DRAFT BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento, CA

November 6th, 2019

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

## **Present**:

* Keith Gilless, Chair
* Darcy Wheeles, Vice Chair
* Katie Delbar
* Chris Chase
* Rich Wade
* Susan Husari
* Mike Jani

## **Absent**

* Marc Los Huertos

# **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
* Brandi Goss, Environmental Scientist
* David Ludwig, Forestry Assistant II

# **DEPARTMENTAL STAFF PRESENT**:

* Thom Porter, Director
* Mike Mohler, Deputy Director of Communications
* Dennis Hall, Assistant Deputy Director
* Eric Huff, Staff Chief, Forest Practice Program
* Bill Solinsky, Forester III, THP Administration
* Daniel Berlant, Assistant Deputy Director
* Marcus Hernandez, Captain, Land Use Planning
* Tom Smith, Senior Plant Pathologist
* Tadashi Moody, Senior Environmental Scientist, FRAP
* Pete Cafferata, Forester III

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

1. Coast Action Group vs. California State Board of Forestry and Fire Protection (Case No. RG17860755)
2. Board Consideration of Administrative Law Judge Proposed Decision on Civil Penalty CP-17-25A (Robert Jones), OAH No. 2019061057
3. Licensing Case 335

The Board discussed items a) and c) on the agenda. For Licensing Case 335, the Board adopted a stipulated settlement agreement between the Board and the Licensee. No other reportable actions were taken.

# **Consent Calendar Items**:

1. Approval of August and September Board Meeting Minutes (with minor edits if requested by members of the Board);
2. Re-appointment of Member Susan Husari as Co-Chair of the Effectiveness Monitoring Committee,
3. Re-appointment of Matt O’Connor to the Effectiveness Monitoring Committee;
4. Appointment of Elliot Chasin, Department of Fish and Wildlife as an Agency Representative to the Effectiveness Monitoring Committee;
5. Appointment of Michael Ian Jones to the Jackson Advisory Council for a term of 4 years; and
6. Review of Rulemaking Matrix

11-06-01 -Chairman Gilless moved to approve the items on the Consent Calendar. Member Wheeles seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

# MONTHLY BOARD REPORTS

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

Chairman Gilless commented that we have just persevered through a difficult period of this fire season and that the outcomes reflected well on the fire and public safety organizations involved in combatting those wildfires. Statewide situation analysis at the end of this fire season may be useful for taking notes on successful techniques for implementation in future years. He is also seeing a positive evolution in emergency public communications. Evacuations were very successful which saved lives and assisted the fire service and public safety officials. Finally, he noted that cell phone networks can be particularly vulnerable in the age of public safety power shutdowns and that studying this phenomenon will be important moving forward for public safety. Comment were also offered on the public safety power shutdowns and how with regard affecting evacuation efforts or timing of evacuation orders.

## Report of the Director, Thom Porter, Director

Director Porter thanked Chairman Gilless for recognizing the hard work that is being done by federal, state, and local partners during the recent wildfires.

### Forest Practice

There has been an increase in THP, NTMP, and WFMP submissions this past year.

### Aircraft

The first S70i aircraft has been ground testing at McClellan and is now capable of water dropping. It will also be capable of crew support and hoist rescue, and will be functional for night missions next fire season. The next S70i should arrive in January with additional aircraft coming every two months after that.

### Fire Prevention

The CALFIRE prescribed fire guidebook is finished and available. The target for acres of prescribed fire was met last year and 5,000 acres have been completed to date since July 1, 2019. The Department is also expecting to meet the Defensible Space Inspections goal this year.

### Demonstration State Forests

A future goal of the Department is to think about how to better use the work being done on the Demonstration State Forests as an example for the public regarding how to manage lands and how that management affects water quality, air quality, fire activity, or other resource values.

### Crews

Inmate crews are down by 49 crews from full capacity, which is less than 30% of crew capacity and is impacting how long it takes to get fires under control due to limitations on line-cutting crews. The Department is looking at involving the California Conservation Corps’s in supporting this effort. They are also looking to the Ventura training program for inmates being released who were previously on inmate crews as an option for filling this gap. There were 66 participants who started this program, with about 1/3 remaining (2 fire crews). Finally, peak staffing has been extended for the entire state which will assist in fire protection as well as completion of fuel reduction projects.

### Fire Protection

The Department has been grappling with the public safety power shutdowns and how to deal with communications and still effectively protect communities. The Department will be helping the California Public Utilities Commission work with utilities on what public safety shutdowns will look like in the future. The communications section of CAL FIRE has been working hard with federal and local partners as well as the Governor’s office to ensure a consistent message is being communicated to the public. There were 0 fatalities in the Kincade fire despite the fire burning into Geyserville on the first night. The Sonoma/Napa/Lake umit did a great job with assisting in evacuations – evacuation zones were already in place and there was broad education of the public on which zone they were in and how to understand when to evacuate, including a high-low siren. Early evacuation saved lives and also resulted in a more coordinated effort by the fire fighters because their attention was fully focused on fighting fire.

### Previous Board Questions

Director Porter covered several questions from Board members at previous meetings including changes in the new FHSZ maps, and updates on the Governor’s 35 emergency projects.

## **Report of Executive Officer, Matt Dias:**

Mr. Dias and staff are working to get an Attorney III and an AGPA position filled and are also working on a broad restructuring of the Board’s program in terms of nesting of positions to assist in program management.

1. DRAFT Annual Report and Priorities Review

Mr. Ludwig will be preparing a draft annual report for consideration at the December meeting for potential approval at the January meeting.

1. Cal VTP Outreach

An administrative draft will be available for consideration by the Board soon. Mr. Dias stated that he, along with Ascent Environmental, provided a presentation before the Coastal commission about the CalVTP and will be working with the State Lands Commission doing similar work soon to aid in implementation.

1. Discussion and Board consideration of the Development of Non-Regulatory Action Supporting the Use of Feller-Bunchers within a Watercourse and Lake Protection Zone (WLPZ) under Specified Best Management Practices.

11-06-02 – Member Wade moved to approve the white paper titled “Partial Harvest in Watercourse and Lake Protection Zones Using Low Ground Pressure Equipment to Support Fire Resilient, Ecologically Diverse Stands and Associated Ecosystem Services” for distribution. Member Jani seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

## Report of the Regulations Coordinator, Eric Hedge:

1. Board consideration of authorization of a 15-day public notice of modifications to the regulatory text and additions to the rulemaking file for action entitled **“**Fire Safety Survey, 2019.”

11-06-03 – Vice Chair Wheeles moved to approve the Supplemental Statement of Reasons and modified rule text for the rulemaking entitled “Fire Safety Survey, 2019,” and authorize noticing for a 15-Day Comment period with an amendment to remove “(e.g., two paved roads)” on page two, line 23 of the rule text to improve clarity. Member Husari seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

1. Board consideration of authorization of a 15-day public notice of modifications to the regulatory text and additions to the rulemaking file for action entitled **“**Subdivision Map Findings, 2019.”

11-06-04 – Vice Chair Wheeles moved to approve the Supplemental Statement of Reasons and modified rule text for the rulemaking entitled “Subdivision Map Findings, 2019,” and authorize noticing for a 15-Day Comment period. Member Husari seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

1. Board consideration of authorization of a 15-day public notice of modifications to the regulatory text and additions to the rulemaking file for action entitled **“**Very High Fire Hazard Severity Zone Adoption, 2019.”

11-06-05 – Vice Chair Wheeles moved to approve the Supplemental Statement of Reasons and modified rule text for the rulemaking entitled “Very High Fire Hazard Severity Zone Adoption, 2019,” and authorize noticing for a 15-Day Comment period.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

1. Board consideration of authorization of a 15-day public notice of modifications to the regulatory text and additions to the rulemaking file for action entitled “Registered Professional Forester and Certified Specialty Amendments, 2019.”

Consideration of this item was postponed until the December meeting.

1. Board consideration of approval of the Initial Statement of Reasons and authorization for 45-day noticing of rule text for the proposed rulemaking action entitled “Southern Subdistrict and Marin Co. Point Count Amendments” (14 CCR §§ 913.8, 926.1, 926.8, 926.25, 927.9, 927.10 & 927.16).

11-06-06 – Member Chase moved to approve the Initial Statement of Reasons for the rulemaking entitled “Southern Subdistrict and Marin Co. Point Count Amendments,” and authorize noticing for the 45-Day Comment period. Member Wade seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles absent

Los Huertos absent

Chase aye

Gilless aye

The motion carried with two absences.

1. Board consideration of the approval of the Final Statement of Reasons and adoption of the regulatory text for the rulemaking action entitled “Categorical Exemption Amendments, 2019” (14 CCR § 1153).

11-06-07 – Member Chase moved to approve the Final Statement of Reasons for the “Categorical Exemption Amendments, 2019.” Member Jani seconded the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

11-06-08 – Member Chase moved to adopt the draft regulatory text for the rulemaking entitled “Categorical Exemption Amendments, 2019,” 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 the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

1. Board consideration of approval of the Initial Statement of Reasons and authorization for 45-day noticing of rule text for the proposed rulemaking action entitled “Appeal Amendments, 2020” (Amend 14 CCR §§ 1605(a), 1605(b), 1647 and Adopt 1605(e)).

11-06-08 – Member Chase moved to adopt the draft regulatory text for the rulemaking entitled “Categorical Exemption Amendments, 2019” with an amendment to the title of the rule text to reflect the year “2019” and to page one, line 19 of the rule text to read “provide to the applicant in writing the final decision and the reasons for the decision,” 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 the motion.

**Roll Call**:

Wade aye

Husari aye

Jani aye

Delbar aye

Wheeles aye

Los Huertos absent

Chase aye

Gilless aye

The motion carried with one absence.

## **Report of the Standing Committees:**

### Joint Committee – Keith Gilless, Board Chair

1. Update on Reporting to Legislature on Exemptions and Emergency Notices (PRC § 4589)
2. Safety Element Review
   1. City of Dunsmuir
   2. County of Nevada

The Safety Elements were excellent and no comments were provided by the Board.

1. Presentation: Tethered Logging Systems: Matthew Mattioda, Vice President CTL Systems, Miller Timber Services
2. Presentation: Tethered Logging in Partial Harvested Stands in California, Paul Chapman, Area Manager, Campbell Global
3. Discussion of existing Forest Practice Rules within 14 CCR §§ 914.2[934.2, 954.2], and 914.3[934.3, 954.3] pertaining to limitations on the use of ground-based equipment in cable and tractor yarding areas, and discussion of potential regulatory or non-regulatory actions.
   1. The Board had an extensive discussion on this issue and several comments were identified for exploration by staff including a more integrated structure for addressing equipment in the rules and more performance based prescriptions.
4. Discussion of Regulatory Amendments to 14 CCR § 1052.4 “Emergency Notice for Fuel Hazard Reduction” – Permanent Rulemaking
   1. The four items addressed in the staff memo were discussed and direction was provided to staff on all four issues.

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# Report of Board’s Advisory Committees:

1. Effectiveness Monitoring Committee – Sue Husari, Co-Chair

This agenda item was postponed until the December meeting.

# SPECIAL BOARD HEARING/REPORTS

## PRESENTATION: Francis H. Raymond Award- Recipient: Geri Bergen.

## PRESENTATION: Fire Plan Annual Update, Scott Witt, CALFIRE/OSFM Risk and Planning Manager

This presentation was postponed due to fire activity in the state.

## PRESENTATION: CAL FIRE Forest Health Research Program Overview and 2019-20 Request for Proposals, Tadashi Moody, CALFIRE/FRAP Environmental Scientist

# CONCLUSION

## Public Forum

## Adjournment

Respectfully submitted,

ATTEST:

Signature of Matt Dias, Executive Officer

Matthew Dias

Executive Officer

Keith Gilless

Chair