



CALIFORNIA  
LICENSED  
FORESTERS  
ASSOCIATION

2133 Carson Mesa Rd • Acton, CA 93510  
phone • 916.913.9970 fax • 661.269.5513  
email • [clfa@volcano.net](mailto:clfa@volcano.net) web • [www.clfa.org](http://www.clfa.org)

October 31, 2014

California State Board of Forestry and Fire Protection  
Mr. Keith Gillless, Chairman  
P.O. Box 944246  
Sacramento, CA 94244-2460

RE: Cumulative Impacts Analysis, 2014.

Dear Chairman Gillless and Board Members,

Forest management and timber harvest have been very socially and politically charged topics in California for well over 40 years. In particular, the nexus between the Forest Practice Act and the California Environmental Quality Act has been of continued active debate during recent time.

As practitioners who have sole legal authority to practice the art and science of forestry and prepare timber harvest plans (THPs) we would like to take this opportunity and respectfully share our perspectives on the current topic before the Forest Practice Committee: Cumulative Impacts Analysis.

At the heart of this discussion is the certified regulation of timber harvesting operations program. In 1975 the courts found that provisions of the Forest Practice Act were subject to CEQA and that THPs required an Environmental Impact Report (EIR). That same year Senator Nejedly introduced SB 707 that would amend CEQA to exempt any regulatory programs of state agencies such as the Forest Practice Act where a written plan containing specified environmental information was required. Certification of the THP as functionally equivalent to an Environmental Impact Review was granted by the Resources Agency on February 10, 1976. In fact the CEQA certification was a concept of Governor Brown in his first term in Office and it could be hypothesized that this is a concept that he would still be supportive of today.

In terms of Cumulative Impacts Analysis, the question then becomes, what information must a THP contain to be compliant with Chapter 5 of CEQA which requires a project proponent to supply "data and information which may be necessary to enable the public agency [and public at large] to determine whether the proposed project may have a significant effect on the environment."

Public criticism of the manner in which THPs address cumulative impacts analysis began shortly after the finding that THPs required an EIR. In the 1980's many lawsuits were heard by California courts where plaintiffs regularly challenged the adequacy of cumulative impacts analyses in THPs. The courts of the day were often sided with plaintiffs being critical of cumulative impacts analysis in THPs during the 1980's and 90's. With each public review of THPs and with each court decision finding flaws in cumulative impacts analysis, the data and information supplied by RPFs improved. Evidence of this can be observed moving into the 2000's with California courts becoming less and less critical of cumulative impacts analysis in THPs routinely rejecting plaintiffs' claims of deficient cumulative impacts analysis. Most recently in *EBBETTS PASS FOREST WATCH et al. v. CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION* (2008) the State Supreme Court unanimously concluded the three THPs in question "do not suffer from the asserted legal flaws plaintiffs identify". The assertion by plaintiffs was that CDF had failed to follow the laws pertaining to cumulative impacts analysis in approving the THPs. The State Supreme Court unanimously disagreed with this assertion and upheld CDF's approval of the THPs.

The current trend of California courts strongly upholding CalFire approval of THPs, coupled with continual strengthening laws' and regulations' environmental protections both seriously call into question any need to alter forest practice rule guidance on cumulative impacts analysis.

There appears to be a strong dichotomy that has developed in the way CEQA compliance is achieved between THPs and other EIRs. Non-timber EIRs typically evaluate potential environmental impacts of development/conversion projects that permanently alter the environment. Alternatively, THPs maintain the existing land use; simply rearranging the successional spatial orientation of forest stands across a forested landscape over time in order to sustainably manage the renewable resource. Rarely are non-timber EIRs are prepared with the explicit purpose of sustainable management of a renewable resource

Our understood initial intent for reviewing 14 CCR 912.9, [932.9, 952.9] and Technical Rule Addendum 2 was to evaluate the need to include Greenhouse Gas analysis guidance and determine if the legal requirements of CEQA with regard cumulative

impacts analysis continue to be met since these regulations were adopted in 1991. The current trajectory of the Forest Practice Committee in this matter does not appear to be consistent with that initial intent and does not appear as though it will address the concerns of landowners, practitioners, reviewing agencies or the public at large.

The California Licensed Foresters Association respectfully request that, for the purposes of current proposals at this time, the Forest Practice Committee set aside the current course of action and focus on determining if inclusion of Greenhouse Gas Analysis guidance is required to be contained within the FPRs, and determine if current regulations remain consistent with the legal requirements of CEQA.

Sincerely,



Clayton E Code  
RPF #2867  
CLFA Vice President



*The California Licensed Foresters Association, with a membership responsible for the sustained management of millions of acres of California forestland, represents the common interests of California Registered Professional Foresters. The Association provides opportunities for continuing education and public outreach to its membership, which includes professionals affiliated with government agencies, private timber companies, consultants, the public, and the academic community. Governed by an elected Board of Directors, CLFA was established in 1980 after the passage of the landmark California Professional Foresters Law.*