ACL ASSOCIATED CALIFORNIA LOGGERS

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November 1, 2013

Dr. J. Keith Gilless, Chairman and Members
California Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

**RE: "Board 2013 Regulation and Priorities Review" – Comments of Associated California Loggers**

Our association of largely family-owned, multi-generational loggers, log truckers and log road builders respectfully submits the following comments on the above-referenced topic. With regard to the issues presented below, the term "Licensed Timber Operator" – a license held by all three entities above – is abbreviated as "LTO":

1. **PROBLEM:** LTO's have reported that they have been cited by state regulatory agencies with responsibility and liability for violations, errors, or other wrongful actions taken to comply with a Timber Harvest Plan or other timber management document, where the LTO was following the direction of a Registered Professional Forester (RPF) in taking the action.

   **PROPOSED SOLUTION:** The Board of Forestry should review those sections of statutory law and the Forest Practice Rules relating to the responsibilities of both LTOs and RPFs for actions undertaken under a Timber Harvest Plan, and the necessary meetings should be held to set policy going forward so that liability and responsibility is not wrongly affixed to an LTO for work performed in accordance with the direction of the RPF or RPFs on the Timber Harvest Plan.

   REGULATION SECTIONS: Forest Practice Rules 1035.1, 1035.2, 1035.3, 1035.4.

2. **PROBLEM:** In December of 2012 a number of LTOs were informed that their licenses were unable to be renewed and issued in accord with renewal deadlines, because of "delays in the State Printer's office in getting notices out to LTOS." Though LTOs must postmark their renewal applications by December 1 of the year in which their license expires(per Forest Practice Rule 1026(b)), many LTOs could not do so as they had not received renewal notices. During this time, LTOs who were offered winter operations jobs were unable to work until the licenses were renewed; delays took anywhere from a number of days to a little over a week of vital working time.

   ACL was informed that not only was CALFIRE unable to issue license renewal notifications, but that penalties would affix because "LTO's should be aware of the dates upon which their licenses renew." However, even though the State Printer's office failed to issue the notices on a timely basis, we were informed that "(our) hands are tied until the State Printer issues (an) exemption for printing; as they do not have the means to complete the renewal job 'in house,'(and) "all state agencies are required to obtain an exemption from the State Printer's prior to using another vendor for printing services."

**PROPOSED SOLUTION**: Assure that (1) CALFIRE officials in charge of the initial licensing and license renewal of Licensed Timber Operators both license and renew the licenses of LTOs in a timely manner, that (2) renewals be issued so that an LTO will not have a "gap in time" during which he or she is not licensed and therefore cannot accept, begin or complete work; and that (3) LTOs receive proper early notice of upcoming renewal dates and requirements. It should be determined **in advance** if the State Printer's office cannot handle the printing of renewal notifications, and if that is the case, an exemption should be sought immediately to use an outside vendor.

STATUTE AND REGULATION SECTIONS: Forest Practice Rules 1020 -1030.

3. **PROBLEM:** LTOs have reported increasing and overzealous enforcement of statutory laws by the Department of Fish and Wildlife, Regional Water Quality Boards, CAL FIRE, and other entities.

   **PROPOSED SOLUTION:** The Board of Forestry should establish mechanisms whereby Licensed Timber Operators can protest overzealous enforcement of statutory laws and regulations by enforcement officials of CALFIRE, Department of Fish and Wildlife, Regional Water Quality Boards, and other government entities. Such mechanisms would include, but not be limited to, a designated official in each department to receive complaints of overzealous enforcement; regular or necessary meetings to establish a better relationship between the regulators and regulated LTOS and notice of the laws being so enforced, and full notice from CALFIRE to LTOs of the appeals process attendant to administrative civil penalties.

   REGULATION SECTIONS: All relevant agency enforcement regulations.

4. **PROBLEM:** At a time when the threat of timberland wildfires has risen as has devastation to the lands of California and costs to the budget of California, the positive role that can be played by the LTO community in the prevention, suppression and salvage of wildfires is one that we believe have not been properly considered by state officials. Moreover, the LTO community stands ready to receive educational training from CAL FIRE in developments in statutory and regulatory law, particularly as in regards to fire watch.

**PROPOSED SOLUTION**: Officials of CALFIRE need to meet with representative associations for the purpose of informing, educating and advising LTOS on developments with regard to statutes and regulations (include CCR Section 998 and associated rules) with regard to fire prevention(including fire watch), fire suppression and post-fire log salvage. Moreover, we respectfully seek CALFIRE to meet with Associated California Loggers to as to plan specific CALFIRE training and education of LTOs at chapter meetings throughout the state, at the Associated California Loggers Annual Meeting in January, and, perhaps, at special joint public-private sector meetings.

STATUTE AND REGULATION SECTIONS: Forest Practice Rules 917.2, 937.2,957.2, 918.8, 938.8, 958.8.

**PROBLEM:** With each recent year at the state level, the funding, size and staffing of various environmental regulatory agencies, boards and commissions has risen, several years ago with the passage of the SRA fire fee, and most recently with the support of Associated California Loggers itself for Assembly Bill 1492 of 2012, "The Timber Harvest Reform Act" that infused the budgets of these agencies with more funding. Of all these board and agencies , it is the Board of Forestry that has the highest statutory direction to the promote timber management and the timber economy, even as the Board has so appropriately joined with its fellow environmental entities in assiduously promoting environmental protections.

It is time to re-affirm the Board's role in promoting the timber economies in depressed rural regions, particularly those in which the replacement industry has been riddled with illegal enterprise that are injurious to regions, species and human beings alike. As stated in Public Resources Code Section 4629 as added by Assembly Bill 1492 (Chapter 289) of 2012, **"Section 4629. The Legislature finds and declares..the following: (a) A thriving in-state forest products sector provides public benefits, including employment opportunities in both rural and urban areas, and economic development for rural communities; (and) (b) Enabling continued economically viable production of forest products can help protect the state's forest lands from conversions to other uses..."**

**PROPOSED SOLUTION:** At all times, the Board of Forestry must make sure to give consideration to the economic analysis of proposed regulations, to the economic impact of those regulations as they may lead to a unintentionally support the degradation of the environment through the growth of illegal practices, and, overall, to developing and supporting the jobs supplied by timber management so long as environmental protection contemplated by the regulations remains of importance as well.

In short, since the state of California has selected the Board of Forestry to, among its other charges, take the lead on the support of the timber industry, there is no need to, as has been urged upon the Board by others, excessively defer to or sublimate its role to the environmental prerogatives of other environmental agencies when pursuing regulatory action. **Moreover, the Board should follow the spirit of Assembly Bill 1492 in seeing that Timber Harvest Plan review is streamlined and accelerated in accordance with the "Redding Timber Harvesting Review Pilot Project of 2012-2013."**

STATUTE SECTIONS: Those found in Assembly Bill 1492 (Chapter 289) of 2012, particularly new Public Resources Code Section 4629.

Respectfully submitted,

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Associated California Loggers