DRAFT BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Teleconference

September 23rd, 2020

# **BOARD OF FORESTRY AND FIRE PROTECTION MEMBERS**:

## **Present**:

* Keith Gilless, Chair
* Rich Wade
* Marc Los Huertos
* Darcy Wheeles
* Chris Chase
* Susan Husari
* Mike Jani

## Not Present:

* Katie Delbar

# **BOARD STAFF PRESENT:**

* Matt Dias, Executive Officer
* Eric Hedge, Regulations Program Manager
* Dan Stapleton, Licensing Officer
* Jeff Slaton, Board Counsel
* Edith Hannigan, Land Use Planning Program Manager
* Katie Harrell, Joint Institute for Wood Products Innovation
* Brandi Goss, Environmental Scientist
* Clair McCoy, Environmental Planner
* Laura Alarcon-Stalians, Staff Services Manager I
* Andrew Lawhorn, Forestry Assistant II

# **DEPARTMENTAL STAFF PRESENT**:

* Thom Porter, Director
* Craig Tolmie, Chief Deputy Director
* Dennis Hall, Assistant Deputy Director, Forest Practice
* Eric Huff, Staff Chief, Forest Practice Program
* Bill Solinsky, Forester III, THP Administration
* Steven Hawks, Staff Chief
* Matthew Reischman, Assistant Deputy Director, Resource Protection and Improvement

# **Announcement of Action(s) Taken in Executive Session**:

Jeff Slaton, Board Counsel, reported that the Board discussed the items on the agenda during Executive session. No reportable actions were taken.

# Consent Calendar Items

1. Approval of the July Board Meeting Minutes (with minor edits if requested by members of the Board);
2. Review of Rulemaking Matrix
3. Board acceptance of RPF and CRM License Withdrawals
4. Review of the Legislative Report

**09-20-01** **Chair Gilless moved to approve the items on the Consent Calendar. Member Chase seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani aye**

**Delbar absent**

**Wheeles aye**

**Los Huertos aye**

**Chase aye**

**Gilless aye**

**The motion carried with one absence.**

# MONTHLY BOARD REPORTS

## **Report of the Chairman, Dr. Keith Gilless:**

Chair Gilless thanked the firefighting and public safety communities for dealing heroically with the pandemic and the current fire conditions all at the same time. He also thanked Governor Newsom for addressing the public safety aspects of the pandemic and the fire conditions as well as speaking plainly about the role of climate change in current conditions. He commented that our hearts go out to everyone who has experienced loss during these difficult times.

## Report of the Director, Chief Deputy Director Craig Tolmie and Thom Porter, Director, CAL FIRE:

### Fire Activity

* As of this morning, there are still 26 major wildfires or complexes within the state which are 100 acres or greater in size.
* There have been over 3.1 million acres burned across all ownerships since the siege began on August 15th with 26 fatalities. Three of the fatalities were first responders.
* Between California, Oregon, and Washington, over 7 million acres have burned to date this year, while 5 of the top 20 largest wildfires in California’s recorded history have occurred in 2020.
* 8,022 fire starts have been recorded between CAL FIRE and federal partner lands in 2020 for a total of 3,677,491 acres burned across all jurisdictions.
* During the recent Presidential visit, Chief Porter highlighted land ownership in California, which is mostly federal (57 percent) and private lands (40 percent), with only about 3 percent falling under State ownership. He also highlighted the shared stewardship agreement between the state of California and the USDA Forest Service which provides for cooperation between the State and the Forest Service including increased Good Neighbor Authority projects and research efforts on forest monitoring and climate change.

### Forest Health

* New solicitation for Forest Health and Fire Prevention Grants have not been released yet because the Department is awaiting official budget authorization for these programs. The Department is optimistic that it will receive budget authorization and is prepared to release the solicitations as soon as this occurs.

### COVID-19

* The Department experienced 5 days at the end of last week and beginning of this week with 0 active COVID-19 cases. There are now a couple of individual COVID-19 cases, but this has had limited impact on suppression resources.

***Report of the Executive Officer***

* Mr. Dias commended the Department on improved information flow as it relates to this year’s fire season. He commented that the executive team and the communications team have responded admirably during unprecedented conditions.

1. Staffing Update

Mr. Dias shared that Sara Walters is officially hired and will be assisting Laura Alarcon-Stalians with contracting and budgeting and Andrew Lawhorn has onboarded and will be assisting with Eric Hedge’s regulations program. Mr. Dias also shared that Brandi Goss will be leaving the Board to pursue a Master’s degree at UC Davis and thanked Brandi for all the she has contributed to the Board over the last two years.

1. Update on the development of the draft Research Plan (PRC § 4789.6)

Mr. Dias reported on the development of the Draft Research Plan including the outline, priorities, and references enclosed in the Board’s meeting materials. He commented that Dave Sapsis, Nadia Tase, Pete Cafferata, Tadashi Moody, Helge Eng, and Chris Keithly among others have been working cooperatively to prepare this draft outline. The priorities matrix has information related to research topic areas and sub-topics that have been ranked by staff in terms of appropriateness for inclusion in the Research Plan. Comments on the methods of prioritization of research topics were offered and Mr. Dias indicated that subject matter prioritization would be revisited and new efforts for broader stakeholder participation in prioritization of research topics would be pursued.

## Report of the Regulations Program Manager, Eric Hedge:

1. Board consideration of the approval of the Final Statement of Reasons and adoption of the regulatory text for the rulemaking action entitled “Tethered Operation Amendments, 2020”

**Public Comment:**

Jonathan Meurer, Central Valley Regional Water Quality Control Board: The issues at hand that were brought up at the last meeting have not been addressed. They have not been able to review the many types of equipment that are allowable under the regulatory amendments and further investigation should be sought.

Bill Short, California Geological Survey (CGS): CGS key concerns revolve around the lack of ability to see how this proposed logging method performs over time. Since the logging method is currently allowed under the exception, proceeding with formal rules may not be necessary. In the inland regions of the state, there is not a 3-year monitoring period for evaluating erosion control methods and now that these operations are being proposed on steep slopes they are concerned about the lack of ability to perform monitoring or enforce erosion controls if the operations end up having impacts after one or two winter periods. Additionally, mapping standards were also stated as a concern.

Andrea Eggleton, California Licensed Foresters Association (CLFA): CLFA has submitted a detailed letter to the Board on the matter, but was not able to submit it before the deadline for publication within the Board binders. CLFA feels that many of the concerns raised do not acknowledge the context of the proposed regulation within existing Forest Practice Rules which further moderate impacts and disclosures. CLFA wants to remind the Board to consider the existing rules that protect water quality and soil resources which are still applicable to tethered logging operations.

Eric Huff, CAL FIRE: CAL FIRE is in support of the passage of the amendments and appreciates the incorporation of the Department’s comments.

Richard Geinger, Forests Forever: Is concerned about safety protocols for the use of this equipment. It is important to make sure that there is a safety protocol to prevent hazards when using this equipment.

Gary Rynearson, Green Diamond Resource Company: Green Diamond is in support of the rule package. They have used this equipment and have found that disturbance is consistent with what you would find with cable logging. The fires have prevented Green Diamond from getting additional regulatory staff out to see these operations on the landscape.

**09-20-02** **Member Wade moved to approve the Final Statement of Reasons for the rulemaking as amended entitled “Tethered Operation Amendments, 2020” with the minor modification discussed on page 12 of the Final Statement of Reasons to clarify the use of this equipment in Emergency operations. Member Jani seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani aye**

**Delbar absent**

**Wheeles aye**

**Los Huertos absent**

**Chase aye**

**Gilless aye**

**The motion carried with two absences.**

**09-20-03** **Member Wade moved to adopt the draft regulatory text for the rulemaking entitled “Tethered Operation Amendments, 2020”, and authorize staff to take all actions reasonably necessary to have the adopted regulations go into effect, including making appropriate non-substantive changes and any changes to facilitate OAL review and approval. Member Jani seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani aye**

**Delbar absent**

**Wheeles aye**

**Los Huertos absent**

**Chase aye**

**Gilless aye**

**The motion carried with two absences.**

## Report of Board’s Advisory Committees

1. Range Management Advisory Committee – Edith Hannigan, Land Use Planning Manager

Mrs. Hannigan reported that RMAC cancelled their planned September meeting and rescheduled it for October 1st. They will be discussing their upcoming workshops on mornings of the first three Thursdays in November regarding grazing for land management and fire prevention. They will discuss the impact of grazing on fuels and fire behavior during a wildfire, grazing characteristics for certain animals and what types of animals are best for accomplishing particular goals, as well as case studies from around the state.

1. Effectiveness Monitoring Committee – Brandi Goss, Environmental Scientist

The EMC postponed their September meeting due to the recent wildfires and is in the process of rescheduling for late October.

## Report of the Joint Committee Workshop

### Darcy Wheeles, Chair, Resource Protection Committee reported out on the following issues discussed at the Joint Committee:

1. SRA Fire Safe Regulations Certification
   1. Introduction of County of Sonoma Fire Safe Ordinance

The Committee received a plethora of public comment on this issue including from a variety of individuals and staff members from Sonoma County. The Board provided some changes to staff for the rule text as well as some direction on how to proceed in answering some Board questions on the matter for the next meeting.

1. Update on potential regulatory amendments to the Defensible Space Regulations - 14 CCR § 1299 and/or Defensible Space Guidelines

Mrs. Hannigan provided updates on the progress of this rule development. No additional action was taken by the Board on this matter.

1. Safety Element Review
   1. City of Murrieta Response

### Forest Practice Committee-Rich Wade, Chair Forest Practice Committee, reported out on the following issues discussed at the Joint Committee:

1. Discussion of development of a Problem Statement(s) regarding Botanical Resources and the Timber Harvest Process

Discussion of this item was postponed until the November Joint Committee meeting.

### Management Committee-Chris Chase, Chair, Management Committee, reported out on the following issues discussed at the Joint Committee:

1. Staff Update on potential amendments to Conversions Exemptions - 14 CCR § 1104.1

The Committee discussed a significant restructuring of the Right of Way Exemption portion of the rule plead, specifically separating the less than three acre conversion portion from the utility and public agency right of way exemption portion. They also discussed the definition of Danger Trees and the use of arborists to identify Danger Trees. Also discussed was the public safety exemption to operations within the WLPZ contained within the right of way exemption. There was significant public comment, but none from the public utilities and the Committee looks forward to engaging more with the utilities on this issue in the future. The goal is for this package to take effect in January, 2022, allowing for a thorough review of this topic. The Committee is hoping to schedule a workshop on this topic prior to the November Board meeting.

# Special Board Hearing and Reports

* **Presentation: Update on AB 1492 Forest Ecosystem Monitoring and Assessment Initiative and related AB 2551 Spatial Analysis and Priority Planning:** Loretta Moreno, Sr. Environmental Scientist, California Natural Resources Agency; Keali’i Bright, Assistant Director, Division of Land Resource Protection, Department of Conservation
* **Presentation: Update on Forest Ecosystem and Harvested Wood Products Carbon Accounting:** Nadia Tase, Senior Environmental Scientist, CAL FIRE FRAP

# CONCLUSION

## Public Forum

Craig Harrison: Commented that there are some data issues and gaps for the regular rulemaking for Sonoma County. When considering road width, the 20 feet wide road is problematic in some areas, but the Board could consider relaxing road standards in the regular rulemaking if there are appropriate safeguards. The Board should look at a study on what is the minimum road width for concurrent vehicle passage based on the likely traffic that will pass each other on these roads. He suggests that maybe 16 or 17 feet is acceptable and that 20 feet may not be necessary. He also suggests looking at road widths in the various counties which are asking for relief in this regard – how many can meet a 20, 19, 18, 17, 16 foot standard? More fact-based rulemaking is necessary for this issue. Additionally, an explanation of regulatory taking law at the state and federal levels would be useful for the public.

## Adjournment

Respectfully submitted,

ATTEST:

Signature of Matt Dias, Executive Officer

Matthew Dias, Executive Officer

Keith Gilless, Board Chair