BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento, CA

June 8, 2022

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

**Present:**

* Keith Gilless, Chair
* Rich Wade
* Chris Chase
* Elizabeth Forsburg Pardi
* J. Lopez

**BOARD MEMBERS ABSENT:**

* Katie Delbar
* Mike Jani

**BOARD STAFF PRESENT:**

* Edith Hannigan, Executive Officer
* Eric Hedge, Regulations Program Manager
* Dan Stapleton, Licensing Officer
* Jeff Slaton, Senior Board Counsel
* Andrew Lawhorn, Forestry Assistant II
* Jane Van Susteren, Environmental Scientist
* Laura Alarcon-Stalians, Administrative Manager
* Robert Roth, Board Counsel
* Claire McCoy, Wildfire Planning Specialist
* Anna Castro, Executive Assistant

**DEPARTMENTAL STAFF PRESENT:**

* Joe Tyler, Director, CAL FIRE
* Christine McMorrow, Resource Management Information Officer, CAL FIRE
* Nadia Tase, Senior Environmental Scientist, CAL FIRE

**AGENCY STAFF PRESENT:**

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

Jeff Slaton, Senior Board Counsel, reported that no reportable actions taken during the Executive Session.

# Consent Calendar Items

1. Approval of the April 6, 2022, and May 5, 2022, meeting minutes (with minor edits if requested by members of the Board).
2. Review Rulemaking Matrix.
3. Vital Statistics Report – Approval of Withdrawal Requests
4. Joint Institute for Wood Products Innovation Advisory Council
5. Appointment of Michael Maguire, Governor’s office of Planning and Research (OPR), to replace and finish 3-year term (ending March 31, 2024) of Nuin Tara Key, OPR

**06-08-01 Chairman Gilless moves to accept the four items on the consent calendar. Member Lopez seconds the motion.**

**Roll Call:**

**Delbar: Absent**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Absent**

**Gilless: Aye**

**Motion passes with two members absent.**

# MONTHLY BOARD REPORTS

## Report of the Chairman, Dr. Keith Gilless

* Chairman Gilless welcomed Joe Tyler, new Director of CAL FIRE.

## Report of the Director, Joe Tyler

* Director gave a summary of his background. He has 31 years of experience in CAL FIRE.
* Introduced to the Board Chris Anthony as the new Chief Deputy Director.
* New additions to the executive team:
* Daniel Berlant promoted to a new program established as the Community Wildfire Preparedness and Mitigation division under the office of State Fire Marshall.
* Curtis Brown promoted to Southern Assistant Regent Chief.
* Nick Shuler has been continuing to do great work in our communications program.
* Administration has elected to add a second deputy director to the communication program as a strategic adviser to education and outreach. Tony Anderson comes from the state of Oregon where he worked for the Oregon Department of Forestry until 2016. From 2016-2019 he worked for the Portland Water Bureau. In 2020 due to the devastating destructive fires in the state of Oregon became a special advisor to Governor Kate Brown in the strategics communications department.
* There are two critical positions left on the executive team that director is trying to fill.
  + Deputy Director of Legislation currently going through the administration for approval and as soon as Governor Newsom announces who that is Director will happily announce it to Chairman Gilless and the Board in the next few weeks.
  + Chief Counsel Bruce Crane has announced his retirement as of August 1, 2022. The administration is currently working through a process to appoint a new Chief Counsel to CAL FIRE as well in the next two weeks.
* CAL FIRE from a fire protection standpoint is fully hired for the 2022 fire year. We are still going through some training, but we are fully staffed and ready to go.
* We have opportunities for early augmentation to bring the personnel on board. As early as April 20th was the date in which we made that announcement to try to bring everybody onboard and bring everyone up to speed three weeks early.
* We expect 2022 to be as bad as 2020 and 2021. 2022 year so far is not quite as bad as 2021 was more fires and more acres in 2021 than year to date. The five-year average per acreage has decreased. I foresee the five-year average to go above what the 2022 fire year is right now. We are planning and preparing with our partners for that event to occur.
* Questions regarding CAL FIRE’S relationship with Federal agencies. It is very important to Chris and I in our new positions to build that relationship with Regional Forester Jennifer Eberlien and other federal partners to ensure that we are moving forward in the 2022 fire year with a shared vision and understanding we have differences in our missions. We meet with our federal partners weekly, biweekly, and monthly. On May 9th and 10th we have placed the state and the federal incident commanders of the 6 CAL FIRE incident management teams and the 10 federal teams in the same room at the same time for two days. They are currently finishing a document for us to review so that we as agency administrators can figure out those areas in which we can help them overcome their differences.

**Helicopter Program**

* + Dispute between CAL FIRE and the vendor has been resolved. Nine of the twelve Blackhawk helicopters are within the state of California. Seven of the nine that are here are currently flying. Of those seven that are currently flying we expect to have two of those functioning as night flying helicopters.
  + C-130 program: we are at the mercy of the National Defense Authorization Act and working closely with our federal partners, the United States Air Force, and the United States Coast Guard.
  + Will not see an additional C-130 actively working again until 2024 fire year.
  + Three large air tankers have been added to our already 23 fix tanker fleet. An additional 8 type 1 heavy helicopters and 2 additional type 2 helicopters to our fleet. This brings the total fleet for firefighting within CAL FIRE to 20 helicopters.
  + Tactical Air Ops and Aviation Continue to make sure pilots, crew, fire captains, engineers, and firefighters are training in flying at night.
  + CAL FIRE is ready to go in 2022.

**Camps and Crews:**

* + Preparing for fire suppression and fuel reduction.
  + 76 of 226 crews are currently available.
  + CDCR has 46 of 152 crews that are available.
  + Thank you to the administration for adding the 16 paid firefighter crews last year and this year to make up the difference from lost crews.
  + Close relationship with our California Military Department and California Conservation Corps using the broad spectrum of personnel and equipment that are available to try to augment our hand crew availability due to fuel reduction, prevention work and fire suppression but are still part of the 76 of 226 crews that are currently available**.**

**COVID Mitigation:**

* + We continue to adapt and overcome to the most recent COVID Mitigation as we go into the 2022 fire year and have incident basecamps set up.
  + Department is transitioning currently to ensure that we continue to test individuals who voluntarily want to be tested as well as those who have declined to state or have disclosed that they are unvaccinated to a non-monitoring testing system. Implementation will begin next week.

**Law Enforcement Program:**

* + Has collected over 31 million dollars this year.
  + 30 candidates available to go into a 2023 peace officer academy being held in Ione, CA.
  + Arrested 69 arsonists this year alone. Expect to exceed the 149 that was reached last year.

**Community Wildfire Preparedness and Mitigation**

Chief Daniel Berlant and Chief Richwine are part of the Community Wildfire Preparedness and Mitigation division. Berlant and Richwine have created the Wildfire and Mitigation Advisory Committee. The committee has developed a charter and have met two times and they are getting ready to meet a third time.

**Fuel Reduction**

* + The department received over 240 applications asking for 241.5 million dollars to be able to do prevention work and issued 120 million dollars.

**Fire Hazard Severity Zone maps**

* + Hearings in four pilot counties were set in Butte, Sonoma, Tuolumne, and Riverside. They continue to do a scientific peer review.

**Defensible Space**

* + Over 69,000 inspections.

**Office of Energy Infrastructure Safety**

* + Continue to work with the Office of Energy Infrastructure Safety reviewing wildland wildfire mitigation plans in our invested utilities and continue to participate in PSP exercises.

**Demonstration State Forests**

* + Appreciate the efforts of working through Demonstration State Forests, and their issues, especially Jackson. We continue to hold government to government consultations with the Coyote Valley Band of Pomo Indians. Until the department gets through this process they have withdrawn two of the Timber Harvest Plans on Jackson to find common ground on how to co-manage the forest for resources benefits.

**Tribal Partners**

* + It was important to us as we continue a path for engaging with the Coyote Valley Band of Pomo Indians to engage our other tribal partners in the north and working closely with the Karuk and the Yurok Tribes. Learning more about their prescribed fire and cultural burning techniques.

**Forest Resilience Block Grants**

* + 3 grants of 10 million dollars have been issued.

**Forest Health Grants**

* + 120 million dollars issued.

**Nursery**

* + 2022 seedling sowing has been completed. 220,000 trees to be distributed.

**Wood Products and Bioenergy Team**

* + There are 30 grants for 33 million dollars.
  + Public private partnerships are important for meeting fuel management goals.

## Executive Officer Report, Edith Hannigan

* **AB 32 Scoping Plan Update**
  + California Resources Board has released its latest AB 32 Scoping plan update.
* **Legislative Update**
  + Has been provided in your binders on relevant legislation to the Board that we are tracking and submitting analysis and working with on Board behalf.

## Report of the Regulations Coordinator, Jane Van Susteren, Environmental Scientist

* **Regulatory Matters**
  + Consideration of adoption of the rule text titled “ Meadows and Wet Areas and Cutover Land Amendments.”

**06-08-02 Member Chase moved to approve the Final Statement of Reasons for the Meadows and Wet Areas, and Cutover Land Amendments. Member Forsburg-Pardi seconded the motion.**

**Roll Call**

**Delbar: Absent**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Absent**

**Gilless: Aye**

**Motion passes with two Board members absent.**

**Comments:**

* David Fowler, North Coast Regional Water Quality Control Board - Disappointed that in general most of the Water Board’s comments were dismissed as being out of scope of the proposed action. In the FSOR it states that one of the goals of the action is to apply the proposed definitions consistently throughout the state. The Water Board’s concern about temporal consistency are relevant to be able to apply them consistently through the state and therefore are within the scope. The FSOR makes the statement that the definitions in the proposed action are intended to include areas that do not meet the Water Board’s definitions in the proposed action. It is a correct statement but however points out the problem with having a single definition to include two very different types of areas. Meadows and wet areas. Not all meadows are wet areas. They are two entirely separate things. Trying to put them into a single definition might not be appropriate. During the committee meetings it was discussed separating the two items out into two different definitions which was the Water Board’s preferred action but discussions said that it would take too much to find all instances of the term in the rules and making sure there weren’t unintended consequences to changing the terms. Hopefully that might be something that can be done in the future.
* Richard Gienger, Forests Forever, regarding the rule issue and what Dave Fowler had to say there’s a premature not doing things so they are consistent and melting in with the state and federal water law and regulation so it’s copasetic all around. The authority for CAL FIRE overrides so much. AB 1492 was to ensure that there was a partnership of CAL EPA and the Natural Resources Agency giving oversight to forestry in California, it’s not seeming to be working as envisioned. Chairman Gilless talking about the public’s inability and the complications of them being able to make adequate input and it has not seemed to have improved. Would like to register Forests Forever objection to this proposed program.
* Larry Hanson, Forest Unlimited, opposed to rule package and amendments. Support Dave Fowler’s comments. Also supports the Water Board’s taking the lead on these definitions.

**06-08-03 Member Chase moved to adopt the draft regulatory text for the rulemaking entitled “Meadows and Wet Areas, and Cutover Land Amendments”, 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 Forsburg-Pardi seconds the motion.**

**Roll Call**

**Delbar: Absent**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Absent**

**Gilless: Aye**

**Motion passes with two Board members absent.**

## Forest Practice Committee Report, Member Wade

* Northern Spotted Owl Take Avoidance Pathways
* Botanical Issues
* Site Preparation
* Northern Spotted Owl Resource Plan

**06-08-04 Member Wade moves to authorize Board staff to submit the rulemaking entitled “Spotted Owl Resources Plan Amendment, 2022” for noticing of the 45-day Comment Period and take all appropriate actions consistent with the Administrative Procedure Act for this purpose, including preparation and submission of the Notice of Proposed Action and Initial Statement of Reasons. Member Chase second the motions.**

**Roll Call**

**Delbar: Absent**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Absent**

**Gilless: Aye**

**Motion passes with two Board members absent.**

## Management Committee Report, Member Chris Chase

* Regulations to amend “Timberland Conversion” definition
* Review Basal Area Stocking Standards
* Jackson Advisory Group Tribal Relations Subgroup Management Plan Review, Member Elizabeth Forsburg-Pardi

**Comments**

* Richard Gienger, impressed with new Director’s grip on complexity of responsibilities. The Management Committee and Jackson the discussions about that are something he mention. This is a chance with Jackson to get a reset using using a state forest to reset how forest are managed and cared for with stewardship going forward. The co-management is a major aspect of doing that. There are integral with that in turns of climate, forest quality, and setting high standards for all the forest in California. The resource agency and CalEPA give oversight. It is important that the reset of the management plan both the shorter term reset that was talked about 2023 or that Senator McGuire referred to as an interim measure. Also addressing all the concerns on the tribal group will take more than 18 months. This is an opportunity that needs to be as broad as possible. Also, there were no Management committees’ items on Board’s website for public to view. There was a good letter written by Priscilla Hunter from the Coyote Valley Tribe about the Soda Gulch harvest plan and adequate protections for the cultural resources there. That was a specific example of what the co-management looks like not just the co-management in Jackson but much more broadly. There needs to be a blue-ribbon oversight. As per the Director it is available in the Wildfire Resilience and Forest Taskforce meeting in Santa Rosa. The panel headed by Nick Goulette with Native people, with fire and restoration on the ground. That is something that Jackson needs to be at the forefront. There hasn’t been that kind of attention to watershed restoration and fisheries and other things that Jackson needs to be at the forefront. Things are not connected and finally there is some public attention being given to the kind of resets for forestry that need to happen.
* Larry Hanson, Forest Unlimited, in one of the areas of discussion was trying to redo the uneven aged logging methods in looking at the stocking standards and it appears that by using counting snags in the after operations that this would allow taking out more live trees than before. Also increasing the areas of group selections area from previous regulations. This would turn an uneven aged logging method closer to an even aged logging method. One of the reasons for pushing that way they said was it would be something for small landowners would be like to do because they would get more trees from it. Also, this would reduce wildfire threat however, independent studies that I have been paying attention to say that by opening up the forest more and more extensive longing will actually increase windblown high intensity wildfires. Many studies to support that. That would be unintended consequences if the Board would go that way. I would like for the Board to pay attention to those kinds of consequences coming from the management committee on that item. Forest Limited would not be supporting it at all. Leave the uneven aged logging alone in that category.
* John Andersen, Humboldt and Mendocino Redwood Company, last summer we had a temporary pause on one of the THP’s that’s still in place and this year’s sales have received a letter from CALFIRE stating cease and desist. With a temporary pause in which the first one lasting over a year now and looks like it will last for the entire portion of this harvest season. Would urge the department and any help the Board can provide in getting through these government-to-government negotiations. We are trying to get to 500,000 acres but THP’s are being withdrawn. Especially on well managed state-run land that’s doing great research that informs forestry throughout the state.

## Resource Protection Committee Report

* Chairman Gilless has appointed J. Lopez as the Chair of Resources Protection Committee
* Discussion on Defensible Space Zone 0 Regulations within 14 CCR § 1299.01 et seq
* Discussion of Fire Risk Reduction Communities List for publication pursuant to 14 CCR § 1268.00 et seq
* Land Use Planning Program Update – Matt Damon Deputy Chief, Land Use Planning
  + Subdivision Review Program Update – Assistant Chief Carmel Barnhart
    - City of El Cajon
    - City of Alpine
    - City of San Marcos
    - Lakeside
    - Comment letter from Tulare County
  + Safety Element Review
    - City of Canyon Lake
    - City of Jurupa Valley

**Comments**

* Paula Daneluk, Director of Development Services for Butte County. I want to thank the Board and staff for the Fire Safe Communities List that Butte County was one of three counties to receive that accreditation which sets the financial incentive for the next two years for the grant projects. Since our county has been dealing with fires for a while getting our information in and approved was something that we had been working on for years. In the stakeholder groups and the rollout of this program there where multiple conversation with the board staff about the difficulty of the criteria that was utilized in this first round that made it impossible for other communities to have a chance to apply. While the list is long for the other types of agencies, the Board should be informed as to why the cities and the counties list is so short. It was not because there was a lack of interest to be on the list but the criteria that was developed and the timeline from when it was rolled out did not allow public agencies to adjust anything in order to apply. For example, there was no time even if they wanted to run an ordinance through in order to have more restrictive regulations than what is in 4290, which was one of the criteria before the application deadline. Butte County we are very grateful to be on that list but wanted to make sure the Board was aware that it was not a lack of desire from other agencies to be on the list. Asking the Board and the staff to confirm what they told us in those meetings which is if a city or county that did not make the list applies for grant funding through this program four things that will assist them in getting on the list, will also during this first two year program receive that grant funding priority listing for those type of projects.

**06-08-05 Member Lopez moves to approve the Fire Risk Reduction Community List 2022 as presented.**

**Roll Call:**

**Delbar: Absent**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade Aye**

**Jani: Absent**

**Gilless: Aye**

**Motion passes with two Board members absent.**

## Effectiveness Monitoring Committee Report, Member Forsburg- Pardi

* EFC will have an open comment period for input on the critical monitoring questions
* They will be posted on the Board and EMC’s website. The critical monitoring questions will be reviewed and revised at upcoming summer meeting.
* The EMC will be solicitating for two members to fill open seats in the Forestry positions.
* The EMC will be having their next meeting over the summer. A date will be announced soon.

## Range Management Advisory Committee, Edith Hannigan, Executive Officer

* The Range Management Advisory Committee met on May 12th, and the agenda included speakers from the California Department of Food and Agriculture (CDFA), California Climate and AG Network (CALCAN), and the California Fire Science Consortium.
* The RMAC will establish its annual priorities at their upcoming July 21st meeting.
* The RMAC has previously requested input from the Board of Forestry and Fire Protection and advised agencies for the development and finalization of the annual priorities for 2022, as well as for longer term priorities over the next several years.
* The RMAC will move forward to develop its annual educational workshop series and will formally establish the topic at its July meeting. The formats and the dates of the series will be decided upon at that meeting. The series is likely to take place in the fall of 2022 or winter of early 2023.
* The State Lands Grazing License and Land Management subcommittee is meeting on June 15th and will present drafts of the Grazing License Template, Land Management Plan template, and guidance booklet template. They will present revised versions of those drafts at the RMAC’s July 21st meeting.

# PRESENTATIONS

## Forestry Challenge Presentation on solutions to California’s wildfire crisis, Diane Dealey Neill, Creator and Coordinator

## Comparison of the AB 1504 Forest Carbon and the CARB NWL Carbon inventory, Nadia Tase, Climate Change and Forest Inventory Specialist, CAL FIRE

# SPECIAL BOARD HEARINGS/REPORTS

## Public Hearing “Class II-Large Determination Amendments”, Eric Hedge, Board Staff

* On March 22, of this year the Board authorized public noticing of the rule making action titled “Class II-Large Determination Amendments”. Public hearing for this rule making action will be conducted following the introduction of this item.
* The purpose of the rule making action is the amendment of regulations to eliminate the regulatory method Class II-Large Determination in the Forest Practice Rules based on average active channel. Has been supported by the evaluation these regulations through studies supported by the Board and your Effectiveness Monitoring Committee. Furthermore, the proposed action will eliminate the regulatory sunset period from methods to determine class suit, water course type in-order to avoid future issues and regulatory clarity or consistency. Since the Board noticed this rule package on March 25 of this year, the Board has received one written comment from the department in support of the proposal.
* Request Board now open to Public Hearing

**Agency Comment**

* Drew Coe, CAL FIRE Water Protection Program Manager, the department is supportive of the passage of these rules. The rules are intended to maintain and restore and protect functions provided by Class II L watercourse. The EMC projects EMC 20 15 001 looked to explicitly evaluate the effectiveness of the rules and identifying these Class II watercourses to ensure that they are effective in identifying the class two watercourse that were most likely to transmit thermal packs down to downstream to watercourses. The amendments in this proposed rule package are consistent with the findings of the EMC study. It removes the channel criteria for identifying Class II L watercourses and maintains the drainage area criteria. EMC 20 15 001, the Class II L study found that the drainage area criteria a better predictor of both perineal and connected surface flow to downstream Class I watercourses. Modifications to these rules are in line with the findings of that study. The passage of this rule plead effectively closes the loop of adaptive management. Also want to remind the Board that we also have an upcoming in process study that is EMC 20 18 006 that takes Class II L matters further by looking to evaluate the effectiveness of the rules related to Class II L.

**Public Comment**

* George Gentry, California Forestry Association, in support of this rule package and support what it represents. Commends Mr. Coe, the department, and the Board for utilizing the EMC.

Chairman Gilless closed the public hearing anddirected staff to prepare a Final Statement of Reasons for the rulemaking entitled “Class II-Large Determination Amendments”

# CONCLUSION

## Public Forum

* George Gentry, California Forestry Association, a brief report directed to member Wade and the Board. After our conversations yesterday in FPC on botany, last night just happened to be in California Licensing Foresters Association Board of Directors meeting and at that capacity as Vice President I proposed a botany workshop and was accepted. November 18, is the tentative date in Redding and we already have a draft out.
* Richard Gienger, Forests Forever, concur with YG as an example of the good EMC can do, but rules changes are very complex, NCRWQB does public comment early in the meeting and he would recommend that the public forum policy move public comment to the beginning of the meeting. JDSF needs to be broadened and honor the intent of AB 1492 to give a broader oversight of forestry in California not specifically through the prism of CAL FIRE.
* Marco Mack, Santa Cruz County resident, president of Santa Cruz County Fire Safe Counsel-requesting that the Board of Forestry allow local agencies to enforce a minimum level of Defensible Space in Zone 0.
* Kevin Collins, Marin County resident, SB396 legislature seems to be under the impression that the environmental impact will be handled by CAL FIRE. As the Board knows you were working on a utility right away THP exception until it was suddenly dropped in 2001. So currently there is this legislation that is going to expand PG&E in regards to marching on to private property. Fill trees at will, at their discretion or anything they feel is a hazard. PG&E is using a standard they refer to as strike distance. CDF is going to be faced with this because CDF and the PC were involved in 2017 in the creation of the tier 2, tier 3 utility ignition hazard map.
* Larry Hanson, Forest Unlimited, took interest in Forestry Challenge, as a former teacher but did not appreciate the slant from the timber industry and those who want more logging. Consult more with sources before coming to conclusions. I have asked the Board to consider that clear cutting increases flammable vegetation as another factor for the increase in catastrophic wildfire instead of only considering fire suppression, fuel build up, and climate change. If this has been evaluated sufficiently please point me to the documentation that indicates that this was done. This is a very serious oversight with the critical implications.
* Nancy Macy, resident of Boulder Creek, Chair of Valley Women’s Club Environmental Committee and Chair of Utility Wildfire Prevention Taskforce, also wants to point out a problem with the new legislation SB396, relating to CAL FIRE. SB396 is including that PG&E will be required to adhere to Timber Harvest Regulations but it is not clear that any other agency will be involved in the enforcement of any other environmental regulations.
* Walter Smith, owns 10 acres with utility lines. PG&E is marking trees that are completely healthy and do not threaten the lines.

# Adjournment

Respectfully submitted,

ATTEST:



Edith Hannigan

Executive Officer

Keith Gilless

Chair