BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento, CA

May 5, 2022

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

## **Present**:

* Keith Gilless, Chair
* Rich Wade
* Chris Chase
* Mike Jani
* Elizabeth Forsburg Pardi
* J. Lopez

## BOARD MEMBERS ABSENT:

* Katie Delbar

# **BOARD STAFF PRESENT:**

* Edith Hannigan, Executive Officer
* Eric Hedge, Regulations Program Manager
* Jeff Slaton, Senior Board Counsel
* Andrew Lawhorn, Forestry Assistant II
* Jane Van Susteren, Environmental Scientist
* Laura Alarcon Stalians, Administrative Manager
* Robert Roth, Board Counsel
* Claire McCoy, Wildfire Planning Specialist
* Anna Castro, Executive Assistant

# **DEPARTMENTAL STAFF PRESENT**:

* Matthew Reischman, Deputy Director Resource Management, CAL FIRE
* Stew McMorrow, Staff Chief Wildfire Resilience

# **AGENCY STAFF PRESENT**:

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

Jeff Slaton, Senior Board Counsel, reported, that the Board discussed three items on the agenda. There are no reportable actions taken during the Executive Session.

**Brief Instructions on meeting Format, Edith Hannigan, Executive Officer:**

# Consent Calendar Items:

1. April Board Meeting Minutes removed from the consent calendar.
2. Review of Rulemaking Matrix.

**05-05-01 Chairman Gilless moves to accept the single item on the consent calendar of the review of Rulemaking Matrix. Member Lopez seconds the motion.**

**Roll Call:**

**Wade: Aye**

**Jani: Aye**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent from this agenda item.**

# MONTHLY BOARD REPORTS:

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

* Chair Gilless is happy to have top leadership in place at CAL FIRE and Daniel Berlant’s new appointment. Thanked those who kept things running while the organization chart was being filled out.
* Thank you to everyone associated with yesterday’s Defensible Space Workshop. It was great to see the science the rulemaking is based on input from people doing inspections, homeowners in the affected regions.
* Workshop will go a long way towards helping us fulfill obligations and educating the whole board on the fire science that motivated the legislature to update the requirements for fire resilient infrastructure. There is near unanimous support that we need to do something but opinions on how to implement vary.
* Urge everyone who is interested in that to participate early and look at the documents on the website.
* Chair Gilless thanked Edith Hannigan and Yana Valachovic for organizing the Defensible Space Workshop.
* Member Lopez added that with the number of people present virtually and in person shows the interest in Zone 0 using science to deliver something that could be quite effective. Looking forward to continuing to work with the dynamic team working on this. Happy to see the public and government agencies at the workshop.

## Report of the Director, Deputy Director Matthew Reischman, CAL FIRE Resource Management

* Reported Fire Statistics
  + As of April 29th 1400 fires, covering about 6500 acres
  + Last year 1600 fires covering 4700 acres
  + Average is 975 at 3200 acres
* Forest Practice
  + Water Emergency Response Teams possibility of receiving positions that are in current budget.
  + License Timber Operator training continues being held across the State.
  + The Cal Creek Bear River and the Uber River Lands transactions are all going to Public Works Board on June 10.
* Mountain Home
  + San Francisco Chronical interview
  + Received 217,000 seedlings to help with recover.
* Tribal Fire
  + Holding awareness training for State and other agencies employees.
  + Next class in June in Orleans with expectations to hold more in the future.
* Davis Nursery
  + Final season sowing of 80,000 seedlings.
  + Led a grant for $1,000,000.00 dollars with American Forest. This is a cone cooperation to have a better understanding of collecting throughout the state.
* CFIP
  + Continuing to roll out grants every two months.
  + 1-2 million dollars
  + Grants expected to be out in the next two weeks.
* Wildfire Forest Resilience Task Force
  + Meeting today in Santa Rosa
  + Focusing on goals at the regional level.
* Monitoring working group, Forest, and Wildland Stewardship Interagency Tracking System
  + Allows for Feds and State agencies to input information on acres treated, projects and funding. In one common data base to report information more consistently.
* Forest Health Grants
  + 22 awardees will be notified today.
  + Total funds being pushed out is 98.4 million in grant money.
* Workforce and Business Development Projects
  + Received over 50,000 grant applications. Requesting $60 million dollars.
  + Only 24 million dollars available.
  + There is a position in FRAP that does close fire vegetation sampling.
  + There is a project in Calaveras Big Trees working with State Parks to go out to do some post burn vegetation sampling. Hoping to burn 1300 acres in the next couple months.
* Fire Protection
  + Crew numbers are significantly down.
  + Have 46 CDCR crews that are available. (Type 1 Crews).
  + 152 are funded.
  + 16 out of 29 CCC crews that are available.
  + Total of 62 Type 1 hand crews available.
* Training Academies
  + May 9th starts Surge Academy
  + Add 3 additional company officer Academy and 4 additional fire hydrant Academies.
  + Potential for an additional 144 company officers and 48 firefighters available
* Hired Equipment
  + Brought on 40 new pieces of equipment and close to 200 new vendors
* Command Centers went through the interagency resource ordering capability system training. This is the ordering system used with the FED’s and allows us to be able to staff those fires.400 employees went through the training.
* Daniel Berlant was appointed as the Deputy Director of the Community Wildfire and Preparedness and Mitigation Division.
* Wildfire Mitigation Advisory Committee
  + Member Lopez attended the meeting that was held on April 19th.
* Wildfire Prevention grants
  + These are former grants that were run through our Fire Marshal Office.
  + Solicitations closed on February 9th.
  + 240 applications received.
  + Request was for 241 million dollars
  + 120 million available.
  + Ready for review by April 17th so that they can be awarded by early June
* This is Wildfire Preparedness Week
  + Chief Tyler and executive staff have been on tour across the state spreading the message on fire prevention in preparation for wildfire season.
* Defensible Space Data
  + We do not collect private personal information through the course of our 4291 inspections. We do have home location information.
  + We do not give any specific details on individuals or specific sites.
* Burn Permits
  + Working on automating those and getting those online.
  + Rolling out end of May the Broadcast burning and LA 5,7, and 8 permits
* Jackson
  + JAG met on May 2, working with CNRA. In September Chief Porter came to Board and requested JAG take a deeper dive into the cultural resources section of management plan. Later decided it warranted a deeper dive into the management plan. Provided this direction to the JAG on Monday, most folks agreed, and it was well received.
  + Focusing on meaningful and early government to government engagement with tribes.
  + Build documents from the ground up so they are part of the process.
  + Have a focus on restoration.
  + What can we do to improve roads, treat slash, habitat improvement, and in stream work?
  + Tribal co-management lens through THP development process by acquiring their information to incorporate into THP.
  + Bolster science, especially climate science
  + Do a better job including the community in the process.
  + Public meetings notifications, hiring a PO with a contract through the UC system.
  + Kevin Conway provided a copy of the document to the JAG that can be provided to the Board.

### Board Comment

* Member Chase stated that ongoing drought, excessive mortality, another challenging wildfire season, shortage of hand crews, looking to avoid last year’s situation; quickly mobilizing equipment on fires is critical. Last year a big impediment to doing that was the federal VIPER program. Understand an overhaul of the VIPER program hasn’t happened so anticipate this year it will be business as usual with that program. What can CAL FIRE do to help mobilize equipment, get it inspected, and put it to work immediately without going through VIPER?
* Deputy Director stated at the local unit level, annual meetings with cooperators, increasing amount of equipment that’s gone through contracting process prior to fires so they are on call more easily. The connection must happen at the unit level to get folks in the system and ready to go.
* Chair Gilless can we get an update later whether a VIPER overhaul is in process after CAL FIRE and feds meet next time.
* Chair Gilless has two questions. Regarding the stewardship lands, is there an organizational plan on how the new stewardship lands are going to fit into existing management organization? Do the new forest result in new management plans? Or are they augmentations to the management plans for existing state forests?
* Deputy Director stated that the State Forest System program manager provides program direction but the forest are managed at the unit level. PG&E lands are just going to be part of the State Forest System in the units they fall in. They will have their own management plans. Some of the lands are in units without existing state forests. The challenge is they aren’t coming with any additional personnel. Looking to augment staffing on State Forest Program to place folks in units where they are getting new forests. It is new management plans.
* Chair Gilless asked what is the status of the Helicopter Program?
* Deputy Director will circle back to that.
* Member Jani asked what is the acreage involved in the new state forests?
* Deputy Director does not know the exact amount. There are 3 different pieces right now. The Pit River about 3,000 acres in total a few thousand acres. Will follow up with exact numbers.

**Public Comment:**

* Eric Carleson, Associated California Loggers-To the VIPER Program we have prominent members who have testified in Congressional Hearings about this. Have ongoing meetings with USFS and VIPER program. Discussions with county sheriffs for protection when working on the forests during fires. To what extent will contractors in Jackson be allowed back into harvest?
* Richard Gienger sent the Board materials from Monday’s JAG meeting. Stated that there is a need to reset how forests are treated.
* Member Jani stated when the pause on logging in Jackson has ACL met with contractors who were affected by this? Has there been analysis as to the economic losses those companies absorbed because of the missed opportunities? Were there layoffs?
* Eric Carleson stated it is more as imminent. They have moved up other jobs but don’t have anything after that.

### Report of the Executive Officer, Edith Hannigan

* Staffing update
  + Still working on filling the Land Use Planning Program Manager position. Working with Human Resources on filling out paperwork needed.
* Legislative update.
  + Continue tracking legislation that is of interest to the Board. Encourages to review report in your binders on pending legislation. Claire McCoy, Wildfire Planning Specialist has done an excellent job putting it together every month.
  + If you have any question, comments, or concerns regarding anything in those Bills, we will continue to update as Legislative season moves forward.

### Report of the Regulations Coordinator, Edith Hannigan Executive Officer

State Minimum Fire Safe Regulations

* Committee has gone through significant amount of work on regulations. Had two public comment periods. Committee has had several workshops and meetings. The result of the meetings and public comment have determined that we are proposing to narrow the scope of this rule making so that it only covers those amendments which are necessary for the Board to comply with Senate Bill 901. Senate Bill 901 requires the Board to expand the applicability of the Fire Safe Regulations to the Local Responsibility Area Very High Fire Hazard Severity Zones and requires the Board to write regulations for fuel breaks, greenbelts and to preserve undeveloped ridge lines. Committee has decided the best course of action is to narrow the scope of the ruling and retain all the existing regulations and articles 2, 3, and 4 relating to roads, building and road signage, and water supply. While only making changes to article 1 that are necessary for the administration of the regulations and article 5 related to fuel breaks, greenbelts, and ridgelines. The existing regulations are in effect in the LRA and the SRA. This would propose to leave those regulations, continue those regulations in effect with only those changes necessary. Would like to propose that the Board authorize this ruling text for another 15-day comment period to begin shortly after this meeting.
* Chair Gilless in full support of narrow the scope.

### Public Comment

* David Hillman, retired CAL FIRE Deputy Director, worked on PRC 4290 in the early 90’s. Shocked by the initial changes. Why were we weakening requirements in the current fire environment, inconsistencies in application aren’t a wording issue but a training issue. Encourage the department, Board, and OSFM to work towards consistent statewide training regarding the regulations. Currently it is just on the job training.
* Larry Williams, Ventura County Fire Department- training is already done with new building and fire codes. This could be a way to dovetail and fall along that with workshops either in person or hybrid.
* Lizanne Reynolds, Deputy County Counsel, Santa Clara County- is there a timeline for a broader rulemaking?
* Chairman Gilless stated that currently there is no timeline for additional rulemaking at this time.
* Tracy Rhine, RCRC- appreciate significantly narrowed proposal and will provide detailed comments during the comment period. Committed to resolving larger issues with the regulations with the Board, fire authorities, and local land use planning experts.
* Alan Levine- the reading of SB 901 authorizes the Board to make rules for the benefit and safety of the public. Does not authorize any roll back or backsliding of the road regulations.
* Dennis Zaff- rewriting the law is cheaper than training. The law is very unclear, maybe professionals can explain what is “Same practical effect”? Nobody can give him an answer; perhaps a table giving same practical effect options. Standardize same practical effect options.
* Wendy Sue Rosen- thank the Board for going back into the regulations in place for 30 years.
* Sukhinder Sahota- needs clarity regarding whether they can rebuild their house.
* Margaret Belska- wants clarity on the implications of the new draft regarding development along existing roads, development has been allowed on existing roads that do not meet the standards.
* David Hutchinson- clarity on new versus existing roads.

**05-05-02 Chair Gilless moved to authorize Board staff to submit the rulemaking entitled “State Minimum Fire Safe Regulations, 2021” for noticing of a second 15-day Comment Period and take all appropriate actions consistent with the Administrative Procedure Act for this purpose, including preparation and submission of an appropriate Supplemental Statement of Reasons, notification, and modified rule of text. Member Jani Second.**

**Roll Call:**

**Wade: Aye**

**Jani: Aye**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent from this agenda item.**

* Member Jani has grammatical edits to give to staff

Weekend Emergency Rules, Jane Van Susteren, Environmental Scientist

* The emergency regulations were approved by the Board on May 5, 2021, became effective on May 26, 2021, with expiration date of March 22, 2022.
* Board staff has been in communication with the affected stakeholders. They request that the Board readopt the findings of emergency in emergency regulation for the maximum of 2 90 day periods in order to provide needed relief to facilitate recovery actions.
* The Board readopted the emergency regulations at March 2, 2022 meeting. Became effective March 23rd and will expire on June 22nd.
* The Board staff recommends second readoption of the findings to emergency.

**AGENCY COMMENT**

* Dennis Hall, CAL FIRE, Department supports the action and thinks it will help the community in that area to deal with impact of recent fires.

**05-05-03 Board member Wade moved to re-adopt the finding of emergency and rule text for the rulemaking titled “Santa Cruz and San Mateo Weekend Emergency” and authorized staff to take all actions reasonably necessary to have the re-adopted regulations go into effect, including making appropriate non-substantive changes and any changes to facilitate OAL review and approval. Member Lopez second.**

**Roll Call:**

**Wade: Aye**

**Jani: Aye**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent from this agenda item.**

**Report of the Standing Committees:**

**Forest Practice Committee, Member Wade**

* Northern spotted owl:
  + Looking at ways to address the owls, staff had prepared draft rule text with possible changes looking at provisions of the rules that weren’t operable. Things that have not been used for a long time and didn’t pertain to what currently goes on with respect to THP proponents demonstrating take avoidance of the owl. Those changes were well received by all parties involved in the discussions and the Committee intends to pursue those changes. One change includes expanding applicability of Northern Spotted Owl plan to NTMPs and WFMP (currently only applicable to THPs). Want to move this part forward so it can go into effect on January 1, 2023. Other rulemaking changes will require additional discussion. Directed staff to prepare appropriate paperwork for committee consideration next month.
* Botanical guidance memo:
  + Continue discussion of version presented in April and receiving comment on that. Substantive public comment in early April the committee hadn’t been able to engage in discussion on what was presented this month.
  + There are several issues that do not seem to be reconcilable/not making much progress on arriving at a guidance document that will satisfy the concerns of the parties involved. Some of them include the approach to 15380(d) species and scoping. CDFW would be willing to work on those two issues but here are other items that are problematic (need for floristic surveys, surveyor qualifications, timing of surveys). Wanted to provide the RPF with a depth of understanding of the CEQA process so the RPF can demonstrate an adequate addressing of the botanical resources within a project but how to get there continues to be a matter of debate.
  + Another unresolved issue is whether the guidance strays into underground regulations. The committee will look at other approaches to resolve the concerns raised by CDFW in their 2018 letter.
* Site prep item was deferred to next month (leading people dealing with the issue were unavailable). It will be on next month’s agenda.

**Management Committee:**

* Proposed CFIP rate increases and updates on CFIP actions to facilitate emergency forest restoration.
  + Forest restoration – CFIP has enabled use of mini management plans for landowners with few than 50 acres.
  + Enables landowners who have completed operations under emergency notices to use the emergency notice as their management plan for substantially damaged. Requires a letter of intent, archaeology, and other letters. This allows landowners to roll right into reforestation.
  + Proposed cap rate increase based on cumulative change to CPI since it was last updated in July2019.
* Less than 3-acre conversion- bring plead to full board in June for effectiveness in January. Proposal addresses most of the concerns brought up by stakeholders.
* Basal area stocking standards
  + Allow up to 15 sq. ft. per acre of snags to count as basal stocking standards
  + Drop minimum diameter to 20 inches.
  + Eliminate 818 rule in selection silviculture to use selection silviculture in areas where it was previously precluded.
  + Increase percent of post-harvest stand that can be in small groups after harvest.
  + Propose increase to 30% basal area stocking standard from 80% to 33%. It creates a new cohort for subsequent entry down the road that must meet point count value of stocking of at least 1.2 in DBH.

### Public Comment

* Richard Gienger, encourage committee to look at materials CAL FIRE passed out to the public on May 2 at JAG. There should be the opportunity for the public to bring to the committee things that might be of interest. The Board should consider changing public forum to early in the meeting.

**05-05-04 Member Chase moved to approve the CFIP Cap Rate Adjustments as proposed in the CAL FIRE memo dated March 28, 2022.**

**Roll Call:**

**Wade: Aye**

**Jani: Aye**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent from this agenda item.**

**Resource Protection Committee**

* Defensible space workshop on May 4.
* Chief Matt Damon gave an update on the Land Use Planning Program staff augmentation for defensible space inspections and curriculums.
* Chief Carmel Barnhart gave an update on the Subdivision Review program.

**Advisory Committee Report**

**Effectiveness Monitoring Committee, Elizabeth Forsburg Pardi, Co-Chair**

* Met April 12th in person.
* Discussed 3 research presentations and project updates.
* Strategic plan is being reviewed and updated; including critical monitoring questions.
* Two open seats on the EMC: forest ecology, silvicultural, THP’s.
* Changing to grant process instead of contracts for FY 22-23. RFPs will be released in July.

**Range Management Advisory Committee, Dr. Kristina Wolf, Board staff**

* SLG subcommittee met on April 5 but meeting in person has made it difficult to achieve a quorum, so their work products will not be available by June.
* RMAC is revisiting annual priorities with other state agencies, will be set at upcoming May meeting and reported back to the Board.
* RMAC planning annual educational workshop series to occur in summer or fall; livestream option will be available.

### SPECIAL BOARD HEARING/REPORT

**Public Hearing “Meadows and Wet Areas, and Cutover Land Amendments”**

* Dennis Hall, CAL FIRE, submitted comments in writing and appreciates Board’s work on this topic. Board member Chase categorized the conversations well. The rule package addresses narrow scope; support the board moving forward with the package. If the board wishes to expand the discussion of meadows and wet areas they would support that to see where problems exist. Suggests EMC or CAL FIRE’s monitoring staff focus on this in the future to see if there are issues they need to address.
* David Fowler, NCRWQB, submitted comment letter. He fully supports consolidation and getting rid of obsolete terms, provides additional clarity, believe this should provide an opportunity to consolidate it not just within FPRs but within the water boards definition (not just North Coast, statewide definition). Definition was worked out with all the stakeholders, vetted over a decade, approved in 2019, definition used statewide for all state programs except forestry. He sees that as being inconsistent, at least, and doesn’t provide the clarity that should be the goal of this package. One definition for all state programs and one definition used for a single program doesn’t provide clarity or consistency or regulatory certainty. The Governor’s EO on no net less policy says it is the policy of the State of California for all government programs and policies that affect wetlands be coordinated. This is not coordinated. It lacks consistency with other state programs and temporally does not account for drought years.
* Tim Ryan, CDFW, supports water boards comment letter and hearing comments. Also, consistency across agencies and clarity for stakeholders.
* Cedric Twight, Sierra Pacific Industries. SPI supports the draft plead, effectively meets the purpose of the proposed action, creates regulations that are clearer, more consistent, and accurate. The water board’s proposal only has the impact of unduly encumbering forest management projects.
* Alan Levine, the current rules don’t meet the current state standards. CDFW and water boards have the authority for the creation of regulations protecting wetlands; supports Dennis and Keith’s proposal for expanded discussion and Fowler’s proposed definition for the reasons Fowler stated. Urge the Board to move forward in a cooperative way.
* Larry Hanson, advocate for the greatest protection of wet areas. RPFs are supposed to be trained in identifying them but in his opinion, they don’t always have the best qualifications for doing that. Advocates for best and highest level of protection for those. Spokesperson earlier represents the largest timber industry in California. It indicates they want no change, however small, that would impinge on logging operations, which tells you something about what the message is are we protecting resources or allowing expediency?

# CONCLUSION

## Public Forum

* Mike Garabedian, this is not on the agenda but was thinking of California as a bio or landscape level, management of lands. Forest obviously have a systematic, statutory, and regulatory process. It is very publicly regulated and involved in every single step and when it comes to wetland management and California. There is no similar effort at management. In fact, the state and federal wildlife agencies make decisions all the time on natural community conservation plans. These plans provide widespread complete destruction of vernal pool prairies, wetlands and so forth. Just wanted to add that prospective that it should be part of this question on wetlands. It is not just a question of 401 or 404 wetlands. There is a question of how we manage those lands and there is no similar profession for managing wetlands.
* Frank Toriello, contacted Secretary Crowfoot about winter run chinook salmon and low levels in Shasta Lake. The lack of cold water caused chinook salmon to die. Another dry water year might lead to same results. Study on the forest harvest in Oregon and low flow deficits. Recommendation for longer time between harvests.
* Alan Levine, confused about what is going on with wet areas. Carbon sequestration should be part of the considerations of the goals of Jackson in the new management plan.
* Larry Hanson, states impacts of clear cutting are ignored. Causes of catastrophic wildfire do not include impacts of forest management. We are in a drought recognized as a non-temporary condition. Clear cutting diminishes the ability of watersheds to hold on to water. Climate change impacts are getting worse and we need retention of intact forests for carbon sequestration.

## Adjournment

Respectfully submitted,

ATTEST:



Edith Hannigan

Executive Officer

Keith Gilless

Chair