BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento, CA

December 8, 2021

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

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

## **Present**:

* Keith Gilless, Chair
* Rich Wade
* Susan Husari
* Mike Jani
* Katie Delbar
* Elizabeth Forsburg
* J. Lopez

## BOARD MEMBERS ABSENT:

* Chris Chase

# **BOARD STAFF PRESENT:**

* Edith Hannigan, Executive Officer
* Eric Hedge, Regulations Program Manager
* Dan Stapleton, Licensing Officer
* Jeff Slaton, Senior Board Counsel
* Deniele Cade, Staff Analyst, Licensing
* Andrew Lawhorn, Forestry Assistant II
* Jane Van Susteren, Environmental Scientist
* Kristina Wolf, Environmental Scientist
* Laura Alarcon Stalians, Administrative Manager
* Robert Roth, Board Counsel
* Claire McCoy, Wildfire Planning Specialist
* Sara Walter, Contracts Analyst
* Katie Harrell, Joint Institute for Wood Products Innovation

# **DEPARTMENTAL STAFF PRESENT**:

* Thom Porter, Director
* Daniel Berlant, Assistant Deputy Director, CAL FIRE

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

Jeff Slaton, Senior Board Counsel, reported that the Board discussed the two items on its agenda.

* California Chaparral Institute, *et al*., vs. California State Board of Forestry and Fire Protection (Case No. 37-2020-00005203)
* Shurtz vs. Board of Forestry and Fire Protection (Case No. 21CV0076)

No reportable actions were taken.

# Consent Calendar Items

* Approval of the November 3, 2021 meeting minutes (with minor edits if requested by members of the Board);
* Review of Rulemaking Matrix;
* Appointment of William Snyder, RPF No.1760, as Vice-Chair of the Professional Forester Examining Committee.
* Range Management Advisory Committee (RMAC) – re-appoint Lance Criley, USFS, for 4-yr term with the RMAC

Approval of Final Joint Institute for Wood Products Innovation Report:

* Cross-Laminated Timber Layup Tests Using Western Wood Products Association (WWPA) White fir Species Group, TallWood Design Institute
* Approval of Final Board of Forestry and Fire Protection Report:
* Barriers to Mass Timber and Other Innovative Wood Products in California, Sierra Institute for Community and Environment

**12-21-01**  **Chair Gilless moved to approve the items on the Consent Calendar. Member Lopez seconded.**

**Roll Call:**

**Jani aye**

**Delbar aye**

**Lopez aye**

**Forsburg aye**

**Wade aye**

**Husari aye**

**Gilless aye**

**The motion passed.**

# MONTHLY BOARD REPORTS

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

## Report of the Director, Director Thom Porter

* Highlighted the Department had supplied the Capitol Christmas tree to Washington, D.C.
* Provided an update on the Department’s Behavioral Health and Wellness Program.
  + Program had been fully staffed
  + New Tactical Fitness Program was to be rolled out through Training Program in the coming months
  + Continuation of work toward increased specificity of firefighter physical fitness standards while reducing costs of injury and illness
  + July-November 2021 total contacts made by Department staff reaching out to Behavioral Health and Wellness Program staff
    - July – 806
    - August – 749
    - September – 818
    - October – 697
    - November – 355
* Noted increased attention on forestry, active forest management and resource protection that was higher than at any other point in his career or in the last hundred years.
* Encouraged the Department, Natural Resources Agency, and Board to get ahead of potential legislation that would seek to erode these institutions.
* Emphasized the importance of the Board’s work and that the Department could do better in highlighting the work of the Board, particularly in the land use planning space and the Board’s engagement with local governments.
* Noted that this was his final Board meeting before retiring and expressed gratitude for his career with the Department and the Board. The search for the next Director was currently underway by the Governor’s office.

### Board Discussion

* Member Lopez expressed his appreciation for Director Porter’s leadership.

### Public Comment

* Richard Gienger thanked Director Porter for his service to the Department. Called for the Jackson State Demonstration Forest Management Plan to be revisited.
* Gary Rynearson congratulated Director Porter on his retirement and thanked him for his insights in a budget subcommittee meeting the previous day.

## Report of the Executive Officer, Edith Hannigan

* Hopeful for the return of in-person meetings at some point in 2022, with decisions made one month at a time.
* Anticipated in-person meetings and field tours in May, July and September.
* Terms ending for Member Husari and Member Wade in January 2022, with no appointments made yet for their successors.
* Staffing update
  + Working to fill Land Use Planning Program Manager position.
* Draft Annual Report available in meeting materials, final completion pending availability of year-end data and finalized committee priorities.
* Letters received during annual call for regulatory review included in meeting materials.

## Report of the Regulations Coordinator, Jane Van Susteren

* Introduced proposed emergency action to readopt the regulatory text “Emergency Notice Fuel Treatment & RPF Responsibilities (1st Readopt)”.
  + Rule text was approved in November for permanent readoption; proposed emergency readoption would avoid a break in compliance until the permanent rulemaking takes effect on January 1, 2022.

### 12-21-02 Chair Gilless moved to readopt the finding of emergency in the rulemaking titled “Emergency Notice Fuel Treatment & RPF Responsibilities” and authorize staff to take all actions reasonably necessary to have the adopted regulations take effect, including any non-substantive edits made under review by the Office of Administrative Law.

**Roll Call:**

**Jani aye**

**Delbar aye**

**Lopez aye**

**Forsburg aye**

**Wade aye**

**Husari aye**

**Gilless aye**

**The motion passed.**

## Report of the Standing Committees

### Forest Practice Committee, Rich Wade, Chair

* Update on Exemption and Emergency Notice Reporting pursuant to PRC 4589. Report by Eric Huff, Staff Chief, CAL FIRE.
* Discussion of Class II-L determination Regulations within 14 CCR §§ 916.9, 936.9, 956.9. Presentations from Eric Hedge, Regulations Program Manager, and Drew Coe, Watershed Protection Program Manager. The FPC was awaiting further input from the Department of Fish and Wildlife for further discussion at its next meeting.
* Discussion of draft 2022 committee priorities.

### Management Committee, Elizabeth Forsburg

* Discussion of timberland conversion and Board policy, with a presentation from Eric Hedge. The Committee planned to host a workshop in January to identify related problems and address challenges.
* Discussion of the terms “Cutover Land”, “Meadows and Wet Areas”, and “Wet Meadows and Other Wet Areas”.
* Update from Basal Area Stocking Standards and Uneven-Aged working group. Requested more time to bring their findings to the committee and will present in January 2022.
* Discussion of draft 2022 committee priorities.

**Public Comment**

**Matt Simmons, staff attorney, Environmental Protection and Information Center,** commented on the importance of updating the Jackson Demonstration State Forest (JDSF) Management Plan to account for climate change in addition to tribal issues.

**Vince Taylor** called for a full review and update of the JDSF Management Plan and EIR. Mr. Taylor pointed out that the Management Plan had not actually been changed since 2008.

**Richard Gienger** commented in support of updating the JDSF Management Plan and to call for more thorough consultation of tribes and the preservation of cultural resources in the management of JDSF.

### Resource Protection Committee, Sue Husari, Chair

* Discussion of work by Zone 0 workgroup on developing regulations for an ember resistant zone as required by AB 3074.
* Update on the Subdivision Review Program’s implementation of PRC 4290.5.
* Review of draft Safety Elements from the City of Perris, the City of Monrovia, the City of Palm Desert, the City of Rancho Mirage, the City of Santa Margarita, and Imperial County.
* Review of draft committee priorities for 2022.

## Report of the Board’s Advisory Committees

### Effectiveness Monitoring Committee, Sue Husari, Chair

* EMC had not met since the November Board meeting.
* The Committee planned to continue its work in evaluating proposals for funding at its next meeting on December 14.

### Range Management Advisory Committee (RMAC), Kristina Wolf, Environmental Scientist

### Discussed outcomes of conversation with Tahoe National Forest on the ongoing shortage of Certified Rangeland Managers or professionals with similar expertise. RMAC was working with Tahoe National Forest on how best to build out training programs throughout the US for rangeland management and to share hiring messages more widely.

* The Grazing Subcommittee authorized at November Board meeting was in the process of being formed, with meetings to begin in January
* Recommendations for appointments to the four open seats on the RMAC would be brought to the Board for consideration at its January meeting.
* RMAC’s annual report and workplan draft would be brought to the Board at its January meeting.
* RMAC submitted letters to the Board of Forestry, the California Department of Food and Agriculture, the California Environmental Protection Agency, and the California Natural Resources Agency requesting their input on RMAC’s priorities for the upcoming year. None of those agencies had responded at the time.

**Presentation of the 2021 Francis H. Raymond Award** for Excellence in California Forestry to winners Gary Rynearson and the California Forest Pest Council.

* Presentation of Award to Gary Rynearson: Jason Carlson, Vice President and General Manager of California Operations, Green Diamond Resource Company

**Public Comment**

Richard Gienger expressed his appreciation for Mr. Rynearson’s work despite their disagreements.

* Presentation of Award to the California Forest Pest Council: Rachel Hedges, Chair-Elect, California Society of American Foresters; Julie Lideck, Awards Chair, California Society of American Foresters; Bob Rynearson, Chair, California Forest Pest Council

**Board Comment**

* Member Lopez expressed his appreciation for the California Forest Pest Council’s work.

# Board Consideration of Proposed Changes to Regular Rulemaking entitled “State Minimum Fire Safe Regulations, 2021”

* Member Husari expressed the Resource Protection Committee’s recommendation that these proposed changes be brought before the full board for consideration.
* Edith Hannigan, Executive Officer, introduced the potential courses of action the Board might take in terms of the timing of public comment periods.

Member Lopez concurred with Member Husari and Chair Gilless. He encouraged the Board to bear the enforcement process in mind in contemplating the proposed regulations.

**Public and Agency Comment**

Daniel Berlant, Assistant Deputy Director, CAL FIRE, requested further consultation with the Department and enforcing agencies before moving the proposed changes forward into a public comment period.

Tracy Rhine, Rural County Representatives of California advocated for the creation of a workgroup of local agencies and other stakeholders to provide input in advance of a public comment period.

Robert Cain, Associate Planner, County of Santa Clara, commented in support of the proposed draft and requested that the regulations take effect as quickly as possible upon adoption.

Margaret Belska commented in support of Mr. Cain’s request to minimize further delays to the new regulations taking effect.

Deborah Eppstein called for additional fire safety provisions for existing roads and for additional restrictions on the exception process.

Craig Harrison called for a full environmental review under CEQA before the draft regulations were moved forward.

**12-21-03 Member Husari moved to authorize Board staff to submit the rulemaking entitled “State Minimum Fire Safe Regulations, 2021” for noticing of a 15-day comment period and to take all appropriate actions consistent with the Administrative Procedures Act for this purpose. Chair Gilless seconded the motion.**

**Board Discussion**

Chair Gilless commented in support of the motion, as it would provide the most public forum for continuing to make changes to the draft regulations.

**Additional Public Comment**

Michael Burke commented to call for no further delays in the process of getting the new regulations adopted, as the inability to develop was financially and emotionally detrimental to small landowners.

Larry Hanson commented to call for stricter restrictions on development that more closely resembled the existing regulations.

Margaret Belska addressed Mr. Hanson’s comment, pointing out the difference in applicability of the old regulations to only State Responsibility Areas (SRA) versus the new applicability to Local Responsibility Areas containing Very High Fire Hazard Severity Zones (LRA VHFHSZ).

**Board Discussion**

Member Wadecommented in favor of moving forward with 15-day noticing.

Member Janicommented that he was hesitantly supportive of moving the proposed regulations forward. He supported convening a workshop before finalizing the regulations and expressed concern regarding environmental impacts.

Chair Gilless expressed his support for 15-day noticing as a means for the continuation of collaborative problem solving on outstanding issues in the draft regulations.

Member Husari commented on the importance of a collaborative process with local fire and planning departments on how implementation and inspection will be conducted once the regulations apply. She urged everyone involved in the process not to lose sight of the fact that the former SRA regulations would now apply to more urban areas, increasing the cost and workload of implementation (a result of the Board’s legislative mandate and not a proposal of the Board). She responded to Chief Berlant’s comment, stating that CAL FIRE was used to implementing and inspecting the former regulations in the SRA but doesn’t have jurisdiction to do the same in LRA, and therefore a shift in focus would be needed in order to accomplish the work needed in an expedient and collaborative manner.

**Roll Call:**

**Jani aye**

**Lopez aye**

**Forsburg aye**

**Wade aye**

**Husari aye**

**Gilless aye**

**The motion passed.**

# CONCLUSION

## Public Forum

Michael Evenson commented regarding the danger of conifers in California’s fire hazard and drought profile. He called for forest management that does not seek to increase the ratio of conifers on the landscapde for timber profitability but that works to restore the historic mixture of hardwood-dominated mixed conifer forests.

Marie Jones, Mendocino County Climate Action Committee, called on the Board to request a review of the JDSF Management Plan. She stated that the Committee would like to a see more thorough analysis of the relationship between climate change effects and forest management.

Ellen Taylor called on the Board to better prioritize its public trust responsibilities over the interests of the timber industry. She called for increased latitude and invitation for tribal participation in forest management, and for more value to be placed on carbon sequestration. She also called for CAL FIRE to look more closely at the activities of PG&E in Humboldt County.

Anna Marie Steinberg called on the Board to undertake a review of the JDSF management plan with a focus on tribal issues.

Charlie Eckburg called on the Board to prioritize the carbon sequestration value of JDSF over the timber value of the forest.

Alder Doe called on the Board to invest in an independent scientific review of the JDSF Management Plan.

Alan Levine commented on the application of the anadromous salmonid rules, which he stated were not being applied to emergency notice and salvage logging operations. He commented on the problem of logging live trees in riparian areas that pose no fire risk.

Larry Hanson called on the Board to investigate to which logging methods are a factor in creating hazard conditions for wind-driven catastrophic wildfires by opening up forest canopies and creating pathways for high winds.

Richard Gienger called for a logging moratorium of at least two years in JDSF and multidisciplinary management planning that involves the public and particularly Indigenous community members.

## Adjournment

Respectfully submitted,

ATTEST:

Signature of Edith Hannigan

Edith Hannigan

Executive Officer

Keith Gilless

Chair