BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento CA

August 17, 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
* Dr. Kristina Wolf, Environmental Scientist
* Jane Van Susteren, Senior Environmental Scientist
* Laura Alarcon Stalians, Administrative Manager
* Claire McCoy, Wildfire Planning Specialist
* Anna Castro, Executive Assistant

# DEPARTMENT STAFF PRESENT:

* Joe Tyler, Director, CAL FIRE

**Announcement of Actions(s) Taken in Executive Session:**

Jeff Slaton, Senior Board Counsel, reported that the Board discussed the three litigation matters on the agenda. The Board took no reportable actions during the Executive Session.

**MONTHLY BOARD REPORTS:**

**Report of the Director, Joe Tyler, Director, CAL FIRE**

* This fire season is currently under 200,000 acres of vegetation in California that have burned. Just under 5,500 fire incidents have occurred. Compared to last year at this time, 1.5 million acres had burned and there were 500 more fires than currently. In 2020 4.3 million acres burned. In 2021 2.5 million acres burned.
* The Wildfire and Forest Resilience Task Force, CAL FIRE, and our local, federal, tribal, and private partners are making a difference. Policy and direction that have been put in place are making a difference along with investments.
* CAL FIRE has added 20 additional exclusive use heavy helitanker helicopters that are being dispatched on initial attack, which is making a difference in keeping fires small. Going to continue to collect data to make the push to have these resources year after year.

**Fire Protection Program**

* CAL FIRE have made 108 arson arrests so far. Last year we had 149 arson arrests.

**Intel Program**

* There is a collaborative effort between CAL FIRE and CAL OES on FIRIS, Fire Integrated Real Time Intelligence System. It is a budget change proposal that was originally piloted by the Orange County Fire Authority. This provides real-time intelligence over the fires that are allowing us to make tactical and strategic decisions to place resources going forward.
* The ALERTWildfire Camera project has 172 CAL FIRE sponsored cameras that allow us to be able to validate and monitor large catastrophic incidents that are occurring across the state.
* CAL FIRE has introduced a WFTIIC Program, another collaboration between CAL OES and CAL FIRE. It is the Wildland Fire Threat Integration Intelligence Center. It is a fusion center like the ones used in law enforcement to be able to have real time intelligence coming in about activities going on around the state specifically to wildfire.

**Aviation Management Unit (AMU)/Tactical Air Operations (TAO)**

* Blackhawk helicopters have been a game changer going from 324 or 360 gallons depending on if they are tanked or bucketed to 1,000 gallons. They have been able to fly those at night on the Electra Fire and on the Oak Fire in Mariposa County successfully.
* The C-130 Program delayed another 2-3 years. The Governor has invested in 10 additional exclusive use helitankers to replace those absent resources. Looking at bringing airtankers to California and installing the retardant delivery systems in California by working with our Air Force and Coast Guard partners.

**Conservation Camp Programs**

* There are 51 CDCR crews currently staffed out of 152 funded.
* There are only 810 inmates that are qualified and eligible to staff those crews.
* CAL FIRE has invested in 14 California National Guard Hand Crews, 25 Firefighter Hand Crews and additional California Conservation Corps Hand Crews.

**Training Program**

* Staffing Shortages at CAL FIRE are not related to fire protection resources. They are related to the critical need to continue to improve and bolster our Registered Professional Forester series.
* Reduced 7-week fire fighter academy to 4 weeks.
* Dropped our heavy fire equipment operator academy from 20 weeks to 11 weeks.

**Community Wildfire Preparedness and Mitigation**

* Deputy Director Berlant doing an excellent job. Looking for opportunities to administer fire prevention grants to address home hardening working in coordination with CAL OES.
* Resource Management, FRAP, and Community Wildfire Preparedness and Mitigation continue to work on the fire hazards severity zone maps.
* Rolling out hundreds of millions of dollars on Forest Health and Fire Prevention Grants, workforce development and business grants and urban forestry grants.

**Wildfire and Forest Resilience Task Force**

* The July 2022 Task Force meeting in Sacramento included updates on key deliverables in the Wildfire and Forest Resilience Action Plan.
* Had an opportunity to roll out CALMapper. It is a public viewer available that will show what is happening on the ground and so where dollars are being spent and where that work is being focused on. They are developing an Interagency Tracking System of acres treated by federal, state, local agencies.

**Wildfire Preparedness**

* 120,000 Defensible Space Inspections. Have exceed the 250,000 Defensible Space Inspections that we expected to do across the landscape in a year. We hit over 289,000 inspections.
* Damage inspection is largely done by staff out of our Office of State Fire Marshal Program. 181 single family residences destroyed and 26 damaged.
* The Oak Fire in Mariposa County destroyed 124 single family homes, damaged 6 and 66 other minor structures damaged.
* The McKinney Fire - 118 single family residences destroyed, 4 commercial structures destroyed, 4 additional single-family residences damaged and 163 other structures, garages, sheds, etc.

**Urban and Community Forestry**

* Our Community and Urban Forestry Program is concentrating on environmental justice equity working groups in how to work in nature based solutions, specifically extreme heat around schools.

**Stewardship Land Acquisition**

* Acquisition of the Lake Spaulding property, 1,088 acres in Placer County, has occurred.

**Jackson**

* The Jackson Advisory Group meeting is coming up on the 18th and will present a future visioning document.
* Working closely with the Coyote Valley Band of Pomo Indians on working through the management plan and tribal engagement of Jackson.

**Forest Entomology and Pathology**

* The Mediterranean Oak Borer was located outside of Windsor.
* The Emerald Ash Borer located in Portland, Oregon. The staff has put together a rapid response group to be able to make sure we are ready and prepared to respond to it.

**Wildfire Prevention Grants**

* Continue to put out hundreds of millions of dollars in grant opportunities.
* LA Moran Nursery is doing an excellent job of meeting our needs and capacity orders for 2023.

**Executive Staffing**

* Bruce Crane, Chief Legal Counsel will be retiring as of September 1, 2022. Kelly Welchans is the new Chief Legal Counsel for CAL FIRE.

**Training Program**

* Continue to have graduates out of our training centers and into the field every three weeks.
* Important for them to do not only the fire protection work but also fire prevention work when they are not responding to fires.

**Cultural Tribal Partners**

* Currently working on a position on the executive team to have a tribal advisor.

**Board Questions and Comments**

* Member Lopez-stated that CAL Mapper is a great tool for everyone to see. Will it also include Fire Safe Councils’ work on the mapping of projects?
	+ Chief Tyler -If we issue a grant to a Fire Safe Council that the data would be in CAL Mapper. If it is not providing that grant opportunity to that fire safe counsel, we will probably see that revision come out in the CNRA tracker or the Inter Agency Tracker.
* Chair Gilless-Is providing that kind of data either as a layer or physical map npart of the grant terms?
	+ Chief Tyler-Reporting back their project acres, treatment acres and their treatment activities are required.
* Member Jani-With new budget information coming out about reforestation, can we expect you to utilize the CAL Mapper to distribute information about how that reforestation money is going to be spent and where it’s going to be spent?
	+ Chief Tyler -We have not reached that point yet but will research that answer and get back to you.
* Member Chase-Great report. Appreciate your words on the loss of the particle board facility in Martell. It was a devastating loss for my company and for our 145 employees, vendors, suppliers, and others in that community. On the McKinney Fire, thank you and your partners for an exceptional job on a very challenging fire. On behalf of Siskiyou County residents, we appreciate all the effort. There was quite a bit of private equipment that was made available for direct suppression activities still have not be compensated. I believe there is still room for improvement on both state and certainly the federal side of things to enable more flexibility to utilize that private equipment when necessary. If you could look into that and see what we can do on this incident and incidents moving forward to encourage that to get the private folks to get compensation on the work that they did. Secondly, as you move into the suppression repair restoration phase of that fire, I know you are looking at the primary and contingency lines that were put in to control that fire. If CAL FIRE could work with the Forest Service and capitalize on those relationships to keep many of those lines intact. Anything we can to do evaluate the lines that are in, retain the lines that may help protect from subsequent wildfire. Those lines represent an investment, and it would be good policy to main them.
* Chair Gilless-I was encouraged by your report on helicopters. Is the federal government accepting the argument that helicopters work for us?
	+ Chief Tyler- I feel that they are using all opportunities to look at aviation resources. They are currently working on another aviation update evaluation the use of aviation resources.
* Chair Gilless-Where does California stand with respect to other states interested in exploring night operations?
	+ Chief Tyler-CAL FIRE is not the leader in night flying helicopters. Night flying helicopters have been occurring in Los Angeles County and Orange County. But soon we will have the largest single fleet of helicopters that will be flying at night. Initially we intended to have 5 helicopters for night flying but we will try to get all 10 helicopters flying at night. Governor added into the budget 4 additional helicopters to be able to always maintain 10 helicopters in operation.
* Chairman Gilless-Encouraged by your arson arrests. I have been watching the statistics change over the years. The number that would help me interpret better enforcement. Investigations are getting more sophisticated, and you are doing a great job on this. How many arsonists prosecuted are repeat offenders? Also, thank you on your comments about the shortage of RPF’s. Your interest and investment on this is much appreciated.

**Public Comments**

* George Gentry, California Forestry Association -Just a follow up comment. The scope of fires last couple of years in California has been so great. We have a tremendous reforestation need and the budget now allows for an extra $50 million dollars and there is indication that there will be another $50 million dollars. This is still not enough to take care of the scope of the problem. It is something that this Board, as the statutory body that is responsible for forest policy in the State of California, needs to monitor very closely how that money gets utilized on the ground so that every dollar counts.
* Richard Geinger, Forests Forever-It is the first time I heard of this inspection and visit to Jackson. The JAG meeting this Friday will also be interesting. Question for the Director, the visioning document, is this AMEX Sierra Nevada document? Wondering how the study would apply to visioning for Jackson. I’m really concerned that is not really that kind of overview that needs to be expanded. Short of being so controlled from the CAL FIRE prospective.
	+ Director-The visioning document is how the future management of the Jackson will be performed. How we can look at where the Jackson has been at and what the future might be to meet all the needs of the forest. My comment about the on the ground trip, it was an informal visit.

**Consent Calendar Items**

1. RPF/CRM Vital Statistics, license withdrawals and voluntary relinquishments
2. Approval of June 8 and July 14, 2022, meeting minutes
3. Review of Rulemaking Matrix
4. Appointment to the Effectiveness Monitoring Committee of UC Extension Advisor, Dr. Michael Jones.

**08-17-01 Chairman Gilless moves to adopt the four items as noticed in a, b, c, and d on the consent calendar. Member Lopez seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passes with one member absent.**

**Report of the Executive Officer, Edith Hannigan**

* Samuel Assefa, Director of Office Planning and Research (OPR) gave a brief introduction to the Fire Hazard Technical Assistance document regarding its importance and relevance to the fire safe regulations. OPR will continue outreach including a public webinar on September 14, in addition to conferences coming up this spring.
* Defensible Space Governor’s Office Action Request
* Legislative Update

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

* Consideration of CEQA applicability to the Rulemaking titled “State Minimum Fire Safe Regulations

**08-17-02 Chairman Gilless moved to adopt Resolution 2022-01 regarding the Determination of CEQA Exemptions for the State Minimum Fire Safe Regulations, 2021 Rulemaking. Member Jani seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passes with one member absent.**

* The Consideration of adoption of the rule text and approval of the Final Statement of Reasons for the Rulemaking titled “State Minimum Fire Safe Regulations, 2021”.

**Public Comment**

* Tracy Rhine, RCRC-Supporting the Regulation Text as presented here to the Board today. Appreciate all work that was done by staff over the last 2 years. As reflected in our letter we submitted to the Board yesterday we do have concerns regarding language in the FSOR. Specifically, the section titled General Response to Comments Regarding Existing Roads. As this section acknowledges this regulation no longer addresses changes to existing roads. The purpose for inclusion in the FSOR then is questionable. We are concerned because it’s clearly intended to have general applicability which will call into question unground rights. We would like to ask the Board before adopting the FSOR today to remove that language.
* Larry Williams, Ventura County Fire Department-we had submitted a written comment letter to the Board that was also published regarding the three items. I have one additional item that we discovered that we would like to have some clarification made on. A written comment was submitted to Member Lopez and Ms. Hannigan dealing with Section 1270.03(c) item 2, that states application for a building permit for new construction not relating to an existing structure. Our concern is using that language there which was from the 1991 original language. This somewhat conflicts with 1270.03(a) on where the regulations apply to all building construction and the SRA after 1991 in the LRA after July 1, 2021. Also submitted some suggested language change by taking the section and adding the words at the end of it to reconstruct it prior to the effective date of these regulations that would if it's the choice to make sure that anything built prior to 1991 and SRA, prior to July 2021 in the LRA very high is not applicable than that it just helps clarify which was part of the review that was being done to the update of the standards under this cycle.
* Craig Harrison, Bennett Valley Residents for Fire Safe Development-Just responding to RCRC’s comment. It is completely incomprehensible how RCRC has not understood that these rules have applied and still apply to existing regulations. On behalf of Bennett Valley Citizens for Safe Development we strongly oppose changing any of the language in the final statement of reasons that clarifies clearly what the law is. Even if RCRC has some problems understanding it. The Board should ignore their comment.
* Deborah Eppstein-Thank you to the Board and staff for the extensive work over the last two years on these regulations. And for their decision to preserve the existing road regulations which will do it’s best to help protect the public and the environment. Appreciate the discuss on the FSOR citing the reason that these regulations apply equally to all roads public or private. No distinction between new and existing roads which is as per the underlying code and you’re quoting the Attorney General’s confirmation that both existing roads are covered and that access to proposed development encompasses roads beyond the developed perimeter. Also, I want to commend the Board’s plans to work with the CAL FIRE Management on training for CAL FIRE and local jurisdictions. We concur with the Board and the Wildfire Professionals that such training is vital for correctly administering the Regs. Especially the applicability to existing roads and outside parcel perimeter. And importantly preventing abuse of exceptions. Any of which would undermine the intent of the regulations.
* Margaret Belska-The Board of Forestry had two years to fix PRC 4290. A regulation that is ambiguously written and subject to interpretation regarding applicability to existing roads. The Board failed in this task. The proposed draft leaves open all the issues that have plagued this regulation for the last year in a half. Instead of creating a regulation that will enhance fire safety the Board leaves the regulation as something to be ignored because it’s unenforceable as many California counties currently do. Or if something that leads to illegal taking of private property as has been happening in Santa Clara County the enforcement of PRC 4290 will remain inconsistent subject to the whims of local agencies and opened to legal challenge. The outcome of this process has been a huge disappointment. These regulations will continue to cause pain and suffering to California residents who want to build homes on their legal lots right next door to their neighbors and be told they can’t do so without undertaking multi-million-dollar road infrastructure projects. Which is unconstitutional and an illegal taking of property.
* Robert Cain, Associate Planner Santa Clara County- We appreciate all the work the Board is doing regarding fire safety in the State. However, like Ms. Belska mentioned before there is the existing issue that many roads throughout the state were not built to the standards that are required in the regulations. Bringing those roads up to the standards listed would not only be costly but also environmentally devastating in many areas. And would not be warranted for development of a single home. There is an exception process that is written into the regulations that we would like to make better use of. However, it is not clear in the regulations what the same practical effect means in different situations. We request that the board of Forestry provide guidance on what acceptable examples of the same practical effect might be where small, scaled development is occurring on these existing roads. Perhaps that’s covered in the OPR guidance to be released later today. The last technical assistance provided by OPR was not very detailed it was very high level. Hopefully the one today is more detailed if it is not, we request that the Board of Forestry through training to fire staff and local agencies or through other technical assistance or through a revision to the regulations making it clear how to proceed in these cases.
* Lee Ann Wade-Just want to concur with Robert Cain and with Margaret Belska’s comments. There are a few private citizens that have been directly affected by this and my husband and I represent all the private citizens who have felt the effects of the legislation. So, we are applying to build a new home, a new fire safe home that will have all the A1 fire standards on an existing road and in an established neighborhood. We cannot build a new road. It is not feasible monetarily or environmental or legally. So, preserving the effect of this law has the effect of preserving a 1955-year-old home that we can’t remodel that isn’t subject to any of the A1 fire standards. There needs to be somehow written into the regulations, information regarding existing roads. And I have pressed about this over and over.
* Elsie Burrows-I also agree with Margaret Belska. I live on a very old historic private road that is privately maintained and in mandating such huge improvements should a new owner ever parcel want to build up here, it deprives the community of the other homes on that system from any sort of funds or say in how their road is going to be improved. In addition, short of county or the state taking over road ownership of private roads there is no real way for these rules as you have formulated them. There is no way for this formulated rule to be used on these existing roads. Because of the way ownership is handled they would have to either buy land or claim the land as Margaret has said and then make the changes. The residences themselves cannot do that.

**08-17-03 Chairman Gilless moves to approve the Final Statement of Reasons for the “State Minimum Fire Safe Regulations, 2021.” Member Lopez seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent.**

**08-17-04 Chairman Gilless moved to adopt the draft regulatory text for the rulemaking entitled “State Minimum Fire Safe Regulations, 2021,” 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 seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent.**

* Consideration of adoption of rule text and approval of the Final Statement of Reasons for the Rulemaking title “Notice of Intent Amendments, 2022**”**

**Public Comment**

* Deborah Eppstein -on the Final Statement of Reasons I want to comment that the discussion of the existing roads is a very relevant part, and several speakers commented that different counties might not of followed these correctly. I think it’s very important to keep it in there.

**08-17-05 Chairman Gilless moved to approve the Final Statement of Reasons for the “Notice of Intent Amendments, 2022”. Member Wade seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent.**

**08-17-06 Chairman Gilless moved to adopt the draft regulatory text for the rule making entitled “Notice of Intent Amendments, 2022,” 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 Lopez seconds the motion.**

**Roll Call:**

**Chase: Aye**

**Lopez: Aye**

**Forsburg-Pardi: Aye**

**Wade: Aye**

**Jani: Aye**

**Delbar: Absent**

**Gilless: Aye**

**Motion passed with one member absent.**

**Report of the Standing Committee**

**Report of Forest Practice Committee, Rich Wade, Chair**

* Forest Practice Committee discussed the three items on the agenda.

**Report of Management Committee, Chris Chase Chair**

* Management Committee discussed the two items on the agenda.

**Public Comment**

* Richard Gienger-There is so much being in the discussion MSP is an example of that who is more concerned about modifying things and backing things down relative to risk and fire. No standards are being set. I read comments by Mark Jameson, MSP doesn’t have much applicability as it is now because of lack accurate information about the conditions. Some examples, landowners do not have the authority or necessarily the guidance to make correct application to achieve maximum sustained production and cited where it was said they were growing 18 cubic board feet per acre per year when it was only 500. He said CAL FIRE or CDF needs to determine a lot of these conditions themselves. It was brought up by the representative for small timber owners that it’s too much of an expense. I brought up that the AB1492 the Timber Regulation and Forest Restoration Fund and Project that’s the kind of funding that should be given to CDF, CAL FIRE, to perform that information gathering to make things be credible. Instead, there is this throwing up one’s hands because of the fire risk to not look at the bigger picture that needs to be done.
* Larry Hanson-This consideration of catastrophic wildfires from this maximum sustained production angle brings up the issue of catastrophic fires and what seems to be missing from the evaluation by the Board and of CAL FIRE. How the logging methods that are done on the landscape are a factor or you should be considering whether it is a factor in the frequency and intensity of wildfires. The only consideration you have is fire suppression and increase of weather and climate change. Not taking up the factor of how logging regimes is being done in the landscape is extremely important because it is something that we can do about that today. We can change the logging regimes, logging methods to decrease the catastrophic wildfires. So as a member of the public and member of an organization that has looked into this, we would like for the Board to take this up. We are going to be submitting a request for this and will be submitting a study that should be looked at. This is a very critical issue to the public and the State. We will be making an official request very soon.

**Report of Resource Protection Committee, J. Lopez, Chair**

* The Resource Protection Committee discussed the items on meeting’s agenda

**Report of Board’s Advisory Committee**

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

**Report on Range Management Advisory Committee, Dr. Kristina Wolf, Board Staff**

**Report on Joint Institute for Wood Products and Innovation, Katie Harrell, Board Staff.**

**Board Comment**

* Chris Chase- Has the Institute or maybe FRAP or anyone created a map identifying the areas with the greatest critical need for fuel reduction and overlaid that with proximity to infrastructure to consume that material to identify those areas that are in critical need? That have no infrastructure to deliver that fiber or inadequate conversion capacity to accommodate all the fiber that needs to be removed. And identify hot spots to help inform development of new infrastructure, expansion of infrastructure where the need is greatest.
	+ Katie Harrell - My understanding is no. There has been a lot of looking for site development, but I don’t think any of those have been assessed through a map.

**PRESENTATIONS**

**Cal Trees demonstration-** Shawn Headley, Forest Practice Administration Program Manager, CAL FIRE

**Project Update: Effects of Forest Management and Wood Utilization on Carbon Sequestration and Storage in California.** Kendal DeLyser, American Forests, Director, Climate Science.

**HEARING**

**Public Hearing “Spotted Owl Resource Plan Amendment 2022”**

**Agency Comment**

* Tim Ryan, CDFW-Just want to offer support for this amendment.

**Chairman closed the Public Hearing.**

Chairman Gilless directs staff prepare a final statement of reasons for the rulemaking titled “Spotted Owl Resource Plan Amendments, 2022.”

**CONCLUSION**

**Public Forum**

No requests for comment

## Adjournment

Respectfully submitted,

ATTEST:





Edith Hannigan J. Keith Gilless

Executive Officer Chairman