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BOARD OF FORESTRY AND FIRE PROTECTION

Sacramento, CA
July 10, 2013

BOARD OF FORESTRY MEMBERS PRESENT:

J. Keith Gilless, Chairman
Stan Dixon
Bruce Saito
Mark Andre
Susan Britting
Mike Miles
Richard Wade
Stuart Farber
Mary Rickert

BOARD OF FORESTRY MEMBERS ABSENT:

BOARD STAFF:

George Gentry, Executive Officer
Matthew Dias, Executive Officer, Forester's Licensing
Eric Huff, Regulations Coordinator
Linda Cano, Executive Assistant

DEPARTMENTAL STAFF:

Janet Barentson, Chief Deputy Director
Bill Snyder, Deputy Director, Resource Management
Duane Shintaku, Asst. Deputy Director, Forest Practice
Russ Henly, Asst. Deputy Director, Resource Protection
Dennis Mathisen, Communication Officer

The Board's Mission:

To lead California in developing policies and programs that serve the public interest in environmentally, economically, and socially sustainable management of forest and rangelands and a fire protection system that protects and serves the people of the state.

Call to Order

Chairman Gillless called the July 10, 2013 meeting of the Board of Forestry and Fire Protection to order.

Approval of Minutes

07-13-01 Member Britting moved to approve June Minutes. Member Saito seconded the motion. The Motion passed unanimously

MONTHLY BOARD REPORTS

Report of the Chairman

The Chairman remarked on and honored the sacrifice of the 14 firefighters who lost their lives in the line of duty in Arizona.

Board discussion and Nomination for Vice Chair of the Board

07-13-02 Member Dixon nominated Member Andre for Vice Chair. Member Saito seconded the motion

Chairman Gillless called for a Roll Call vote.

Britting	Aye
Andre	Abstained
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gillless	Aye

The Motion passed with one abstention

Report of the Director/Department -Janet Barentson (Full Report available on the Board's website)

- The department is not only dealing with the deaths of the Prescott firefighters but also one of Cal Fire's own, Fire Apparatus Engineer Christopher Douglas, Riverside Unit who was killed in the line of duty July 5, 2013. Director Pimlott was traveling to meet with the firefighters, at the time of the Board meeting. Christopher was well liked at the unit; he left behind a wife, a child and one on the way. One of the Prescott firefighters Christopher Mackenzie was the son of a retired Cal Fire employee, the department is offering support to his family as well. The Director will be attending Christopher Mackenzie's funeral. Five of the Prescott firefighters had ties to California.
- Fire activity: dry conditions continue. Normally there are 200 to 300 fires per week that are caught before they become large fires. There were over 400 fires the previous week, it is indicative of the dry conditions that are very prone to fire. The state is busy with fire activity, the department is encouraging safety given the tragedy in Arizona.
- There has been an increase in the number of fires to date. The normal average is approximately 2,000 fires; there have been 3,400 fires to date. Fuel conditions are that of late August or September conditions. The department is predicting that fire activity will continue to be busy until the rain season. There were two major incidents Cal Fire was working on the Chariot Fire in San Diego County it was approximately 7,000 acres and 40% contained. 120 cabins and out buildings were destroyed. The numbers listed were at the time of the Board meeting. The

Kyburz Fire on US Forest land was the second, with approximately 600 acres burned at 40% contained. The Department made resources available to the US Forest Service.

- There were a number of arson arrests made. There were two notable arrests one in Riverside County of a repeat offender and one in Madera Mariposa Unit who was starting fires on the route into Yosemite.
- The Director along with Executive Officer Gentry and Russ Henly will attend the VTPEIR meeting with the Chaparral Institute, Endangered Habitats League and Conservation Biology Institute to provide for additional public outreach and public comment. It is hoped that it will provide a better understanding of the concerns of these groups and an opportunity to share the thoughts of the department with them.
- The department asked the Board of Equalization to begin billing for SRA fees on July 15, 2013 for the 2013 fiscal year. The stats for fiscal year 11/12, the department collected over 77 million dollars, received 90,000 petitions out of 750,000 bills that were sent, there were no statutory bases to approve 70% of those petitions. Only 2% were approved based on the data used. The department is confident in the data that determine SRA. They've made corrections to the data from last year, regarding double billing.
- The initial hearing on the Jarvis class action suit which will determine whether it should be dismissed is scheduled for July 19, 2013, in Sacramento. The Director will keep the board updated with the results.
- The Redding Pilot project is progressing through the review process. Janet Barentson hopes to have it out to the Secretaries of Natural Resources and Cal EPA to review and approve and submit to the public.
- A number of key management positions will be retiring, the department is actively working on succession planning. They are planning for exams to fill positions they will also be filling positions in the department as employees retire. Announcements will be made throughout the year of hires to key management positions.
- The Director is looking forward to the August Board meeting in Ventura.

Report of the Regulations Coordinator-Eric Huff

§1299 AB 1595 Defensible Space	Adopted rule language correction to filed with OAL on or before 7/9/13
§1299 "Wood Piles" Amendment, 2013	45-day Notice pending
Road Rules, 2012	Remanded to Forest Practice Committee
AB 1492-Lumber Products Assessment Emergency	Final Re-adoption Approved
AB 1492-Lumber Products Assessment Permanent Regulation	45-day Notice pending
NSO Protection Measures, 2013	Initial hearing July 10, 2013
MTHP Amendments, 2013	45-day Notice of Rulemaking Posted.
Section 100-§1059 Administrative Penalty Procedures	Section 100 filed per Cal Fire request
§895.1 Commercial Species Amendments, 2013	45-day Notice pending
CRM Program Guidelines, 2013	Section 100 Pending

Forest Practice, Mark Andre, Chair

Reviewed and consideration of draft Class II-L Forest Practice Rule amendments.

07-13-03 Member Saito moved to put out for 45-day Notice the Class II-L Forest Practice Rule, 2013 amendments.

Chairman Gilless called for a Roll Call vote.

Britting	Aye
Andre	Aye
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gilless	Aye

The Motion passed unanimously

Resource Protection, Bruce Saito

- Update given by George Gentry and Doug Wickizer on the Vegetation Treatment Program EIR.
- Update given by Mike Wilson on Wildland Prevention Engineering
- Reviewed Fire Safe Regulation Update. George Gentry and Jana Luis
- Update given by George Gentry and Edith Hannigan on Safety Element Process

Public Comment

Management, Stan Dixon

Discussion of Management Plan for LaTour Demonstration State Forest.

07-13-04 Member Farber moved to certify the Negative Declaration and approve Management Plan. Member Dixon seconded the motion.

Chairman Gilless called for a Roll Call vote.

Britting	Aye
Andre	Aye
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gilless	Aye

The Motion passed unanimously.

Report of Board’s Advisory Committees

- Forest Pest Council-

- **California Oak Mortality Task Force (COMTF) –Katie Palmieri**

Sudden oak death (SOD) continues to be the primary cause of tree mortality in coastal California from Monterey County north to Humboldt County, according to USDA Forest Service Pacific Southwest Region aerial surveys underway this summer. Tanoak mortality is severe in the Santa Cruz Mountains as well as along the coast in Sonoma, Marin and Monterey Counties, with the worst impacted areas in Jenner/Guerneville (Sonoma County) and Big Sur and Mill Creek (Monterey County).

New *Phytophthora ramorum* confirmations near Six Rivers National Forest (SRNF) and the Trinity County line – Tanoak and California bay laurel trees were confirmed to be infected with *P. ramorum* as close as 1.1 miles from the SRNF boundary and 1.7 miles from the Trinity County line. Preliminary 2013 US Forest Service aerial surveys of the area have identified more patches of tanoak mortality consistent with SOD that are located about 1.5-2 miles from where ground sampling was done, and as close as 0.4 miles from the SRNF boundary.

First *P. ramorum* culture-positive water sample confirmed from Jackson Demonstration State Forest (JDSF) – Intensive sampling in the South Fork of the Noyo River (SFNR) watershed during this year's *P. ramorum* stream monitoring season led to the confirmation of *P. ramorum* presence in the JDSF (in April 2013). Specifically, pathogen presence in the JDSF was confirmed in the North Fork of the SFNR and Peterson Gulch drainages. However, Parlin Creek, which tested PCR positive in 2012, remained negative for the pathogen via culturing techniques during the 2013 monitoring season.

Report of Board's Advisory Committees

Monitoring Study Group- George Gentry (Full report can be found on the BOF website)

Professional Forester Examining Committee- Matt Dias

The Office of Professional Foresters Registration notes the RECENT PASSING of George Grogan – RPF 237

The following individuals indicated a desire to VOLUNTARILY RELINQUISH his/her license to practice:

Scott McDonald – CRM 43
Larry Burd – RPF 2293

The following Registered Professional Foresters requested license WITHDRAWAL pursuant to 14 CCR §1608(a):

Timothy Bell – RPF 1725	John Gorman – RPF 265
Donald Berry – RPF 1889	Robert Graton – RPF 709
Bard Beutler – RPF 1381	John Henshaw- RPF 2075
Barton Bloom – RPF 1005	Harold Johnson- RPF 1063
Ole Buch – RPF 2731	Walter Levings – RPF 2367
Jerry Burke – RPF 761	Richard Lund – RPF 171
David Burns – RPF 3	Dearl Mccullough – RPF 735
Mitchell Cari – RPF 1747	Jack Monschke – RPF 2405
Christopher Click – RPF 2265	James Mower – RPF 1757
William Dean – RPF 150	Thomas Nelson – RPF 2201
Craig Ditman – RPF 1749	Ronald Recker – RPF 2551
Bruce Emmens – RPF 2197	Daniel Scatena – RPF 1909
Michael Garcia – RPF 1859	Jenny Whitaker – RPF 2786
David Goodman – RPF 575	

07-13-05 Member Miles moved to accept RPF withdrawals. Member Saito seconded the motion.

Chairman Gilless called for a Roll Call vote

Britting	Aye
Andre	Aye
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gilless	Aye

The Motion passed unanimously.

The following individuals were presented to the Board for Registration as Successful Applicants:

Mr. Matthew Gilbert	RPF No. 2972
Mr. Aaron Smith	RPF No. 2973
Ms. Elizabeth Forward	RPF No. 2974
Mr. Russell Dorvall	RPF No. 2975
Mr. Shane Larson	RPF No. 2976
Ms. Erica Smith	RPF No. 2977
Mr. Patrick Schafer	RPF No. 2978
Ms. Sara Jones	RPF No. 2979
Mr. Amitabha Bolton	RPF No. 2980
Mr. Drew Coe	RPF No. 2981
Mr. Matthew Lutes	RPF No. 2982
Mr. Clayton Kooperman	CRM No. M100

07-13-06 Member Andre moved to approve registration of RPF applicants. Member Rickert seconded the motion

Chairman Gilless called for a Roll Call vote.

Britting	Aye
Andre	Aye
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gilless	Aye

The Motion passed unanimously.

There are currently 1217 valid RPF's and 76 valid CRM's

Discussion and Review of the Lumber Assessment Regulations. Possible Action Item: The Board may make recommendations for a 45 day notice for rulemaking

George Gentry gave overview.

07-13-07 Member Britting moved to put out for 45 day notice for rulemaking the Lumber Assessment Regulations. Member Saito seconded the motion.

Chairman Gillless called for a Roll Call vote.

Britting	Aye
Andre	Aye
Wade	Aye
Saito	Aye
Dixon	Aye
Rickert	Aye
Farber	Aye
Miles	Aye
Gillless	Aye

The Motion passed unanimously.

SPECIAL BOARD HEARINGS/REPORTS

HEARING: Amend Title 14 § 919.9, § 939.9 – Northern Spotted Owl [Coast, Northern Forest Districts] and § 919.9(g), § 939.9(g) – Northern Spotted Owl [Coast, Northern Forest Districts]. The proposed amendments are in response to a petition for rulemaking brought before the Board by the Environmental Protection Information Center (EPIC) pursuant to Government Code Section 11340.6.

Rob DiPerna gave a PowerPoint presentation.

Public Comment

Eric Carlson

Margo Parks, believes that option G provides flexibility to landowners, especially small landowners and provides certainties that there are flexibilities designed into option G which allow for project by project increase in protection measures. Option G gives landowners the ability to protect habitat while conducting timber harvests. They encourage the Board to reject the proposed rule and maintain the flexibilities that are currently available.

Noelle Cremers, shared the concerns of the groups on the impact of removing Option G. The rule provides regulatory certainty, having the standards in the regulation and Forest Practice Rules are helpful. She wanted to follow up on a point that Duane Shintaku made regarding the one year survey protocol on NTMP's, that it is a very important issue to their members, and suggests it would be a very important discussion for the Board. They urge the Board to keep Option G.

Luke Breit, Forests Forever, also representing Defenders of Wildlife, they strongly support the deletion of Option G, They ask that it be done quickly.

Katherine Gerwig, gave a brief history of her work experience with timber companies. She shared; to stop the protection that's given in Option G is a crime. We need to protect that little bird. Look at the original protection of the owl and let's not cut out anymore.

Jason Poborko, Forester, Sierra Pacific Industries spoke briefly on that it is important that Option G remain in the rules so they can continue to survey those grounds and have definitions to work from to develop a CEQA baseline argument to demonstrate how they will take the birds on an individual bases. The usage of the minimums of Option G are essentially antiquated in the sense of the U.S Fish and Wildlife Service concerns as expressed in their scientific document about the use of the minimums of Option G, not the use of G but the use of the minimums as a safeguard threshold. Removing Option G, in his opinion, removes options for landowners and options for small landowners.

Kevin Roberts, Senior Wildlife Biologist, Sierra Pacific Industries, gave an update on the NSO monitoring that was done regarding Option G and if it impacted NSO.

Ed Murphy, in 23 years they've never had Take enforced or otherwise, by the responsible agency. He believes the Board should reject the proposed rule change and before the Board goes into any further action, have the subcommittee hold a hearing where scientific evidence is brought to the Board to demonstrate a problem before fixing a rule system that has worked for 23 years. Ed Struffenegger, referenced and made a few points on a letter that was submitted to the Board. Supports keeping Option G.

Kevin Conway, California Licensed Foresters Association, send it to committee and fully explore the existence of what the problem is, identify the extent of the problem and develop some clear linkage between the perceived problem and the Forest Practice Rule. Apply the rule and set a site specific criteria implementing it. He urged the Board to send it back to committee to explore the issue, he would like to see the Board solicit the best available science, from a diverse group of stakeholders and responsible investigating agencies.

Richard Gienger, the USFWS said they could no longer afford to do consultations in 2008 and it would take \$250,000 per year to do consultations. Instead of paying the USFWS to use a system that had general acceptance by all parties, California choose instead to review the plans themselves.

Vern Goehring, California Native Plant Society, there to support the proposed regulatory action.

Pete Ribar, Hawthorne Timber Company, take a look at the population information look on the regulatory structure to protect NSO is extremely successful. Option G provides a way to do site specific protection the others do not the same level as Option G. It's important that RPF's and plan submitters that there is a range of options, Option G is an option. He strongly suggested that the regulation be rejected and Option G be retained, it's important to have the flexibility.

Karen Wilson, SFTURE, she has enjoyed the beautiful California forests and any reduction in clear cuts would be a benefit. She supports EPIC's proposal.

Paul Violett, Chief Forester, Soper Wheeler Co., urged the Board to reject the proposal to eliminate Option G. Option G is a valuable tool for smaller landowners in that it allows for an expert to custom design NSO survey and protection standards according to existing knowledge and conditions. Option G is the only alternative by which a small private landowner can exercise their right under CEQA to have a significance of the project analyzed in accordance with the best available information with on the ground conditions.

Gary Ryneanson urged the Board to retain Option G.

07-13-08 Member Britting moved to adopt the noticed rule language with minor revisions. Member Saito seconded the motion.

Duane Shintaku, Assistant Deputy Director, Forest Practice commented

Chairman Gillless called for a Roll Call vote.

Saito	Aye
Britting	Aye
Andre	No
Wade	No
Dixon	No
Miles	No
Farber	No
Rickert	No
Gillless	No

The motion failed 7-2.

07-13-09 Member Britting moved to add item 6 to section G: “the RPF and the Director shall consider current guidance provided by trustee wildlife agency(s) pertaining to appropriate take avoidance” and to notice for a 15 or 45 day notice depending on determination by Office of Administrative Law on the appropriateness of a 15 day notice. Member Saito seconded the motion.

Continued Public Comment

Ed Murphy suggested that it be taken under advisement, to review it at the committee level and come up with a 45 day notice. He asked what the hurry was, and stated the wording should be right.

Rob DiPerna, shared his concerns that it needs to be resolved soon to avoid years of being in committee without results.

Ed Struffenegger, thanked Board members for not eliminating option G. He suggested that the issues need to be vetted and researched by appropriate agencies, and a workshop given. He shared his concern that if this issue were brought before the Board at the August Board meeting in Ventura, interested parties may not be able to attend.

Karen Wilson mentioned that she wanted to reiterate what Mr. DiPerna stated and would like to see the rule be approved as is.

Jason Poburko urged the Board to travel slowly and cautiously.

Richard Gienger stated that the Board should support funding to pay for the federal personnel who would review the plans.

Gary Rynearson suggested that the Board may want to consider is hold the hearing open and move it to the next meeting and put out a 15 day notice at that time. It would give the Board time to consider the language and vet it outside of the hearing process and bring it back in the continuation of the hearing. Another thing the Board may want to include is that the Board is a responsible agency not just a trustee. Whatever decision and action is taken that language is not created that appears to require landowners to consult with the Fish and Wildlife Service.

Pete Ribar endorsed Gary Rynearson’s idea of keeping the hearing open. That would give the Board’s legal counsel time to make sure that the 15 day notice is the appropriate way. He urged the Board to keep the wording close to what it is now, so that there are no additional requirements.

- 07-13-10 Member Andre moved to close public comment. Member Dixon seconded the motion. Motion takes precedence over pending motion (07-13-09). The motion passed unanimously.
- 07-13-11 Member Andre moved to continue the hearing to the August Board meeting. Member Dixon seconded the motion. Motion takes precedence over pending motion (07-13-09).

Chairman Gilless called for a Roll Call vote.

Saito	No
Britting	No
Andre	Aye
Wade	No
Dixon	Aye
Miles	No
Farber	Aye
Rickert	Aye
Gilless	No

The motion failed 5-4.

RETURN TO PENDING MOTION

- 07-13-09 Member Britting moved to add item 6 to section G: “the RPF and the Director shall consider current guidance provided by trustee wildlife agency(s) pertaining to appropriate take avoidance” and to notice for a 15 or 45 day notice depending on determination by Office of Administrative Law on the appropriateness of a 15 day notice. Member Saito seconded the motion. Member Saito seconded the motion.

Chairman Gilless called for a Roll Call vote.

Saito	Aye
Britting	Aye
Andre	No
Wade	No
Dixon	No
Miles	No
Farber	No
Rickert	No
Gilless	No

The motion failed 7-2

CONCLUSION Public Forum

Richard Gienger, 16th Annual Coho Confab, August 9-11, 2013, Mattole River, Petrolia, CA

New and Unfinished business

None

Adjourn

Respectfully submitted,



George D. Gentry
Executive Officer

ATTEST:



Keith Gilles
Chairman

Copies of the attendance sheets can be obtained from the Board Office.