Club, Angeles Chapter

Tom Hopkins, President
Ventana Wilderness Alliance
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Gordon Johnson
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California Wilderness Project

Eric Johnson, Chair
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Frank Landis, Ph.D.
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Travis Longcore, Ph.D.
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The Urban Wildands Group
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Ulrike Luderer
Co-Chair
Santa Ana Mountain Task Force
Sierra Club, Angeles Chapter

Greg McMillian, Chair
Executive Committee
Santa Lucia Chapter, Sierra Club

Patricia S. Muir
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Tom O'Key
Southern California Desert Video Astronomers
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Doug Paulson
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Escondido Citizens' Ecology Committee

Claire Schlotterbeck
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Hills for Everyone

Geoffrey D. Smith
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Wilderness4All

Joel Robinson
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Michele Roman
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Terry Welsh
President
Banning Ranch Conservancy
Sierra Club Banning Ranch Park and Preserve Task Force

Fred Woods
Friends of Daley Ranch
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George Wuerthner
Western Wildlands Council
Bend, Oregon

David Younkman
Vice President for Conservation
American Bird Conservancy

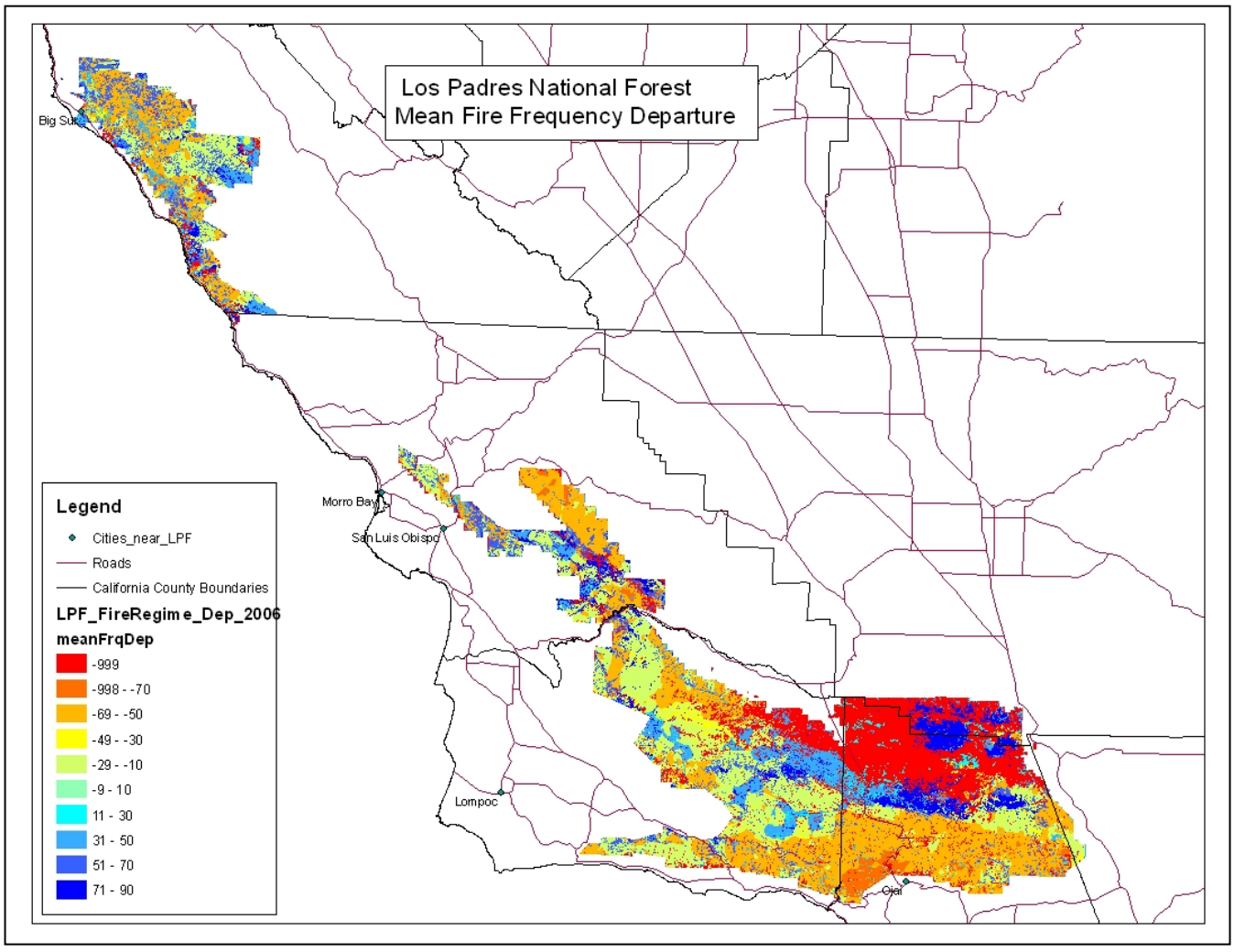
Cited References

Gude, P.H., K. Jones, R. Rasker, M.C. Greenwood. 2013. Evidence for the effect of homes on wildfire suppression costs. International Journal of Wildland Fire - http://dx.doi.org/10.1071/WF11095

Gude, P., R. Rasker, J van den Noort. 2008. Potential for future development on fire-prone lands. Journal of Forestry, June: 198-205.

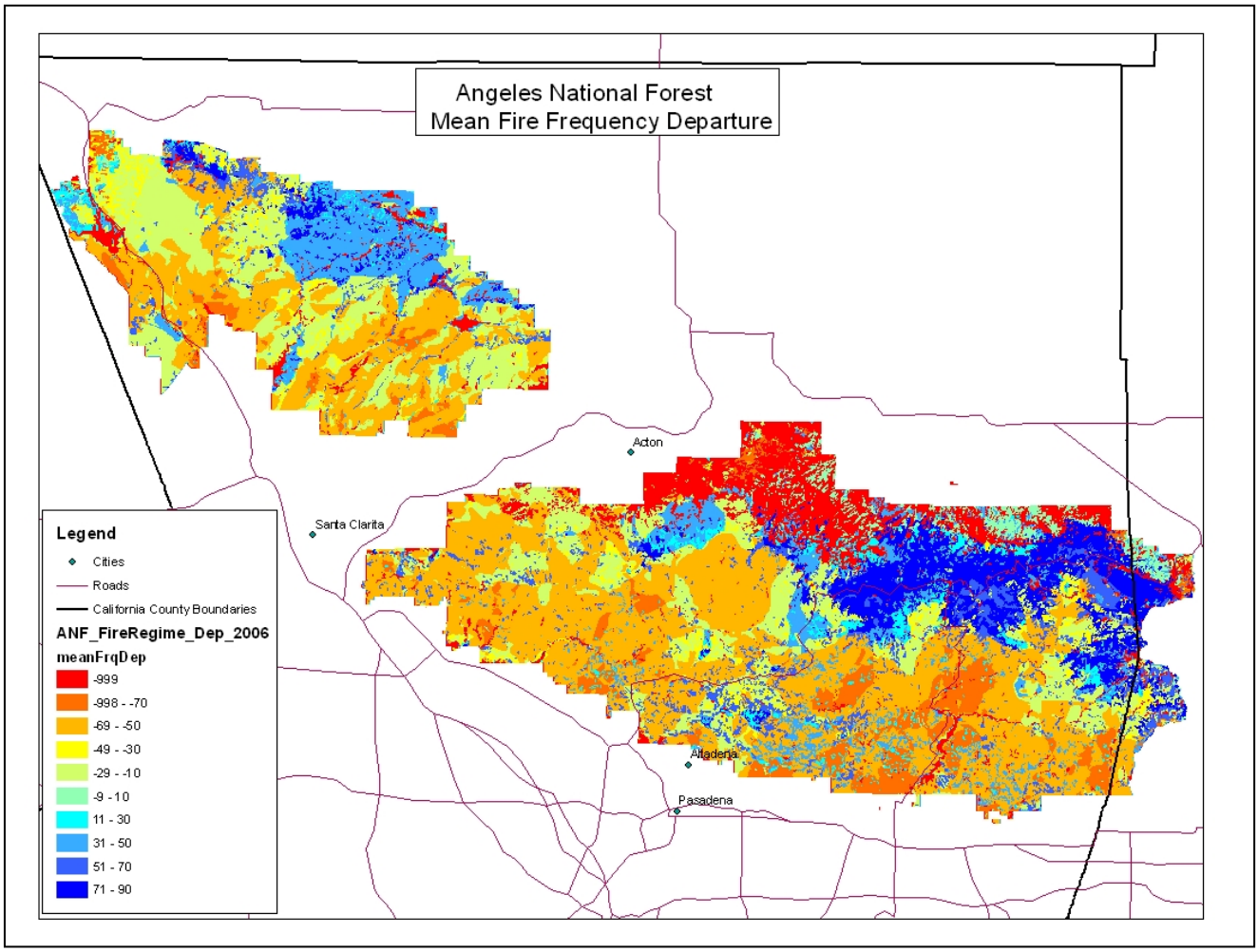
Los Padres National Forest Mean Fire Frequency Departure Map
Hot colors represent negative departures (more fire than historical)
Cool colors represent positive departures (less fire than historical)

From Safford, H. D. and D. Schmidt. 2008. Fire departure maps for southern California national forests. USDA Forest Service and The Nature Conservancy.



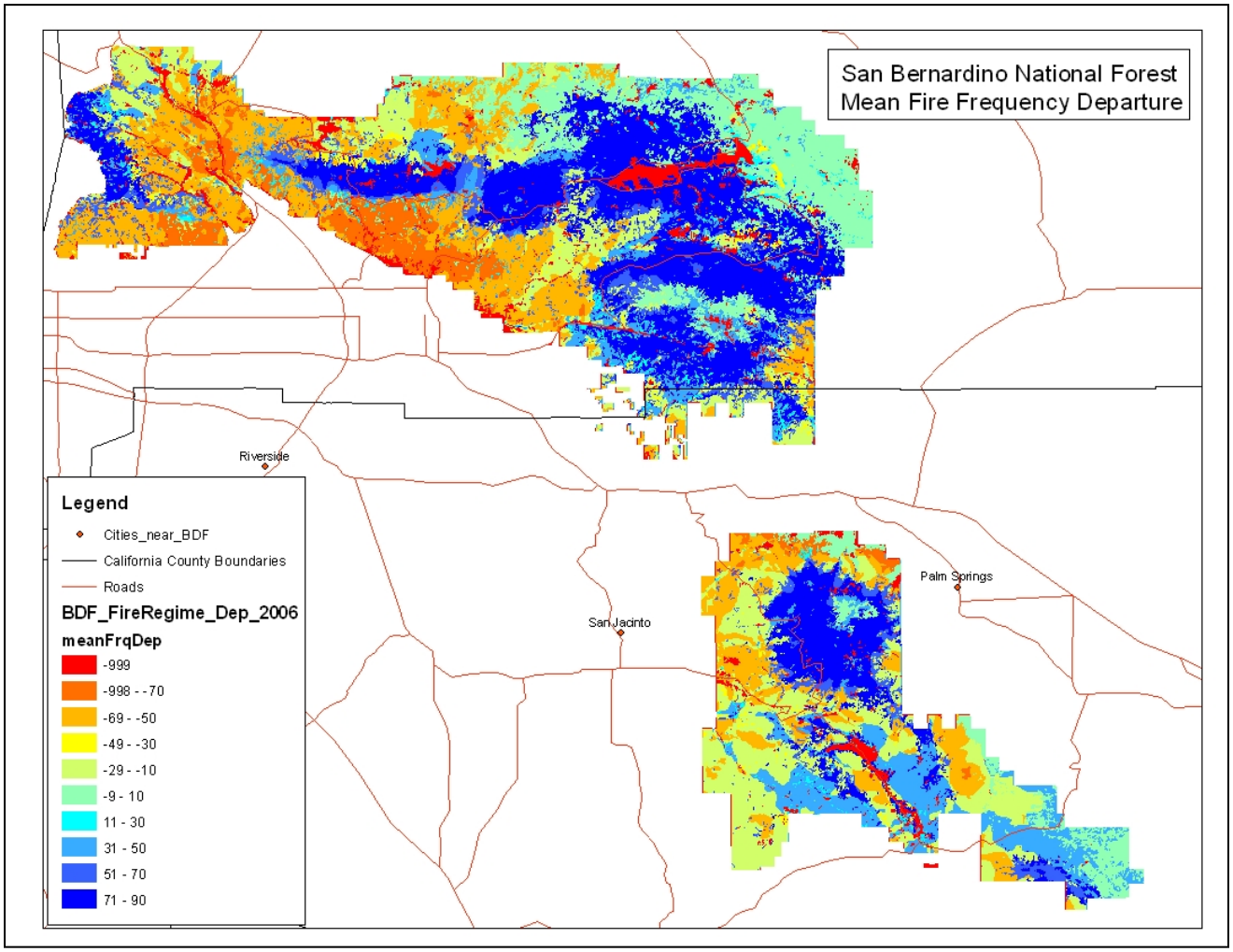
Angeles National Forest Mean Fire Frequency Departure Map
Hot colors represent negative departures (more fire than historical)
Cool colors represent positive departures (less fire than historical)

From Safford, H. D. and D. Schmidt. 2008. Fire departure maps for southern California national forests. USDA Forest Service and The Nature Conservancy.



San Bernardino National Forest Mean Fire Frequency Departure Map
Hot colors represent negative departures (more fire than historical)
Cool colors represent positive departures (less fire than historical)

From Safford, H. D. and D. Schmidt. 2008. Fire departure maps for southern California national forests. USDA Forest Service and The Nature Conservancy.



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