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BOARD OF FORESTRY AND FIRE PROTECTION

Sacramento, CA
August 23, 2017

BOARD OF FORESTRY MEMBERS PRESENT:

J. Keith Gilles, Chair
Mark Andre
Rich Wade
Mike Miles
Darcy Wheelles
Susan Husari
Katie Delbar
Chris Chase

BOARD OF FORESTRY MEMBERS ABSENT: Marc Los Huertos

BOARD STAFF:

Matthew Dias, Executive Officer
Dan Stapleton, Assistant Executive Officer, Foresters
Licensing
Thembi Borrás, Forester III
Eric Hedge, Regulations Coordinator
Edith Hannigan, Associate Government Program Analyst
Linda Cano, Executive Assistant
Laura Alarcon-Stalians, Associate Government Program
Analyst
Connor Pompa, Forestry Assistant II
Ali Karaouni, Board Counsel

DEPARTMENTAL STAFF:

Ken Pimlott, Director
Janet Barentson, Chief Deputy Director
Janet Upton, Deputy Director, Communications
Helge Eng, Deputy Director, Resource Management
Bill Solinsky, Forester III, THP Administration
Dennis Hall, Assistant Deputy Director, Forest Practice
Eric Huff, Staff Chief, Forest Practice Program
Daniel Berlant, Assistant Deputy Director, State Fire
Marshal
Heather Williams, Information Officer
Jamie Sammut, Staff Counsel

Chairman Gillless called Open Session to order and convened to Executive Session.

Reconvened Open Session.

Announcement of Actions Taken in Executive Session.

Executive Officer Dias reported that the Board took three separate actions in Executive Session, which included:

- The adoption of the Stipulated Surrender in Licensing Case 329 (Steven Daus),
- The adoption of the Proposed Decision for CP-16-04A (JH Mountain Resort Inc.), and
- The adoption of the Proposed Decision for CP-1604B (Berryhill).

Approval of July 2017 Meeting Minutes.

08-17-01 Member Andre moved to approve the July 2017 minutes with minor revisions offered by Member Husari. Member Wade seconded the motion.

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye
Wheeles	Abstain
Andre	Aye
Los Huertos	Absent
Chase	Abstain

The motion passed with two abstentions and one member absent.

MONTHLY BOARD REPORTS

Report of the Chairman J. Keith Gillless

Introduction of new Board member Chris Chase of Mt. Shasta, CA.

Report of the Director/Department. Ken Pimlott

Fire Stats:

- The state continues to experience increased fire activity in terms of both acres burned and total numbers of incidents. It was reported that the state has broken records in terms of daily fire activity. Over the week of July 4, 2017 there were over 600 fires recorded. Director Pimlott reported that there are currently over 300 fires occurring weekly.
- The Department has been successful in meeting their initial attack goals, even with this increase in activity. This is primarily due to augmented resources authorized by the Administration.
- Given the extreme fire activity in Oregon, the Department has deployed resources to Brookings area to assist in suppression activities.
- CAL FIRE continues to work closely with the State Office of Emergency Services on in-state emergency response. As a result, the Department has received five exclusive use helicopters through the end of October to assist in the required elevated response to in-state incidents.

Cap and Trade Grant Approvals:

- The Department has awarded 37 Urban and Community Forestry grants, totaling \$19.5 million over the last month.
- In the last week, 6 Forest Health grants, totaling \$21 million, were awarded for large landscape level projects.

Helicopter Procurement:

- DGS issued an Intent to Award notice to Air Methods United Rotorcraft for a Sikorsky model helicopter. The other bidder, Augusta Westland, has protested that award. An administrative law judge is reviewing the protest. The appeal process will be addressed over the next 60-90 days.

Tree Mortality Executive Order Update

- The Tree Mortality Task Force continues to meet monthly.
- The Department is awaiting an updated Executive Order to alleviate the Licensed Timber Operator requirements and tree service workers working within timberlands.
 - Where required, activities within forested landscapes will still require oversight by Registered Professional Foresters.

Prescribed Fire/Fuels Treatment/D-Space Inspection Goals

- New goals were issued for the current year via a memo to all Department staff. The current goals are consistent with the goals from last fiscal year. The Department met the fuels treatment targets for last year, while being just short of the prescribed fire and defensible space inspection goals.
- The Administration has provided 42 year-round engines to perform these activities during the winter months. This action was taken in recognition of the ever-lengthening fire season.

Netflix

- Netflix has been filming a docu-drama called "Fire Chasers" focusing on climate change and the effects on fuels and fire activity. The trailer has been released, with the premiere occurring on September 5. Netflix will post the 4-part series on its website on September 8.

Budget

- The Legislature will be discussing Cap and Trade funding proposals over the next 3-4 weeks after the recent suspension of the SRA Fire Prevention Fee. It is anticipated that decisions of funding via the cap and trade program will occur before the coming legislative recess.

Report of the Regulations Coordinator

- a) Reviewed Rulemaking Matrix

Report of Executive Officer.

Executive Officer Dias provided an update on the following subject matters:

- Provided an update on relevant legislation;
- Provided an update on Board staffing for an Environmental Scientist and Board Attorney IV;
- Provided an update on AB 1504 Technical Advisory Committee; and
- Edith Hannigan provided an update on revisions and process for the Vegetation Treatment Program Programmatic EIR.

Report of the Standing Committees.

Forest Practice Committee & Management Committee Joint Meeting

- Member Miles provided an update on Reporting to Legislature on Exemptions and Emergency Notices.
- Member Miles presented a DRAFT Letter to Counties Requesting County Board of Supervisors to Appoint an Authorized Designee to Review Less Than 3 Acre Conversion Exemptions.

08-17-02 Member Andre moved to authorize distribution of the letter to Counties Requesting County Board of Supervisors Appoint an Authorized Designee to Review Less Than 3 Acre Conversion Exemptions. Member Miles seconded the motion.

Agency Comment:

Dennis Hall, Forest Practice, Cal Fire, commented the Department is in favor of distributing the letter.

Elliott Chase, Department of Fish and Wildlife (DFW), DFW supports the Board's encouragement to counties to appoint authorized designees to ensure compliant land uses for properties proposed for Less Than 3 Acre Conversions. He referred to a DFW letter that was sent in November 2016 to the Board, regarding taking specific actions to address the effects of Less Than 3 Acre Conversions and affirmed DFW's continued concern over the issue of timberland conversion.

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye
Wheeles	Aye
Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with one member absent.

- Member Miles addressed the staff introduction of Stocking Standards Primer; and
- Member Andre mentioned that the committee discussed the opportunity of separating the joint committee back to individual committees. Board staff and committee chairs will continue the discussions over the next month to determine if the timing of separating the joint committee is appropriate for one of the coming meetings; and
- Member Andre, along with Executive Officer Dias, addressed the discussion on the introduction of the Petition submitted July 27, 2017 by Environmental Protection Information Center, Ebbetts Pass Forest Watch, and Klamath-Siskiyou Wildlands Center requesting rule revision to 14 CCR §§ 1052 "Emergency Notice", 1052.1 "Emergency Conditions", 1052.2 "Emergency Substantiated by RPF", and 895.1 "Definitions".

Public Comment:

Rob DiPerna, Environmental Protection Information Center (EPIC), commented that EPIC appreciated the Board's offer to resubmit the petition.

Dr. Robert Ewing, visiting scholar at UC Berkeley, gave a brief overview of the William Maine program and discussed their plans to focus on stocking standards within existing forest practice rules. He announced a meeting that was to be held on September 12. The program plans to provide a report to the Board on the issue of stocking by the end of the year or early next year.

Resource Protection Committee

- Member Husari introduced the Fire Safe Development Regulations Certification Requests for Shasta County.

08-17-03 Member Husari moved to certify Shasta County Fire Safe Development Regulations. Member Wheeles seconded the motion.

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye
Wheeles	Aye
Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with one member absent.

- Member Husari reported on the current Safety Element Assessments and that the discussion was well attended by CAL FIRE Land Use Planning Team. Sacramento County was the first county to utilize the newly developed planning matrix. The system worked well and assisted Sacramento County navigate the Boards process.
 - The City of Novato Safety Element was deferred to the September Meeting.
- There was discussion of the committee's agenda for the coming months, which will stay relatively light due to competing tasks for committee staff.

Report of Board's Advisory Committees.

Forest Pest Council - Katie Harrell

Effectiveness Monitoring Committee (EMC) – Connor Pompa

- Mr. Pompa provided an update on the EMC August 8th meeting:
 - Staffing issues, there are three EMC positions open. The Board has conducted outreach to various universities for potential candidates;
 - Provided an update on EMC projects;
 - Strategic Plan Review has been distributed and tasked to the EMC members. Edits are in process and will be presented to the Board in the coming months;
 - EMC meeting and field tour held at the Jackson State Demonstration Forest, September 21-22; and
 - Thanked Bill Condon for his service to the EMC and acknowledged Mr. Condon's retirement from state service and stated that DFW has nominated Mandy Culpepper to take Mr. Condon's seat on the EMC.

08-17-04 Member Gilless moved to appoint Mandy Culpepper, as a Department of Fish and Wildlife representative, to the Effectiveness Monitoring Committee. Member Wade seconded the motion.

Roll Call Vote:

Wade	Aye
Husari	Absent (Absent for this single vote)
Miles	Aye
Delbar	Aye
Wheeles	Aye

Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with two members absent.

Professional Foresters Examining Committee – Dan Stapleton

Assistant Executive Officer Stapleton introduced the Licensing Vital Statistics and recognized the passing of Ed Cranz, RPF 1805 and Ryan Wing.

08-17-05 Chairman Gilless moved to approve the three requested RPF license withdrawals. Member Andre seconded the motion.

RPF 30 – Edward Walker
RPF 2123 – Daniel Higgins
RPF 2395 – Fay Fee

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye
Wheeles	Aye
Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with one member absent.

Special Board Reports/Hearings.

Presentation of the Francis H. Raymond Award: Recipient: Dr. Richard Standiford and Sierra-Cascade Logging Conference, Inc.

Chair Gilless introduced Dr. Standiford and the Sierra Cascade Logging Conference, Inc.

Public Comment:

Eric Carlson, Associated California Loggers, congratulated the recipients on behalf of the Licensed Timber Operators community and shared a few stories of his history and experiences with them.

George Gentry, California Forestry Association, gave a brief history on Francis H. Raymond and commented that both Sierra Cascade Logging Conference Inc. and Dr. Richard Standiford were worthy recipients. Gave a special mention to Dr. Standiford for his various contributions and assistance to the Board.

Richard Gienger, Member of the public, expressed via mobile communication that he was pleased to hear and congratulated Dr. Standiford on receiving the Francis H. Raymond Award.

Gary Rynearson, Green Diamond Resource Company, commented that Sierra Cascade Logging Conference Inc. is a great organization and Dr. Standiford is a great individual, he thanked Dr. Standiford for his contributions to promote science within the coast redwood region and his long standing dedication the Redwood Symposium.

15 Day Hearing: “RPF and LTO Responsibilities Amendments, 2017” – The Board proposes to adopt the Final Statement of Reasons and amendments to 14 CCR §§ 1035.1 - 1035.3 to address issues where LTO’s are being issued violations for following incomplete and/or inaccurate field work that was required and/or performed by a RPF.

Agency Comment:

Dennis Hall, Forest Practice, CAL FIRE, commented that throughout the process communication between the RPF and LTO has been noted by the Department as the key to resolving issues in the field and should be resolved before operations begin. While researching another project he found a section in the Wild and River Scenic Act in which is stated that a timber operator, whether licensed or not, is responsible for the actions of his or her employees, and that the registered professional forester who prepares and signs a timber harvesting plan, a timber management plan, or a notice of timber operations is responsible for its contents, but is not responsible for the implementation or execution of the plan or notice unless employed for that purpose.

Public Comment:

Eric Carlson, Associated California Loggers, asked if any of the issues that were discussed would affect the p adoption of the regulatory proposal and expressed support for the Board staff recommendations to 14 CCR § 1035.3 and other language within the draft regulatory proposal.

George Gentry, California Forestry Association, commented that throughout the process communication between the RPF and LTO has been noted by the Department as the key to resolving issues in the field and should be resolved before operations begin. While researching another project he found a section in the Wild and Scenic Rivers Act which raises the points that CAL FIRE has made that it is difficult to separate the LTO from the actions in the field. He commented that the provision of PRC § 5093.68 that excludes "implementation or execution" of the Plan from RPF responsibilities may conflict with provision 1035.3(e) ("An LTO shall not be held responsible for Forest Practice Rule violations that result from work required of and/or performed by an RPF") as some work performed by an RPF may fall within "implementation or execution" of the Plan.

15 Day Hearing: “Working Forest Management Plan” – Pursuant to Gov. Code § 11349.4(a), the Board proposes to adopt the Supplemental Statement of Reasons and revised provision 14 CCR § 1094.16(d)(6), to achieve “clarity”, in response to the disapproval of this provision by of the Office of Administrative Law.

08-17-06 Chairman Gillless moved to approve the Final Statement of Reasons Supplement for the regulation entitled, “Working Forest Management Plan” concerning provision 1094.16(d)(6). Member Miles seconded the motion.

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye

Wheeles	Aye
Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with one member absent.

08-17-07 Chairman Gilless moved to adopt the 15-Day Noticed regulatory proposal for the regulation entitled, “Working Forest Management Plan” concerning provision 1094.16(d)(6). Member Delbar seconded the motion.

Roll Call Vote:

Wade	Aye
Husari	Aye
Miles	Aye
Delbar	Aye
Wheeles	Aye
Andre	Aye
Los Huertos	Absent
Chase	Aye
Gilless	Aye

The motion passed unanimously; with one member absent.

Initial Hearing: “Cumulative Impacts Assessment Checklist, Technical Rule Addendum No. 2 and Appendix Amendments, 2017” – The Board proposes to amend 14 CCR § 912.9, 932.9 and 952.9 to update the guidance and requirements for Registered Professional Foresters on providing a cumulative impacts assessment associated with Plan (as defined in 14 CCR § 895.1) preparation and review.

The Board reviewed the written and oral public comment and decided to remand the rulemaking proposal back to the joint Forest Practice/Management committee for further discussion. It was discussed that holding a workshop at the September Board of Forestry and Fire Protection meeting may be appropriate to work through additional rule text revisions based upon the public comment received.

Public Comment:

Rob DiPerna, Environmental Protection Information Center (EPIC), mentioned the written comment letter submitted by EPIC and co-signed by other organizations and is not in support of the shift in language within the Appendix to “guidance”. He stated that an assessment of cumulative impacts was necessary based on the EPIC vs. Johnson decision. He stated that CEQA and the Forest Practice Act are not information statutes. Finally, he stated that AB1504 requires that the Board evaluate existing regulations to ascertain if GHGs standards are being met, not provide a report.

Cedric Twight, Sierra Pacific Industries, acknowledged that a cumulative impacts assessment is required per EPIC vs. Johnson and that Technical Rule Addendum is intended to guide RPFs through the environmental analysis required under CEQA. He also communicated PRC § 21080.5, which states “provide guidelines” is a necessary standard of the certified regulatory program.

George “YG” Gentry, California Forestry Association, supports the language of the draft regulatory proposal addressing GHGs and Wildland Fire. The issue of using the language of

shall vs. may is challenging. The one standard that is for certain is that project proponents shall conform to the standards of CEQA during project preparation, as required by the lead agency.

CONCLUSION.

Public Forum

Paul Mason, Pacific Forest Trust, invited the members of the Board and Board staff to participate in an evening introduction of a Pacific Forest Trust project looking at the importance of, and offering recommendations to attain, resilience of forest conditions to support water production in the upper headwaters of the Sacramento and Feather River watersheds. The project is looking at the scale of restoration that is required to restore these watersheds to a stable source of domestic water.

ADJOURNMENT.

Respectfully submitted,

ATTEST:

A handwritten signature in blue ink, appearing to read "Matt Dias".

Matthew Dias
Executive Officer

A handwritten signature in blue ink, appearing to read "Keith Gilles".

Keith Gilles
Chair