

BOARD OF FORESTRY AND FIRE PROTECTION

THE NATURAL RESOURCES AGENCY
STATE OF CALIFORNIA

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June 9, 2021

Charlton H. Bonham, Director
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

Re: CNDDB Affordability and Access

Dear Director Bonham:

By letter dated November 22, 2019, the Department of Fish and Wildlife (CDFW) asked the Board of Forestry and Fire Protection (Board) to prioritize incorporation of specific botanical resources language into the Forest Practice Rules. CDFW's request generated considerable discussion spanning several Board meetings, ultimately culminating in a draft problem statement identifying key issues pertaining to the scoping and surveying of botanical resources for timber harvesting documents. A recurring issue of interest to both Board members and stakeholders is the need to improve the affordability of and access to the CDFW's California Natural Diversity Database (CNDDB) for individuals, particularly small private landowners, pursuing state agency approval for regulated forest management projects.

The California Wildfire and Forest Resilience Task Force recently released its Wildfire and Forest Resilience Action Plan (Plan), which further contemplates the benefits of improving CNDDB affordability for private landowners pursuing regulated forest management projects. The Plan calls upon state agencies, including the Board and CDFW, to increase the pace and scale of forest health projects. Key components of this goal include reducing regulatory burdens and streamlining permitting processes.

The Plan's anticipated success clearly emphasizes the need for forest management on privately owned lands, which "can only be achieved through significant contributions from small private landowners." In that regard, family-owned forest lands make up about 20 percent of California's forests, approximately 7 million acres. Nearly 90 percent of this acreage is comprised of parcels that are 50 acres or less in size.

As you know, the forest management projects contemplated by the Plan typically have environmental impacts that must be evaluated and mitigated, including potential adverse impacts on rare, threatened, or endangered species and related habitat. The CNDDB is a repository of rarity assessments, location mapping, and other important data for hundreds of such species and natural communities. For four decades, the CNDDB has been an invaluable

scoping tool for individuals engaged in regulated forest management activities. In fact, the CNDDDB has become so thoroughly intertwined with the environmental review process that access to it may be better described as a requirement for securing state agency approval of regulated forest management projects, not merely a supplemental informational tool.

However, the subscription fees that landowners must pay to access the data are substantial – currently set at \$600 for the first year and a renewal rate of \$400 per year. CDFW staff suggest that CNDDDB data may also be purchased for \$25 per 7 ½ minute USGS quadrangle (i.e., \$225 minimum for CDFW’s general 9-quad search standard for timber harvest documents). The high cost of and limited options for accessing scoping tools such as the CNDDDB is a significant barrier to pursuing regulated forest management activities, particularly for small landowners. These are the very types of regulatory barriers that the Plan tasks the Board and CDFW with eliminating to facilitate wildfire and forest resiliency.

The Board recognizes that CDFW has a statutory obligation under Fish and Game Code section 1932 to “[e]nsure cost sharing by all who use the [CNDDDB] data....” However, CDFW is by no means obligated to fund the CNDDDB exclusively through user fees, and alternative funding sources are available to offset fees charged to individual landowners. To the extent persons are expected to utilize the CNDDDB as a scoping tool in order to secure state agency approval of regulated forest management projects, the Board and CDFW are obligated as a matter of public policy to undertake reasonable efforts to improve the affordability of and access to the CNDDDB for those persons.

In this regard, regulated forest management projects subject to fees collected by CDFW and other state agencies enjoy a unique status as compared to other CNDDDB users, pursuant to AB 1492 (Ch. 289, Stats. 2012). AB 1492 replaced the existing piecemeal funding structure for forest practice project review with a lumber assessment imposed on end users. (PRC §4629 et seq.) Those funds are deposited into the Timber Regulation and Forest Restoration Fund and serve as the “single funding source” for activities and costs pertaining to project review and permitting of regulated forest management projects. Specifically, PRC §4629.6(c) dedicates those funds “[t]o support the activities and costs of the ... [state agencies] ... associated with the review of projects or permits necessary to conduct timber operations.” CNDDDB subscriber fees clearly meet these criteria when related to regulated forest management projects and, therefore, AB 1492 qualifies as a viable funding source for offsetting CNDDDB fees otherwise imposed on individuals pursuing these types of regulated forestry management projects.

Accordingly, as an alternative to collecting CNDDDB subscriber fees from private landowners pursuing regulated forest management projects, the Board wants to partner with CDFW to utilize to AB 1492 funding to offset CDFW’s CNDDDB operational costs attributable to those users. Clearly this issue resonates broadly with respect to scoping for both timber harvesting and the Board’s and CDFW’s joint obligations to reduce regulatory barriers for wildfire and forest resilience. In furtherance of this effort, the Board appreciates CDFW’s

Director Charlton Bonham
CNDDDB Affordability and Access
June 9, 2021
Page 3

assistance in providing relevant information about the CNDDDB, including, but not limited to, information addressing the questions posed on the attached enclosure.

Please contact the Board's Executive Officer, Matt Dias, at (916) 653-8007 or matt.dias@bof.ca.gov to confirm CDFW's commitment to cooperating with the Board on this important endeavor.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. Keith Gillless", with a large, stylized flourish at the end.

J. Keith Gillless, Chair
Board of Forestry and Fire Protection

INFORMATION REQUESTED BY BOARD REGARDING CNDDDB FUNDING AND ACCESS

1. What are CNDDDB's annual operating costs?
2. How much revenue has been generated by subscription fees for each of the last five years? How much of these fees are attributable to government users, as compared to private users?
3. What revenue sources (other than subscription fees), if any, currently fund CNDDDB, and in what amounts for each source, for each of the last five years?
4. Can CDFW quantify the amount of CNDDDB use that is attributable to persons, or more specifically small private landowners, pursuing state agency approval for regulated forest management projects (as opposed to academic or governmental uses or other industries, for example)?
5. If CDFW disputes that CNDDDB access by small private landowners or other persons pursuing state agency approval for regulated forest management projects is eligible for AB 1492 funding, per Public Resources Code section 4629.6, please provide CDFW's rationale for such CNDDDB access not being eligible for those funds.
6. AB 1492 prohibits state agencies from charging previously authorized or required fees associated with timber operations projects or permits. (PRC §4629.6(c).) Can CDFW clarify how CNDDDB fees for access by small private landowners or other persons pursuing state agency approval for regulated forest management projects differ from other fees that CDFW waives pursuant to AB 1492, such as fees for streambed alteration agreements?