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November 16, 2021

Attn: Regulations Priority Review
Board of Forestry and Fire Protection
PO Box 944246
Sacramento, CA 94244-2460

Submitted via email: PublicComments@bof.ca.gov

Re: Board of Forestry and Fire Protection 2021 Regulations and Priority Review

Dear members of the Board of Forestry and Fire Protection:

The California Oaks program of California Wildlife Foundation works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values.

We are writing in response to the request for public comments for Regulations and Priority Review. This letter conveys two areas that would benefit from Board action: (1) clarification of the definition of oak woodlands and (2) strengthened oak retention requirements. Improved retention requirements would be important and timely because of aggressive forest thinning for fire safety. Lastly, we enclose, for reference, recommendations sent in 2019 that were not acted on.

1. Clarification is needed to ensure that environmental analysis of impacts on oak ecosystems does not exclude oak stands with canopies that are 10% or greater.

Consultants who prepare environmental documentation and county staff and officials who review the documentation are often completely unaware that oak woodlands are defined as parcels with canopy that is 10% or greater. This standard should be part of California Environmental Quality Act (CEQA) reviews in compliance with Public Resources Code §21083.4. It would be enormously helpful for the Board of Forestry and Fire Protection to clarify this definition through rulemaking.

A January 9, 2006 letter in the California Wildlife Foundation/California Oaks files written by Eric K. Huff, RFP No. 2544, Executive Officer, Foresters Licensing sent to the Chair of Lake County's Board of Supervisors spoke to the relevance to the Professional Foresters Law (PFL) of the greater than 10% definition for CEQA analysis:

Though the PFL is often characterized as applicable only to activities related to the Forest Practice Act, i.e., preparation of Timber Harvest Plans (THP's, NTMP's, etc.) the PFL is in fact far broader in scope and no less applicable to oak woodlands or any other forest type. Public Resources Code (PRC) §750, *et seq.*

states that only a Registered Professional Forester (RPF) may practice forestry on non-federal, forested landscapes.

Forestry is defined as,

...the science and practice of managing forested landscapes and the treatment of the forest cover in general, and includes, among other things, the application of scientific knowledge and forestry principles in the fields of fuels management and forest protection, timber growing and utilization, forest inventories, forest economics, forest valuation and finance, and the evaluation and mitigation of impacts from forestry activities on watershed and scenic values... (PRC §753)

Forested Landscapes are defined as,

...those tree dominated landscapes and their associated vegetation types on which there is growing a significant stand of tree species, or which are naturally capable of growing a significant stand of native trees in perpetuity, and is not otherwise devoted to non-forestry commercial, urban, or farming uses. (PRC §754)

The Board of Forestry and Fire Protection has generally interpreted the term *significant stand of tree species* to mean those stands with a canopy cover of 10% or greater.

By way of an example of the need for clarification of the greater than 10% definition, California Wildlife Foundation/California Oaks prepared two comment letters about a proposed development in Lake County. The first letter we sent highlighted the use of different definitions in the Draft Environmental Impact Report (DEIR):

California Fish and Game Code defines oak woodlands: “*Oak woodlands* means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover.” Unfortunately, the DEIR does not conform to state law. The discussion of blue oak woodland and blue oak savanna on page 3.4-20 of the DEIR uses a definition that eliminates many of the blue oak savanna and woodland habitats that should have been analyzed in the DEIR (underlined text used for emphasis):

Although CDFW does not distinguish between blue oak woodland and savanna, blue oak habitats were mapped into two categories to facilitate impact and mitigation calculations. Areas with approximately 60 percent or less total canopy cover with less than two thirds of tree canopies touching are mapped as oak savanna. Areas with greater cover of blue oaks or a higher percentage of tree canopies touching are considered woodland.

Review of the appendices indicates that the erroneous use of the 60% figure was used for all oak woodland types (the quoted text below is from page 2,438, which presents page 8 of the proposed Oak Mitigation Plan) (underlined text used for emphasis):

Impacts to Oak Woodland without Significant Loss of Canopy Cover

Due to impact minimization measures presented in **Section 2.1**, the Proposed Project will likely have impacts on individual oak trees within oak woodland habitat such that the overall character and quality of the habitat is not significantly impacted. Consistent with the Biological Resources Assessment of the Guenoc Valley Site, impacts that result

in a reduction in woodland canopy cover to 60 percent or less and less than 2/3 of the canopies touching would be considered conversion of habitat from oak woodland to oak savanna...

The Final Environmental Impact Report continued to undercount oaks. The response to the quoted text above was that the aforementioned Fish and Game code definition does not apply to analysis conducted per Public Resources Code §21083.4. Additionally, the response was that vegetation community mapping for the site identified Alliances, as delineated in *A Manual of California Vegetation*. Clarity is needed that additional to the analysis based on Alliances that impacts to oaks occurring at 10% or greater density must also be conducted per Public Resources Code §21083.4.

2. Expansion of hardwood retention guidelines are needed in response to aggressive forest thinning for fire safety.

California Wildlife Foundation/California Oaks requests that the Board of Forestry and Fire Protection improve requirements associated with forest thinning and sanitation-salvage to ensure that oak species are perpetuated. Oaks provide important ecosystem services and are more fire resilient than many commercial forest species. As California navigates the new fire regime it is important that oaks remain standing. General recommendations included in Fish and Game Interim Wildlife/Hardwood Management Guidelines (2/1/1989) include the following provisions that California Wildlife Foundation/California Oaks recommends the Board include in rule language or as part of the Appendix for Technical Rule Addendum No. 2 Cumulative Impacts Assessment:

3. In a mixed or pure hardwood species stand, species composition should be maintained at original proportions (leave hardwoods in proportion to their natural availability).
5. Reductions in canopy coverage should be calculated as a percent reduction over an extended period of time (at least 15 years). A reduction of 10 in each of three years during a 15-year period would constitute a total 30% reduction.
6. Maintain a mix of age and size classes of hardwoods in order to provide for sustained mast production, vertical diversity, and recruitment. Retain a mix of snag, dead, and downed material to provide for habitat diversity; retain in proportion to natural proportions.

Lastly, California Wildlife Foundation/California Oaks sent a white paper for 2019 Board of Forestry and Fire Protection Regulatory Review. It included information requested by Board of Forestry and Fire Protection staff about deficiencies in county-level policies that govern oak woodlands and oak-forested lands, summary information on the need for uniform statewide protections for native California oaks (genus *Quercus*) that are not commercial species, and recommended actions. The white paper is enclosed for reference and its recommendations are summarized below since no actions were taken in 2019. (It is understood that some the recommendations do not align with scope of the current Regulations and Priority Review request for public comment):

1. Adopt a no-net-loss policy for oak ecosystems.
2. Work with the legislature to reauthorize funding for the tax credit program for oak woodland conservation donations under Wildlife Conservation Board.
3. Restore state subvention payments to counties with lands under the Williamson Act.

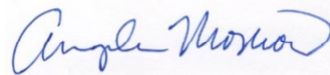
4. Prioritize transitioning lands under Williamson Act to protections under conservation easements, land donations in fee, or tax credits and work with appropriate agency partners to achieve these protections.
5. Issue a memorandum to clarify that the loss of oak woodlands on agricultural lands need to be assessed for greenhouse gas emissions under CEQA, notwithstanding the fact that those conversions are not subject to the mitigation requirements of PRC 21083.4.
6. Conduct the monitoring and reporting of oak woodlands called for in the Joint Hardwood Policy and publish and distribute this information widely.
7. Investigate the effectiveness of oak replanting associated with mitigation to understand the success of replacement trees in mitigating oak losses.
8. Work with the legislature to reduce development in oak woodlands in *very high fire severity zones* throughout the state.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb, Executive Officer
California Wildlife Foundation/California Oaks



Angela Moskow, Manager
California Oaks Coalition

Encls. 2019 white paper by California Wildlife Foundation/California Oaks on the need for uniform statewide protections for native tree species in the genus *Quercus*