BOARD OF FORESTRY AND FIRE PROTECTION MEETING MINUTES

Sacramento, CA

May 5, 2021

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

## **Present**:

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

# **BOARD STAFF PRESENT:**

* Matt Dias, Executive Officer
* Eric Hedge, Regulations Program Manager
* Dan Stapleton, Licensing Officer
* Jeff Slaton, Chief Legal Counsel
* Deniele Cade, Staff Analyst, Licensing
* Andrew Lawhorn, Forestry Assistant II
* Edith Hannigan, Land Use Planning Program Manager
* Robert Roth, Legal Counsel
* Claire McCoy, Environmental Planner
* Sara Walter, Contract Analyst
* Katie Harrell, Joint Institute for Wood Products Innovation
* Laura Alarcon-Stalians, Administrative Program Manager
* Linda Cano, Executive Assistant

# **DEPARTMENTAL STAFF PRESENT**:

* Thom Porter, Director, CAL FIRE
* Helge Eng, Deputy Director, CAL FIRE
* Dennis Hall, Assistant Deputy Director, Forest Practice
* Eric Huff, Staff Chief, Forest Practice Program
* Matt Damon, Battalion Chief, AVL Project Manager, CAL FIRE
* Russ Henly, FRAP, CAL FIRE

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

Jeff Slaton, Board Counsel, reported that the Board discussed the items on the agenda during Executive session.

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

No reportable actions were taken.

# Consent Calendar Items

* Approval of the April 2021 Board Meeting Minutes (with minor edits if requested by members of the Board);
* Review of Rulemaking Matrix
* Reappointment of the following persons to the Jackson Advisory Group:
	+ Mike Anderson and Doug Albin to terms of 1 year;
	+ George Hollister and John Anderson to terms of 2 years; and
	+ Amy Wynn and Charlie Schneider to terms of 3 years

**05-21-01 Chair Gilless moved to approve the items on the Consent Calendar. Member Chase seconded.**

 **Roll Call:**

**Wade aye**

**Husari absent for this vote**

**Jani absent for this vote**

**Delbar aye**

**Wheeles aye**

**Chase aye**

**Gilless aye**

**The motion passed.**

# MONTHLY BOARD REPORTS

## **Report of the Chair, Dr. Keith Gilless:**

## He commented that he looks forward to when the Board can resume in person meetings.

The chair shared his concerns about the upcoming fire season, given current and forecast conditions.

* The Chair highlighted the importance of of appointments to the Jackson Advisory Group as the Board was in receipt of several letters regarding the management of Jackson State Demonstration Forest
* The Chair announced that member Marc Los Huertos has termed off the Board. He commented that it has been a real pleasure to serve with Marc on the Board of Forestry and Fire Protection. Marc’s background in science and his concern for how regulatory agencies interact and solicit input from the public and non-governmental agencies has been of great benefit.
* Marc Los Huertos commented that he will miss Board members and staff, he valued the experience learning about forestry and the complexities of managing forests in California, and he will remain an avid follower of the Board of Forestry. He mentioned how much respect he has for the Board and staff for all the hard work they do and thanked them for the opportunity to serve.

## Report of the Director, Deputy Director, Helge Eng, CAL FIRE

**Wildfire Preparedness Week**

* Wildfire Preparedness Week was held May 3 – May 7. It is intended to raise awareness and encourage families and communities to take a proactive approach to personal wildfire preparedness and prevention.
* California has had very challenging and extended wildfire seasons the past few years. This year is shaping up to be the same with a dryer than average winter, warmer spring temperatures, reduced snowpack and increased temperatures across the state.
* The focus of this year’s Wildfire Preparedness Week was on defensible space and home hardening guidelines.

### Budget

* The Budget looks promising. The Governor and legislature are aware of the wildfire situation and climate change. The budget proposals to date for wildfire resilience and fuel reduction are expected to top $1 billion

### Fire Season Outlook

* Large fire threat will likely be above normal due to lack of precipitation and extremely dry fuels conditions. There is a large amount of receptive dead fuel as a result of extended drought and tree mortality. That will continue to contribute to heavy fire activity, statewide. Look to late summer and fall wind events to have potential for rapid fire growth as fuels will be at critical levels and receptive to spotting.

**Forest Service**

* The Forest Service has initiated their 5-year Cooperative Fire and Forestry Program review with the Department. It is an audit and review of how the Department has spent federal grant funding over the last 5-years. The Department is engaged in the process.

**Jackson Demonstration State Forests**

* There was a recent controversary over timber sales at JDSF. Deputy Director Eng noted that CAL FIRE need to step up public outreach and education to get the message out on research and the nature of JDSF as a demonstration forest
* JDSF along with Blodgett State Research Forest and Forest Experimental Forest, are a handful of research forests that are relied on to define best practices for a changing and unknown climate.
* JDSF staff recently organized two field tours of Timber Harvest Plans that are under development. One tour visited the Little North Fork Big River project near the Mendocino Woodlands and the other tour visited the Caspar 500 and Mitchell Creek projects on the west side of the Forest.

**Forest Entomology**

* There is an increase Bark Beetle activity especially in the central and northern Sierra’s, indicative of the continuing drought.
* Tree mortality continues to increase in the San Francisco Bay Area, likely related to drought conditions and extreme heat from last summer. It is not unique to the Bay Area but it is especially severe within those counties within the Bay Area. CAL FIRE is working cooperatively with the local parks, academia and Forest Service to determine severity and develop approaches to address this mortality.

**CalVTP**

* CAL FIRE has 7 projects approved for California and continues to work with partners statewide to expand upon these current efforts.

**Forest Health and Fire Prevention Grants**

* Submissions for Green House Reduction Fund grants closed May 19.
* The Department is continuing to go forward with direct awards, to ensure that Forest management implementation moves forward as soon as possible.

**FRAP**

* The USFS Forest Inventory and Analysis Program (FIA), intensification is scheduled to begin this summer. FIA intensification will move California from a 10-year to a 5-year remeasurement cycle to provide a better picture of changing conditions.
* Forest Health Research grant solicitation closed May 19. FRAP anticipates allocating a minimum of 3.8 million dollars in research grants.

**Wildfire Prevention Engineering**

* Staff continue to work on automating all Department burn permits. Testing continues to ensure the process will function as designed. The goal is to increase the ease with which the public can obtain a burn permit (online), streamline the process, create an electronic geospatial database, and allow for better reporting.

Deputy Director Eng announced his retirement on May 17, from CAL FIRE. He accepted the position as Alaska State Forester and the Director of the Alaska Division of Forestry in Anchorage, starting June 1. He stated he has enjoyed working with the Board over the years and the cooperative relationship between the Department and the Board. He is confident that his successor will continue the cooperative relationship between the Department and the Board.

Board Members, Husari, Chase and Wade, Chair Gilless, Executive Officer Dias. George Gentry, Larry Camp and Richard Gienger offered their congratulations and best wishes on his new endeavors.

**Public Comment: Richard Gienger**, **Forests Forever**, offered congratulations to Mr. Eng and expressed his appreciation for his work conducted during his many years with CAL FIRE.

**PRESENTATION: A Case Study of the Camp Fire –** Fire Progression Timeline, Alex Maranghides, Wildland Urban Interface Fire Group, National Institute Science and Technology.

***Executive Officer Report, Matt Dias,***

* Provided a Legislative Update
* DRAFT letter to California Department of Fish and Game and the California Natural Diversity Database
* Provided update on the development of grant programs for the Effectiveness Monitoring Committee and the Joint Institute for Wood Product Innovation
* Provided a Budget Update – SB 85 Early Action Funding
* Provided update on the 45 Day Public Comment Period for the Minimum State Fire Safe Standards, 2021
* Discussed the Board/ CAL FIRE DRAFT Exemption and Emergency Monitoring Report Pursuant to PRC § 4589

Public Comment

Kelly Anderson, Cedric Twight and Nancy Macy provided public comment.

***Report of the Standing Committees***

*Forest Practice Committee, Rich Wade, Chair*

* Discussed botanical issues within the Timber Harvest Process and provided an update on the development of a DRAFT Board Guidance Memorandum outlining process on scoping, assessment, and protection of botanical resources to be addressed in the Plan process
* Introduced the Emergency Rulemaking for the Counties of Santa Cruz and San Mateo – 14 CCR §§ 926.9, 926.10, 928.5 and 928.6

**05-21-02 Member Wade moved to adopt the finding of emergency and rule text for the rulemaking titled “Santa Cruz and San Mateo Weekend Emergency” 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 Delbar seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani aye**

**Delbar aye**

**Wheeles aye**

**Chase aye**

**Gilless aye**

**The motion passed.**

**Public Comment:**

**Larry Camp, Forest Landowners of California**, is in support of the rulemaking.

**Agency Comment:**

Dennis Hall, Assistant Deputy Director, Forest Practice, CAL FIRE wanted to go on record that CAL IFRE is I support of the rulemaking. It is important that the areas that that cleanup move as rapidly as possible in areas of the state affected by wildfire.

* Introduced regulatory amendments to the prohibition of Broadcast Burning for Slash Treatment in the Southern Subdistrict of the Coast Forest District – 14 CCR §§ 917.3 – 917.4

**05-21-03 Member Wade moved to authorize Board staff to submit the rulemaking entitled “Southern Subdistrict Broadcast Burning” for noticing of the 45-day Comment Period and take all appropriate actions consistent with the Administrative Procedure Act for this purpose, including preparation and submission of the Notice of Proposed Action and Initial Statement of Reasons. Member Delbar seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani aye**

**Delbar aye**

**Wheeles aye**

**Chase aye**

**Gilless aye**

**The motion passed.**

**Agency Comment**

Dennis Hall, Assistant Deputy Director, Forest Practice, CAL FIRE, commented, CAL FIRE supports the rulemaking.

* Discussed pending Emergency Rulemaking for Registered Professional Forester Responsibility in association with Emergency Notices and the slash treatment standards may also be addressed in this pending rulemaking effort.

***Management Committee, Chris Chase, Chair***

* Discussed defining “Crop of Trees” as it relates to Timberland Conversion and stated that staff will continue to analyze this issue and continue discussion at the June Board meeting. The committee received a suggestion from Cedric Twight, recommending developing a matrix of potential outcomes as it relates to various approaches of defining this term may be appropriate.
* Provided staff update on potential amendments to Less Than 3 Acre Conversions Exemption - 14 CCR § 1104.1 *et seq*.

**05-21-04 Member Chase moved to authorize Board staff to submit the rulemaking entitled “Conversion and ROW Exemption Amendments” for noticing of the 45-day Comment Period and take all appropriate actions consistent with the Administrative Procedure Act for this purpose, including preparation and submission of the Notice of Proposed Action and Initial Statement of Reasons*.* Member Gilless seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani not available for this vote**

**Delbar not available for this vote**

**Wheeles aye**

**Chase aye**

**Gilless aye**

**The motion passed.**

* Provided staff update on potential amendments to Utility Right of Way Conversion Exemptions - 14 CCR § 1104.1 *et seq*.

Chair Chases reported that the committee received a comment letter from Dave Fowler from the North Coast Regional Water Quality Control Board on this pending rulemaking effort, specifically as it relates to the extension of time being considered for the lifespan of a Less than 3 Acre Conversion Exemption.

**05-21-05 Member** **Chase moved to authorize Board staff to submit the rulemaking entitled “****Conversion and ROW De Minimus Exemption Amendments” for noticing of the 45-day Comment Period and take all appropriate actions consistent with the Administrative Procedure Act for this purpose, including preparation and submission of the Notice of Proposed Action and Initial Statement of Reasons. Member Gilless seconded.**

**Roll Call:**

**Wade aye**

**Husari aye**

**Jani not available for this vote**

**Delbar not available for this vote**

**Wheeles aye**

**Chase aye**

**Gilless aye**

**The motion passed.**

**Agency Comment**

**Elliott Chasin, Timber and Fire Supervisor, Department of Fish and Wildlife (DFW)**, offered comments on the proposal. He noted that DFW submitted comments in the past to the committee and submitted a letter to the Board, dated March 25, 2021. He summarized the contents of the letter.

**Dennis Hall, Assistant Deputy Director, CAL FIRE Forest Practice** commented that it is timely for the Board to move the rule package into the 45-day Notice, as to receive comments to help guide them in their decision.

**Dave Fowler, Engineering Geologist, North Coast Regional Water Quality Control Board**, supports the DFW’s comments.

**Eric Huff, Staff Chief, CAL FIRE Forest Practice Program**, appreciates the committee’s close examination of Utility Right of Way Clearance and the issues that of arisen with the increase of cutting and removal of trees within right of ways in the last several years. He specifically wanted to mention the challenges in the area of enforcement with regard to de minimis provision that is before the Board for consideration

Member Chase thanked Mr. Huff for his comments, member Chase acknowledged that Chief Huff brought up some good points and he looks forward to reviewing the Departments comments on the companion pleads, as well as comments from stakeholders, landowners and the utilities. Member Chase stated that the Board is trying to strike a balance on this matter, and the Board will digest the comments and try to integrate them into a package that will advance the discussion on this critical issue.

**Public Comments:**

Dan Courtney member of the public, Mark Krauss, Regulatory Affairs, PG&E, Nancy Macy, member of the public, and Frank Harris, California Municipal Utilities Association provided comments.

**Elliott Chasin, DFW, Supervisor Forestry and Wildfire,** commented regarding the de minimis issue, he wanted to echo the previous comments of Eric Huff, CAL FIRE and others who’ve spoken to the vagueness of some of the draft regulatory text, particulary the term de minimus.

Member Chase commented that he realizes that this is a complex issue and a challenging process, they’ve made a lot of headway and he looks forward to reviewing the comments, that these actions will stimulate and will move in a positive direction based on feedback from multiple stakeholders.

***Resource Protection, Darcy Wheeles, Chair***

* Provided and updated on Safety Element Reviews including the County of Placer and the City of Moreno Valley.
* Provided updated on the information presented to the committee on the CAL FIRE Land Use Planning Program, including the Public Resources Code 4290.5 Fire Safety Survey/Subdivision Review Unit Program Update
* Discussed Future Actions for Consideration based upon 2021 Committee Priorities,

Member Wheeles commented that the committee reviewed the 2020 Priorities and made some selections of subject matter to be addressed by the Resource Protection Committee in the near future.

## SPECIAL BOARD HEARINGS/REPORTS

**Presentation: Introduction of the Board of Forestry and Fire Protection DRAFT Research Report,** Russ Henly, CAL FIRE FRAP

Russ Henly, CAL FIRE FRAP, provided an update of the presented DRAFT Research Report and commented that it might be helpful for the public, if the Board makes a decision as to when they would like to offer and close public comment on this. Chair Gilless stated and a date of May 26th for a close of public comment appeared appropriate and asked the Executive Officer if the information would be posted on the Board website. Executive Officer Dias responded that they could prepare a very brief notice and send it out hard copy and electronically that would indicate a date in which the Board would like to receive written comments.

# CONCLUSION

**Public Forum:**

Richard Gienger commented on the draft Research Report.

## Adjournment

Respectfully submitted,

ATTEST:



Matthew Dias

Executive Officer 

Keith Gilless

Chair