

Utility Wildfire Prevention Task Force

California Board of Forestry
Management Committee Chair Chris Chase
715 P Street, 10th Floor
Sacramento, CA 95820

August 13, 2024

Transmission by email to: publiccomments@bof.ca.gov

Subject: Suggestions for CA Forest Practice Act and Rules as they apply to a Utility and Public Agency THP ROW Exemption Harvest Boundary

Greetings Chair Chase, Committee Members, and Executive Officer Edith Hannigan,

We appreciate the opportunity to make the following suggestions for marking of the Harvest Boundary in the case of a Utility and Public Agency THP ROW Exemption. We are well aware of the difficulty of this entire matter for the CA Board of Forestry.

Our organization is uniquely qualified because of our combined understanding of overhead utility circuit technology, the CA Public Utilities Commission, the CA Forest Practice Act and Rules, and the landscapes and environments of California.

Four of our members met with the former President of the CA Public Utilities Commission in 2019, in an unsuccessful attempt to persuade the Commission to update its regulations for the design and maintenance of utility circuits. In 2018 our member Kevin Collins filed a docketed adjudicatory Complaint against PG&E seeking as relief the updating of CPUC General Order 95. Unfortunately the Commission appears loath to face up to the obsolescence of its own regulations. We regard this as the primary reason that utility ignited wildfire remains an unresolved issue for California.

Obviously, a Utility THP Exemption presents an unusual permit for the Board of Forestry to craft. The harvest in this case is linear, rather than being based upon land parcels as it is in a regular CalFire managed Timber Harvest Permit. This presents unique difficulties when delineating a Harvest Boundary. Utilities have not been in the business of selling saw logs and the "Danger Trees" involved are scattered about randomly on a landscape and subject to huge differences of opinion as to the hazard they actually present.

Nevertheless, major adverse impacts have happened to many landowners and homeowners as well as to the environment of California due to over-zealous tree removals. We have spoken to and advised many property owners who have contacted us in frustration and distress because their property has been damaged needlessly.

To address the scale of this issue, we reference information from CalFire Director's Reports to the Board of Forestry from 2022 and 2024. In comparison to THPs and NTMPs, the utility

exemptions' acreage is 21 times larger in 2022. We suspect that the enormous decline in acreage totals for Utility THP (Rule 1104.1) between 2022 and 2024 may result from PG&E's assertion that they are not subject to the Forest Practice Rules, and resisted applying for the Utility ROW Exemption Permit. (Note that this was made apparent even earlier, when the Santa Cruz/San Mateo CalFire RPF Forest Practice Inspector sent more than 20 Notices of Violation to PG&E regarding their post-CZU Lightning Complex Fire tree clearing far outside their ROW. The County of Santa Cruz filed a formal Complaint with the CPUC regarding PG&E's destructive practices.)

The regulation of utilities has been chaotic. We do not regard this as an error of CalFire's making. It is far more likely the result of the resistance of electrical utilities to comply with the Forest Practice Act and Rules.

From the 2022 CalFire Director's Report:

Exemptions:

Rule: 1104.1(b)&(c) / Public / Private Utility Right-of-Way / Acreage total: 964,442
 THP Approved Acres: 44,091
 NTMP Approved Acres: 993

From the 2024 CalFire Director's Report:

Exemptions:

Rule: 1104.1(b)&(c) / Public / Private Utility Right-of-Way / Acreage total: 12,520
 THP Approved Acres: 36,091
 NTMP Approved Acres: 2,268

Note: We do not regard the Rule 1104.1 (utility) acreages as in any sense accurate. In fact these numbers are likely erroneous because of lack of compliance.

Recommendation for a Definition of "Logging Area" and "Boundaries of Logging Area" in the Plead for 1114.1 (a) and (b).

Due to the unique complexity of this matter, we suggest the marking of Danger Trees to be synonymous with the marking of the Harvest Boundary. The following are our suggestions for additions and changes to the code.

Marking of the Harvest Boundary for Utility and Public Agency ROW THP Exemptions including individual tree marking.

(a) Danger Trees as defined in the Plead that threaten to damage utility or road infrastructure shall be marked for removal.

(1) Trees that require removal or topping shall be marked with a white circumferential line and a large X, at breast height facing the ROW, and on the opposite side of the tree to be felled. This applies both within a ROW and at any distance from that ROW out to the

subject trees/Harvest Boundary. For utilities, an orange card stock tag shall be attached to the nearest numbered pole or steel lattice tower, stating the date of marking, tree species, tree condition indicating a Danger Tree, with the distance and direction along the ROW to the flagged path.

(A) Marking as a Harvest Boundary will apply to all trees marked for felling that stand outside (beyond) the margin or edge of any utility or public agency ROW. This Harvest Boundary marking shall be with orange spray paint on the outer margin of the road asphalt, or on the shoulder of the road driving surface (in the case of gravel or dirt roads). The surface distance in feet from the road margin to the Danger Tree to be felled shall be painted/marked at 90 degrees from the roadway edge, with the addition of the letters VM. All such letters and numbers will be large and legible (approximately 12 inches tall). A walking path to that Danger Tree will be visibly flagged.

(B) For overhead utility electrical circuit spans not following roadways, but instead transecting parcels across a landscape independent of roads, the Harvest Boundary as trees to be felled shall be marked in the center of the ROW, painted on the ground under overhead conductor wire/cable, and as in (A) with the distance to the subject tree and the letters VM, at 90° to the conductor span, and flagged visibly from there along a path to that Danger Tree.

(2) When trees are marked for felling associated with any Utility or Public Agency ROW THP Exemption, the owner of record of the assessor's parcel in question shall be sent a registered letter by US Post at least 3 months prior to the commencement of Utility or Public Agency tree felling operations, containing a brief description of the work planned, stating the date of marking, tree species, tree condition indicating a Danger Tree, acknowledgment of the right to notice and to be heard, and including the name, address and a working phone for the agency or utility intending to do the work of felling the specific Danger Trees marked. If the parcel contains a residence then a "door hanger" shall also be hung, containing the same above information.

(A) The above information shall be sent to agencies with mandated oversight, such as CDFW, RWQCB, Coastal Commission, CA Geological Survey, Urban Forest Managers.

Historical Context for Vegetation Management as a Solution to Utility Wildfire Ignitions

In December of 2017, the CPUC issued a Record of Decision in its Proceeding to map areas at high risk of utility ignited wildfire (later called HFTD or High Fire Threat District). The CPUC, and later the OEIS (CA Office of Energy Infrastructure Safety), began to supervise the writing of Wildfire Mitigation Plans (WMP). The first utility WMPs were approved in 2019. PG&E chose Vegetation Management as the primary solution to its own wildfire ignition problems. Soon afterward PG&E coined the terms "strike distance" and "over-strike" and substantially increased the number of trees felled outside the boundaries of their utility ROWs (right of way or easements). Notably, Southern CA Edison chose "covered conductor" (reinforced, insulated

conductor cables i.e. power lines) as its primary approach to wildfire ignition safety. Subsequently PG&E has shifted its WMPs to focus on the under-grounding of circuits, asserting that Vegetation Management was not effective enough. Nevertheless the felling of trees within "strike distance" of power lines continues as the major activity of numerous PG&E contactors. Additionally, PG&E has adopted a policy of tree removal as a substitute for tree trimming.

It is crucial to understand that no CPUC code standard for power line to vegetation clearance has changed during this entire time, since at least 2016. Instead a mere "Guideline" or "Recommendation" to increase power line clearance distance from 4 feet to 12 feet radial was added to CPUC General Order 95, Rule 35 in 2017.

Role of the CA Public Utilities Commission

At no time in the last 10 years has the CPUC made important safety updates to its own regulations for the construction, safety, and maintenance of overhead electrical power circuits. The standards of the CPUC remain decades out of date and fully obsolete, when compared to the safety progress made by electrical engineering equipment manufacturers. These are the companies that design and build the equipment used by electric utilities to construct their circuits. That equipment includes the cable, transformers, circuit safety relays, fuses, and so on.

Waste of Natural Resources

PG&E claims to have removed millions of trees from near its overhead circuits. PG&E has approximately 138,000 circuit miles of overhead wire across its 70,000 square mile service territory. We have no means to accurately quantify the scale this waste of natural resources, other than to read the reports from PG&E filed with the CPUC and OEIS. However from anecdotal reports to us from scores of landowners and colleagues, and from our own detailed personal observations, we have witnessed a huge loss of trees, including heritage specimens all across Northern California. This continues today as PG&E maintains that their vegetation management is not subject to the CA Forest Practices Act and Rules. In addition, no environmental impact assessment (per CEQA) nor assessment of the loss of GHG (greenhouse gas) sequestration has been conducted by any agency of the State of CA that addresses these questions.

Respectfully submitted,

Kevin Collins europa@cruzio.com, 831-234-7306
159 Rollingwood Dr., San Rafael, CA 94901

Robin McCollum robinmccollum@sbcglobal.net, 530-354-6337
1337 Bruce St., Chico, CA 95928

Nancy Macy nbbm@cruzio.com, 831-345-1555
15485 Bear Creek Rd., Boulder Creek, CA