

**Oak Woodland Policy Recommendations
State Board of Forestry and Fire Protection
Policy and Management Committee**

Submitted By

**The Range Management Advisory Committee
August 31, 2004**

Introduction:

The issues pertaining to oak woodlands protection and retention have been before the Board many times over the years. For example, a quick review of Board minutes for the year 2003 indicates that the subject was discussed during at least five separate meetings of the full Board, as well as in several committee meetings.

The Board and the Fish and Game Commission adopted a Joint Policy on Hardwoods May 9, 1994 that is attached to this report as Exhibit 1. The Board is considering updating the current policy regarding hardwoods. Pursuant to this the Board has requested assistance from the Range Management Advisory Committee (RMAC) with reviewing the issues and commenting on the current status of oak woodlands, and provide recommendations for the Board's consideration. RMAC has performed this review and is providing the Board a summary of the issues and recommendations on oak woodland policy.

RMAC held a hearing that shall be referred to as the Oak Woodland Forum on April 26 & 27, 2004 in Sacramento, California. The Forum was a publicly noticed meeting that included invitations sent to a number of oak woodland experts as well as industry, forestry, real estate interests, county government representatives, landowner representatives, and organizations that represent concerned public such as the California Oak Foundation. In addition, RMAC called upon several agency personnel during the course of the meeting to help shed light on specific questions that included the Department of Forestry and Fire Protection, Department of Food and Agriculture, and the Natural Resources Conservation Service. The Department of Fish and Game was invited but did not attend the Forum.

The Forum was not well attended in consideration of the outreach undertaken by RMAC. A list of persons and organization that submitted oral and written comment may be viewed in Exhibit 2. Exhibit 3 is a listing of the literature reviewed by RMAC during and subsequent to the Forum. Board Chairman Stan Dixon attended both sessions.

Ample time was allowed for lengthy and useful dialogue between RMAC and those testifying at the Forum. RMAC has also reviewed many letters from interested persons and groups. As of July 13, 2004 RMAC and the Board have received approximately 1,775 letters. Of these approximately 1,700 were form letters with an identical message speaking in favor of statewide oversight of oak woodlands. Forty-seven were non-form letters speaking in favor of state-wide oversight and 24 were letters speaking against statewide oversight. Four letters expressed concern for oak resources; however, they did not specifically mention designation of oaks as commercial species. In addition, RMAC reviewed several technical reports provided by participants at the forum.

An ad hoc committee of RMAC communicated by conference call on May 26, 2004 to condense the issues identified at the Forum into primary issues of interest for consideration by the Board. This was followed by a public meeting lasting one full day and a half day on June 22 and 23, 2004, which was devoted to existing Board of Forestry Policy and the management of oak woodlands. This report lists the critical issues identified by RMAC through this process, discusses why they are important, and offers recommendations to the Board for addressing these issues.

Summary of Primary Issues Identified by RMAC:

- A. The Status of the Oak Woodland Resource in California
- B. Oak Woodland Conversions
- C. The Economics of Maintaining Open Space versus Development
- D. Joint Policy on Hardwoods
- E. Regulation by Local Government versus Statewide Oversight
- F. Solving Problems with a Focused Research and Education Effort
- G. Commercial Designation of Oak Woodland Species by the Board

Discussion of Primary Issues:

A. The Status of the Oak Woodland Resource in California:

RMAC members decided that a logical place to begin would be a review of the scientific literature regarding Oak Woodlands. A primary source of information used is the Forest and Range 2003 Assessment published by the California Department of Forestry and Fire Protection Forest and Range Assessment Program (FRAP). Other sources of information are materials provided by the Integrated Hardwood Range Management Program (IHRMP), California Oak Foundation, and from testimony given at the Oak Woodlands Forum. The following is RMAC's summary of the current status and trends of California's Oak Woodlands.

The FRAP Report mentions hardwood land cover as composed of two broad categories; Hardwood woodlands, also referred to as “oak woodlands” that are at lower elevations and not normally associated with abundant conifers, and Forest woodlands that occur at higher elevations with significant conifer components. Together these cover types encompass nearly 9.9 million acres in California. This area includes approximately 7.2 million acres listed under private ownership (FRAP 2003 Assessment, Online Technical Report, Chapter 1). The 7.2 million acres referenced by the FRAP report also meet the definition of “rangelands” as stated in Public Resources Code (PRC) 4789.2(i).

FRAP’s assessment of hardwood area includes reference to monitoring programs that measure change in hardwood vegetation types over time. One such program known as the California Land Cover Mapping and Monitoring Program (LCMMP) measured change in hardwood areas within five-year monitoring periods. Approximately 96 to 98 percent of all hardwood areas had no detectable change within five year monitoring periods. Testimony before the forum by IHRMP representatives indicates net decreases in localized areas are balanced by increases in other areas. This would suggest that testimony given regarding large areas of oaks being removed are individually significant, however from a statewide perspective are isolated to specific local situations. The result in areas where significant removal has occurred may include habitat fragmentation, and a lack of functional habitat for wildlife dependent on oak woodlands.

The FRAP Assessment states that “hardwood land cover is heavily dominated by private ownership,” with 83 percent of Hardwood Woodlands and 73 percent of Hardwood Forests being owned privately and potentially subject to the Forest Practice Act. This suggests that any changes in statewide regulation could have significant impacts on individual property rights, local government’s jurisdiction over land use, economic viability of maintaining open space, and development of new methods of management. The percentage of oak woodlands in private ownership also makes them proportionally susceptible to conversions to other land uses.

Statewide, wildfire and fuel wood harvesting are the main agents of change to hardwood canopy cover (FRAP 2003 Assessment, Online Technical Report, Chapter 1). Other identified threats are development, intensive agriculture, and Sudden Oak Death. These items will all be discussed further in this report under the section on Oak Woodland Conversion.

B. Oak Woodland Conversions:

Oak woodlands are essentially maintaining their acreage on a statewide basis according to University of California IHRMP personnel and research documents as noted above. While this was generally agreed upon by RMAC, it was also made clear that substantial oak woodland fragmentation and conversion to other uses is occurring in local, concentrated, often highly visible areas.

Development to commercial and residential uses was identified as the major cause of local encroachment into oak woodlands (Light & Pedroni, 2002). Testimony received during the Forum indicates county planning departments can be successful in protecting oak woodlands from development, but there is substantial variability in the success that they have had in doing so. Indeed, some of the written and oral comment indicates that county governments have been universally ineffective in protecting oaks. Forecasts for population increases in California and the desirability of many foothill areas for home sites indicate that development pressures will be a continuing issue in oak woodlands. Redevelopment of the inter-cities can play a major role in reducing the development pressures in the oak woodlands. Working landscapes can fend off development; however, the economics of ranching as compared to building development is such that landowners often require external incentives to maintain their properties in open space.

While building development often occurs in more visible and perhaps critical locations within oak woodlands, wildfire is usually the most important source of oak woodland type conversion, causing 11 – 90% of the change depending on the region (FRAP 2003 Assessment, Online Technical Report, Chapter 1).

Conversion to vineyards has been a source of loss of oak woodland, but it appears to be lessening as a cause, at least at this point in the price cycle for wine grapes. Likewise, firewood cutting seems to be diminishing as a problem, partly because of reduced use of wood burning stoves statewide, but also perhaps because of better oak management practices in some regions of the state. Clearing for range improvement is thought to be no longer a serious problem because it is now less economically attractive as in the past and there is recognition of the ecological effects of complete tree removal.

Sudden oak death (SOD) has reduced oak populations in coastal regions. However, personal communication with Mark Stanley (Chairman, Oak Mortality Task Force) indicates that although the relative number of oak species has changed within stands, total elimination of species within stands has not occurred. Therefore, it would be premature to conclude that complete vegetative type conversions are expected due to SOD. So far SOD is confined to coastal regions, and it has not affected white oaks (a group of oaks including blue and valley oaks).

C. Economics of Maintaining Open Space versus Development:

RMAC views the problem of maintaining oak woodlands from the perspective of the revenue forgone by maintaining productive working landscapes in open space versus development for alternative uses. California citizens recognize and share that certain landscape descriptions provide goods and services from which all derive benefit. The challenge is to explore additional mechanisms to compensate landowners for the value of goods and services such as drinkable water, wildlife

habitat, aesthetics, stable and healthy soils, clean air, and an economic base for the rural community.

Contrasting Methods for Maintaining Open Space:

The Oak Woodlands Forum testimony and other written materials reviewed by RMAC presented contrasting views on how to maintain oak woodlands. One view is via regulation with the designation of oak species as commercial by the Board and whatever legislative and regulatory actions needed for this to occur. Detailed discussion on this topic will follow in a separate section. An alternative approach is purely based on incentives that encourage landowners to adopt best management practices and to place large tracts of land within conservation easements that protect oak habitat in perpetuity. A third is the adoption of voluntary guidelines or mandatory ordinances by local government.

There have been specific incentive based measures such as the Oak Woodlands Conservation Act that are well intentioned but likely flawed as a way to create the landscape desired by the society who demands the benefits. Incentive programs need to be locally driven, and the money should be used on the land not in administration and planning offices. Unfortunately, the program, which is designed around the establishment of County Oak Conservation Plans has not received extensive use, and is very likely under-funded in consideration of the magnitude of the resource and property values.

The Oak Woodlands Conservation Act is based on single specie management. RMAC is of the opinion that programs designed to maintain oak woodlands would better serve that purpose if based on the concept that a healthy biological community (or mosaic) inherently provides for the needs of individual species within it.

A Closer Look at Conservation Easements:

RMAC is of the opinion that conservation easements can offer unique environmental solutions for California taxpayers in that they can solve multiple problems in resource management through a cooperative, voluntary, private sector approach. For example, RMAC has found merit with some of those contributing testimony arguing that conservation easements should reflect cooperation between local communities and landowners versus the antagonistic relationships and unintended results that develop when conservation is forced through regulation.

RMAC is also in agreement with those who claim that an effective conservation easement program requires careful thought in order to provide maximum benefit to the landowner. They must be written with sufficient flexibility in order for managers to act as true stewards of the land. They must be crafted on a site-specific basis, and allow for monitoring and change if necessary in order to achieve desired outcomes on the land. There should be no prejudice of tools prescribed, and they should focus on land use rather than detailed management prescriptions.

Incentive programs that promote desired management practices can be provided by Federal and State landowner assistance programs such as the CDF California Forest Improvement Program. Funding for these programs should be strongly supported by Board policy.

A specific benefit of the Oak Woodlands Protection Act and the CDF Forest Legacy Program is that they provide grant funding specifically for working landscape conservation easements on California's oak woodland habitats. The beauty of this approach is that it embraces the idea that if we can keep private managers on the land and provide incentives, private managers will find a way to produce the desired biological communities.

There is marked difficulty in attempting to equate the monetary value of conservation easements with the intrinsic value of the public trust values provided through its language. There is no marketplace for establishing monetary values for habitat, open space and water quality, only a marketplace for real estate. Conservation easements are valued based on what the market will bear in real estate values; or the difference of what the market will bear before and after the application of the easement to the land. RMAC is of the opinion that Board policy should encourage incentive based programs like the Oak Woodlands Conservation Act, and that efforts by researchers to estimate the true value to society of the non-commodity values provided by landowners be supported as well.

D. Joint Policy on Hardwoods:

RMAC's review of the issues pertaining to oak woodlands included a review of existing policy as stated in the Joint Policy on Hardwoods adopted by the Board May 9, 1994 in cooperation with the Fish and Game Commission (See Exhibit 1). Below is an outline listing portions of existing policy that provides a background for discussion:

Board and Commission Concerns per Existing Policy Include:

1. Human use of oak woodlands through development with potential impacts to water quality, fish and wildlife, and other resources.
2. Whether there is adequate regeneration of some oak species.
3. Differences within local areas regarding impacts to hardwood resources, land use, management approaches, and vegetation communities.
4. Population growth and associated land uses that impact hardwood resources.

Scope of Current Board and Commission Policy Include:

1. "Hardwood resources of California should be managed for the long-term perpetuation of their local and broader geographic representation and to continue to provide for their inherent natural and biological values." This policy includes a statement indicating, "Local incentive policies should be designed to promote ecological viability as well as economic return from hardwood resource management."
2. "The Board and the Commission support continued implementation of the Integrated Hardwood Range Management Program (IHRMP)." There is reference to establishment of a means for monitoring the status of hardwood resources.
3. "The Board and Commission support the desire of local government to be able to utilize their expertise in selecting locally appropriate conservation options and encourage them to seek early project review by Departmental personnel."
4. "If issues related to hardwood conservation cross county lines, the Board and Commission will encourage multi-county and local approaches and if necessary will provide for assessment, information, and suggested standards. As appropriate, the Board and Commission will encourage collection of data that can assist local government in addressing issues related to hardwoods and which can be aggregated to provide information across larger geographic areas or statewide."
5. There is additional language that speaks to harvesting in a sustainable manner for the protection of resources, consideration for private landowner goals, property rights, and community economics.
6. There are references to coordination with a variety of public and private entities for providing research, information, and education programs related to hardwoods.
7. There is reference to annual reports provided by the departments to the Board and the Commission. There is reference to the Board in consultation with the Commission, RMAC, and the IHRMP assessing the need for State oversight.

In addition to the above policy statements are specific polices assigned to the California Department of Forestry & Fire Protection (CDF) and the Department of Fish & Game (DFG).

In review of this policy document it became apparent to RMAC that existing policy may in fact be adequate to provide the needed information and guidance for the

management and protection of oak woodlands. However, it is not clear to RMAC the degree to which the policy is being implemented, or whether CDF and DFG have the funding or personnel to implement the policy to its fullest extent. Input from DFG during and after the Oak Woodlands Forum did not occur, and this would have been helpful in answering the question of implementation. For example policy measure IV.G requiring an active liaison from DFG to the Board and RMAC dealing with hardwood issues has not occurred at least from the perspective RMAC. A general observation is that policy provisions lack specified time frames for accomplishing specific tasks. Therefore, RMAC recommends that the Board and the Fish and Game Commission complete a thorough review of the Joint Policy on Hardwoods. This review should include the following elements:

1. The adequacy of existing policy to accomplish the objectives of the Board and the Commission.
2. Whether existing policy is being implemented.
3. Whether language needs to be strengthened in terms of accountability for those responsible for implementation, and time frames established for implementation.

E. Regulation by Local Government versus Statewide Oversight:

During the course of RMAC's review of oral and written comment several key points were raised as follows:

1. There is a general belief on the part of some interested parties that local management and regulation of oak woodlands has failed to protect oak woodlands. Reasons cited include:
 - a. Regardless of existing county law there is no enforcement in some cases.
 - b. There are indications that counties are not adequately staffed or funded to effectively evaluate oak woodland projects.
 - c. CEQA is not being implemented correctly in that adequate review and mitigation is not occurring in all cases.
2. There are success stories found within local government control. San Luis Obispo and Tehama Counties are examples where local interests have worked together for the management of oak woodlands.
3. Statewide oversight implies a one size fits all mentality. Different counties will have different issues making this approach unacceptable to some.

4. Statewide oversight removes the responsibility for determining land use from local government, and transfers it to the State. This is the current situation with timberland as defined by the Forest Practices Act.
5. Statewide oversight may impact local government's ability to address other needs dealing with land use.
6. Issues specific to the California Environmental Quality Act (CEQA):
 - a. CDF currently reviews oak woodland environmental documents only for fire protection issues.
 - b. Projects that convert oak woodlands to alternate uses and are subject to CEQA must be given circulation for agency and public comment. Yet it became clear from testimony that circulation to appropriate agencies does not always occur.
 - c. In other cases even if appropriate agencies receive the project no review occurs unless the project involves a permit or is otherwise under the jurisdiction of the agency. State agencies must show an interest in and comment on oak woodland projects in order for local government to effectively manage the impacts to oak woodlands. For these reasons there is a belief on the part of some that the administration of CEQA by local government has not been effective and that statewide oversight is needed.
 - d. Additional comment was submitted indicating that streamlining of the CEQA process is needed. A pre-consultation process has been recommended and has shown signs of being effective for solving problems among stakeholders and reviewing agencies prior to submission to the State Clearing House for circulation. However, lack of participation by all stakeholders has been a problem.
 - e. CDF and DFG should be included in the circulation list for any project that has the potential to impact oak woodlands.
7. The IHRMP has completed training for local planners and is in the process of completing a second version of their Planners Guide.

RMAC Comment:

The lack of county oversight where local law exists, and failure to receive adequate review and recommendations under CEQA are essentially procedural problems that are solved by changing the methods by which law is applied and projects are reviewed. These problems by themselves do not justify statewide oversight with new regulations. RMAC is of the opinion that Board policy should be one where

oak woodland projects subject to the requirements of CEQA receive review by CDF and DFG regardless of whether there are jurisdictional or permitting issues involved with the project pertinent to these agencies. The intent of this recommendation is to assist local government planners with making informed decisions regarding mitigation and project design by soliciting comment from agencies with resource management skills not present at the local level. The Board may also request the status of oak woodlands from FRAP to assess local government success at mitigating impacts under CEQA, by voluntary programs, or local ordinances.

RMAC's discovery process has not found sufficient information to warrant statewide oversight of oak woodlands.

F. Solving Problems with a Focused Research and Education Effort:

The Integrated Hardwood Range Management Program (IHRMP) was established in 1986 to insure sustainability of the state's 10 million acres of hardwood rangelands and promote oak woodland conservation. This is a cooperative effort between the University of California, the California Department of Forestry and Fire Protection and the California Department of Fish and Game. The scientific breadth and depth of the program and its educational accomplishments are reflected on the IHRMP web site: <http://danr.ucop.edu/ihrmp/>. University of California Division of Agriculture and Natural Resources (UC DANR) Oak Conservation Work Group <http://groups.ucanr.org/oaks/> builds upon the IHRMP by supporting the training of Cooperative Extension Advisors and securing external funding to support additional research and demonstration projects within California.

The IHRMP has been successful. The sustainability of hardwood rangelands and the conservation of oak woodlands are documented by monitoring the status of hardwood rangeland canopy cover change by satellite imagery and ground checking. Program reports to the State Board of Forestry, UC DANR program impact reviews and survey responses from workshop participants document changing landowner attitudes towards retention and management of oaks. Evaluation and assessment of IHRMP education and research impacts have been key to its success in program development and delivery.

To support and insure the continued success of the IHRMP in sustaining California's hardwood rangeland resource and promoting oak woodland conservation RMAC recommends:

1. A comprehensive review of the entire IHRMP since 1986 to document impacts and identify missed opportunities to strengthen the program. This review would include the University of California, the California Department of Forestry and Fire Protection and the California Department of Fish and Game.

2. Encourage the University of California, California State University, private university researchers, and the private sector to participate in the Oak Woodlands Conservation Program grants.
3. Investigate the opportunity to expand the IHRMP by integrating the USDA Natural Resources Conservation Service into the program.

Single specie focused research and management has been demonstrated to be an ineffective long-term management tool. Additional workshops and research programs are needed to provide solutions and tools for those responsible for the resources, both public and private. RMAC recommendations to the Board include:

1. Continue to support workshops that specifically target the following with an education outreach program: Landowners, County and City Planners, Commercial and Residential Developers, Realtors, and Non-profit conservation organizations.
2. Contact the Secretary of the Resources Agency to direct staff to establish outreach programs that support workshop participants with accessible data bases developed through the Legacy Project.
3. Support a cooperative research project with FRAP, Land Grant and State Universities, Department of Commerce, California Department of Transportation, and the California Department of Food and Agriculture to determine the impacts of the projected population growth for California. Specifically in demographics, economic impacts to rural communities, invasive species, food safety, and transportation.
4. Develop a joint integrated vegetation management program by establishing a joint policy statement with the Department of Food and Agriculture. The policy would address invasive species, sensitive species, wildlife management, fire and fire fuel loads, vegetative structure, and oak friendly development practices. The unintended economic consequences of State policy should be considered as part of policy development.

G. Designation of Oak Woodland Species as Commercial:

Commercial Species Defined:

The California Forest Practice Rules, Title 14, California Code of Regulations, 895.1 defines commercial species as those species found in group A and those in group B that are found on lands where the species in group A are now growing naturally or have grown naturally in the recorded past. Oaks (genus *Quercus*) currently placed on commercial species lists are designated as group B species and include California Black Oak and Oregon White Oak. Additionally, the term

“commercial” implies that there is an economic value that can be obtained through purchase or sale.

Discussion:

Oak woodlands within the State are primarily included in rangelands, because their response to range management principles and activities are similar to the response of other shrubby ecosystems. However, oak woodlands are defined as lands on which the majority of the trees are of the genus *Quercus*. It has been estimated that oaks grow on nearly 17 million acres in California or, about one-sixth of the states total land area and that over half of this acreage is in low-elevation foothill rangelands. (FRAP Forest and Range 2003 Assessment). This includes the 9.9 million acres of hardwood woodlands and forest woodlands mentioned previously within the section “The Status of the Oak Woodland Resource in California.”

Under the California Forest Practice Rules (FPR’s), some oak woodlands are included within the forest landscape. Currently, CDF has no authority to regulate hardwood species belonging to the genus *Quercus* unless they are included within the commercial species lists. However, it is the Responsibility of the Registered Professional Forester when developing a timber harvest plan on timberland to comply with Board of Forestry Technical Rule Addendum Number 2, Cumulative Impacts Assessment, Item C., 4, e. Hardwood Cover, which states:

Post-harvest deciduous oak retention for the maintenance of habitats for mule deer and other hardwood-associated wildlife shall be guided by the Joint Policy on Hardwoods between the California Board of Forestry and the California Fish and Game Commission. To sustain wildlife, a diversity of stand structural and seral conditions, and tree size and age classes of deciduous oaks should be retained in proportions that are ecologically sustainable. Regeneration and recruitment of young deciduous oaks should be sufficient over time to replace mortality of older trees. Deciduous oaks should be present in sufficient quality and quantity, and in appropriate locations to provide functional habitat elements for hardwood-associated wildlife.

During the Oak Woodlands Forum there was discussion of the potential for using basal area to estimate hardwood cover retention when evaluating post-harvest stocking levels. Recent work in the area of oak retention suggests a minimum basal area of 35 square feet that was at one time under consideration by the Board for commercial timberlands as defined by the Forest Practice Rules.

RMAC Comment:

During RMAC’s investigation of the commercial species issue a variety of factors were taken into consideration. These included cost of regulation, the potential need for new rule packages, increased project complexity, effective resource

protection, potential conflicts with existing laws and/or programs, the traditional meaning of “commercial” in the context of Forest Practice Regulation, a Review of Existing Professional Forester’s Licensing Law, and Board Authority to Designate Oak Woodland Species as Commercial. A discussion of each follows:

Cost of Regulation:

RMAC has determined that designating Oak Woodland species as commercial by the Board will increase costs to the State and would require additional personnel. Amended Senate Bill 1334, Oak Woodlands Conservation (formerly SB 711) as it pertains to conversion of oak woodlands, would apply the provisions of the California Environmental Quality Act (CEQA) to the conversion of oak woodlands. Under CEQA, a lead agency is required to prepare or cause to be prepared, and certify the completion of an environmental impact report on a discretionary project that it proposes to carry out, or approve, that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. As of the date of this report SB 1334 has been amended in such a manner that regulation of oak woodlands will not impact CDF Forest Practice budgets.

RMAC investigated a CDF analysis of the former SB 711, (amended version 7/3/03), in order to gain insight of what the Department believed were the potential costs of designating oak woodland species as commercial. At that time, it was concluded that probable total annual cost beginning in budget year 2005-06 would be \$2.76 million, and require 22 additional employees. Also at the time of analysis, CDF estimated that it would cost \$242, 000 for a Forester I and an Associate Archaeologist to regulate the conversion of 1000 acres. There is also the cost of preparing environmental documents (a Timber Harvest Plan for example) that is expensive under current rules. Adding more regulation would pose a significant financial burden to landowners.

New Rule Packages:

Commercial designation would require rewriting existing Forest Practice Legislation and Forest Practice Rules. The cost of rewriting forest practice legislation was included in the analysis of the former SB 711 and is a portion of the total \$2.76 million cited above. Current Forest Practice Rules in Title 14 of the California Code of Regulations, as well as the Public Resources Codes listed under the Z’Berg-Nedjedly Forest Practice Act are directed towards conifer species and timberland. The current Forest Practice Rules carry with them retention and silvicultural standards that were not written for oak woodland species.

Project Complexity:

Oak woodland conversion projects would become a two step process. The first step would require county approval for the conversion of oak woodlands. Counties

would be required to implement an oak woodlands management plan where specific mitigation measures for the conversion of oak woodlands would have to be met. The second step would require approval of a timberland conversion permit by the Director of CDF, where conversion of oak woodlands is proposed and has been approved by a county.

Commercial designation will impact CDF to the extent that permitting documents would be required for harvesting activities, even if the product is nothing more than firewood. Again, this would require additional funding and staff as described under "Cost of Regulation."

Potential Conflicts with Existing Law:

Conflicts with other laws currently in existence would require investigation. Federal programs presently allow for the removal of oak trees for the purposes of range improvement. Where existing law and proposed new regulations come in conflict, extensive amendment may be necessary. Conflict also arises within the California Forest Practice Rules. Under Title 14, California Code of Regulations, 939.15 (Northern District), Protection of Wildlife Habitat, states that: "All trees within meadows and wet areas may be clear-cut and these are exempted from stocking provisions in order to attain or retain these areas for wildlife and livestock". This is similarly stated for the Southern District but with added language and provisions.

The Traditional Meaning of Commercial Designation:

The application of the term "commercial" to oak woodland species in large part is not appropriate given that these species have limited commercial value as compared to softwoods found in group A, for which the commercial designation is primarily intended. At present in California, the manufacture of hardwood lumber is very labor intensive, time consuming and not cost effective compared to softwoods. The milling of oak lumber remains a cottage industry. Substantial under-runs in board foot volume are of great concern. Currently, few hardwood mills exist within the state. Transportation to those few mills from great distances could potentially cost more than the value of the raw material. Transporting oak from zones within the state that are impacted by Sudden Oak Death to areas that are not, could present additional problems. Values determined by the State Board of Equalization are shown as \$35.00 per cord for fuel wood, and \$1.00 per green ton as pulp chips or hardwood logs, regardless of the origin of that wood. Local and regional retail value differs based on a variety factors.

A Review of Existing Professional Forester's Licensing Law:

RMAC believes that a complete review of the Professional Foresters Licensing Law would be necessary to determine Registered Professional Forester (RPF) responsibilities resulting from commercial designation. In addition the responsibility

of Certified Range Managers should also be examined in the event that oak woodland species were to be declared commercial.

Board Authority to Designate Oak Woodland Species as Commercial:

In a State Respondents Brief, dated March 29, 2002, the Attorney General indicated that in a case between the California Oak Foundation vs. the California Department of Forestry and Fire Protection and the Board of Forestry (Board), that the Board has explicit power to define commercial species and that the definition of “commercial species” determines the scope of regulated “timberland”. It was further stated that the Board’s mandate to determine “commercial species” in section 4526 (Z’Berg-Nedjedly Forest Practice Act) is not contingent on its finding that the inclusion or exclusion of certain tree species from the definition of “commercial species” will not normally be expected to result in a threat to forest, air, water or soil resources. However, it was further stated that there is no regulatory void regarding oak trees as they are subject to other applicable state and local law.

Oak Woodland Policy Recommendations for Consideration:

Based on the testimony presented at the Oak Woodlands Forum, and the written materials reviewed the following recommendations are presented for Board consideration.

1. The evidence would suggest that substantial change has occurred within some local oak woodland vegetation types where development is a primary cause of the change. RMAC views this phenomenon as being driven by local issues specific to communities and counties. Therefore, RMAC recommends that Board policy be designed to facilitate and assist local government with solutions to these problems rather than a single policy or set of regulations that applies universally to all areas. RMAC does not recommend designating oak woodland species as commercial under the Forest Practice Rules.
2. The use of landowner incentives such as conservation easements via the Oak Woodlands Conservation Act, the CDF Forest Legacy Program, and other similar programs have the potential to ease much of the concern for sustaining oak woodlands. Board policy should be to encourage, support, and expand these programs.
3. The Board should encourage and support research that measures the true value of the services provided by landowners and stewards of oak woodland. This would include an assessment of the public benefits derived including clean water, wildlife habitat, aesthetics, stable and healthy soils, clean air, and an economic base for the rural community. This research

- should include measures of the economic value foregone by not converting these properties to a higher value use.
4. The Board should support policy whereby all oak woodland projects under CEQA receive proper circulation via the State Clearing House or by direct distribution to agencies with expertise pertinent to the project. This would automatically include CDF and DFG at both the State and local levels where comment is invited.
 5. The Board should investigate the concept of forming CEQA prescreening groups that involve all stakeholders at the local level with a primary mission of bringing forth project concerns and recommendations for solutions as part of the project planning process and before formal notification as required by CEQA.
 6. The Board should make a complete review of the Joint Policy on Hardwoods.
 7. Board oak woodland policy should be based on an ecosystem approach rather than addressing problems on a species by species basis. This policy should focus on the health and sustainability of oak woodlands regardless of jurisdictional boundaries. Cooperation among counties, cities, and Federal land managers should be facilitated by an administrative policy.
 8. Board policy should consider the economic and social wellbeing of local populations that are impacted by regulation. Landowners that have alternative means of maintaining economically productive landscapes are less inclined to convert these properties to non-compatible uses.
 9. Where oak woodlands are located on rangelands, the oaks within this area should continue to be maintained for the resource values associated with rangeland. Continued support and implementation of the Integrated Hardwood Range Management Program would serve this end.
 10. Many government programs and/or laws penalize landowners for being good stewards of public trust resources. The Board's policy should be to identify these programs and work towards the eradication or modification of these programs and laws with the appropriate authority. Landowners need government programs that provide incentives and opportunities for cooperative solutions.
 11. Conservation easement legislation and cost share incentive programs like CFIP need to reflect California's commitment to conservation. The Board's policy should encourage increased funding for landowner assistance programs.

12. Board policy should recognize that funding for conservation and landowner assistance programs come from at least the state level since the citizens of the state receive the benefits.

13. Recommendations specific to Education and Outreach:

- a. Continue to support workshops that specifically target the following with an education outreach program: Landowners, County and City Planners, Commercial and Residential Developers, Realtors, and Non-profit conservation organizations.
- b. Contact the Secretary of the Resources Agency to direct staff to establish outreach programs that support workshop participants with accessible data bases developed through the Legacy Project.
- c. Support a cooperative research project with FRAP, Land Grant and State Universities, Department of Commerce, California Department of Transportation, Department of Conservation, and the California Department of Food and Agriculture to determine the impacts of the projected population growth for California. Specifically in demographics, economic impacts to rural communities, invasive species, food safety, and transportation.
- d. Develop a joint integrated vegetation management program by establishing a joint policy statement with the Department of Food and Agriculture. The policy would address invasive species, sensitive species, wildlife management, fire and fire fuel loads, vegetative structure, and oak friendly development practices. The unintended economic consequences of State policy should be considered as part of policy development.

14. Recommendations specific to IHRMP:

- a. A comprehensive review of the entire IHRMP since 1986 to document impacts and identify missed opportunities to strengthen the program. This review would include the University of California, the California Department of Forestry and Fire Protection and the California Department of Fish and Game.
- b. Encourage the University of California, California State University, private university researchers, and the private sector to participate in the Oak Woodlands Conservation Program grants.
- c. Investigate the opportunity to expand the IHRMP by integrating the USDA Natural Resources Conservation Service and the Department of Conservation into the program.

Exhibit 1

JOINT POLICY ON HARDWOODS

I. INTRODUCTION

The Fish and Game Commission (Commission) and the State Board of Forestry (Board) find that the hardwood resources on hardwood-rangelands and timberlands of California are a vitally important natural and economic resource.

Over 30 species of hardwood trees in California, including oaks of the genus *Quercus*, occur widely as individual trees and distinct habitat types throughout the State. Hardwoods themselves and hardwood-dominated habitats are extremely important to the fish, wildlife, and natural resources of California. Hardwoods throughout California support a wide variety of wildlife species by providing habitat with feeding, breeding, cover, and related needs. In addition, some hardwoods benefit fishery resources by preventing the erosion of hillsides and stream banks, moderating water temperatures by shading and contributing nutrients and food-chain organisms to waterways.

Hardwoods also provide substantial worth to landowners in the form of aesthetic, open space, recreational, wood products, range and property values and these same values also provide certain public benefits.

California has grown rapidly in population; homes and recreational use have intensified greatly in many formerly rural areas-including those dominated by hardwoods. Lands have been subdivided and ownerships fragmented. Hence, the Board and Commission have determined that human uses in hardwood habitats, such as development and fuelwood harvesting, have produced controversy related to public impacts to water quality, fish and wildlife, and other resources. The Board and Commission are also concerned about the adequate regeneration of some hardwood species.

The Board and Commission recognize that there are local differences in land use conditions, pressures and patterns, and management goals and practices that affect conservation needs that include, firewood harvest in the northern

Sacramento Valley and development in Southern California, the San Francisco Bay Area, and the Sierra-Nevada foothills. The Board and Commission also recognize that there is local variation in the hardwood resource between larger geographic areas. This variation should be addressed with an array of management approaches for different hardwood species, wildlife habitats, and vegetative communities.

The Board has been concerned with the impacts of population growth and various associated land uses on hardwood resources since 1981. The Commission has had a hardwoods policy since 1985. In 1987, the Board, the Commission, the Department of Forestry and Fire Protection (CDF), the Department of Fish and Game (DFG), and University of California Cooperative Extension started an Integrated Hardwood Range Management Program designed to provide for research, education, and monitoring of the hardwood resource. This program has received the support of landowners, governmental agencies, and the public. Since its inception, substantial research and educational efforts have taken place. In May of 1993, the Board reviewed the results of the Integrated Hardwood Range Program to see if it was accomplishing its goals. This review took place after complaints of the impact of firewood harvesting in a few Northern Sacramento Valley counties and the continued development of hardwood lands in other parts of the State. The Board reviewed the need for statewide regulation of hardwoods and decided that such controls are not warranted at this time. Rather the Board opted for a renewed effort to encourage local government and citizens to design strategies that will address local hardwood management and conservation. Should this fail, the Board, in consultation with the Commission, Department of Fish and Game, Department of Forestry and Fire Protection, Integrated Hardwood Range Management Program, the Range Management Advisory Committee and any interested parties, will examine the need for statewide legislation and take regulatory action, if necessary, to control harvesting and conversion of hardwood-rangelands using existing statutes.

II. JOINT POLICY OF BOARD AND COMMISSION FOR THEIR RESPECTIVE DEPARTMENTS

The Board and the Commission recognize the need to work together to provide for a unified policy for California's hardwood resource. To this end, the following joint policy is established for CDF and DFG:

A. The hardwood resources of California should be managed for the long-term perpetuation of their local and broader geographic representation and to continue to provide for their inherent natural and biological values and processes. These values and processes may include, but are not limited to, regeneration, plant species composition, vegetation structure and age class distribution, water quality, and other biotic and abiotic resources. Management should also address soil resources, air quality, rangeland improvement practices, recreational opportunities, and other benefits. Consistent with such conservation of the hardwood resource, state and local incentive policies should be designed to promote ecological viability as well as economic return from hardwood resource management.

B. The Board and the Commission support continued implementation of the Integrated Hardwood Range Management Program.

C. The Board and Commission support the desire of local government to be able to utilize their expertise in selecting locally appropriate conservation options and encourage them to seek early project review by Departmental personnel.

D. If issues related to hardwood conservation cross county lines, the Board and Commission will encourage multicounty and local approaches and if necessary will provide for assessment, information, and suggested standards. As appropriate, the Board and Commission will encourage collection of data that can assist local government in addressing issues related to hardwoods and which can be aggregated to provide information across larger geographic areas or statewide.

E. To the extent that agency staff are involved with hardwoods, the Board and Commission adopt the following joint policies for their respective Departments:

1. Departmental personnel should be guided by the position that hardwood harvesting and other land uses should be conducted in a sustainable manner which secures regeneration of all hardwood species, enhances the protection of fish,

wildlife and plants of hardwood habitats, allows adequate recruitment of other native vegetation in hardwood habitats and meets state and federal water quality standards. The Departments should also consider private landowners goals, property rights, and community economics.

2. Department personnel should cooperate with other state and federal agencies, local governments, University of California Cooperative Extension and other academic programs, non-profit organizations, landowners, groups representing landowners, and the public to provide for necessary research, information, and education programs related to hardwoods;

3. In cooperation with the Integrated Hardwood Range Management Program and Private landowner, Departmental personnel should jointly establish a process, which includes both satellite imagery and ground checking, to monitor the status of the hardwood resource, to examine the effectiveness of local policies with respect to hardwoods, and to evaluate the performance of the Integrated Hardwood Range Management Program; staff should report annually, in joint session, to the Commission and the Board.

III. JOINT PROGRAM REVIEW

The Board and Commission will meet periodically to review implementation of this policy and to clarify and resolve issues that arise from overlapping interests of their respective departments.

IV. SPECIFIC POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

In addition to the joint policy, the Commission specifically charges the Department of Fish and Game with the following:

A. Contingent upon funding and staffing availability, the Department conduct, contract and/or support studies involving assessing the effects of the distribution and densities of the following hardwoods on terrestrial and aquatic vertebrates, including: (1) blue oak and associated plant species in blue oak-dominated habitats; (2) black oak and associated plant species in black oak-dominated

habitats; (3) valley oak and associated plant species in valley oak-dominated habitats; and (4) Engelmann oak and associated plant species in Engelmann oak-dominated habitats;

B. The Department continue to review proposed timber harvesting activities and, when appropriate, recommend measures which will mitigate significant adverse impacts upon fish and wildlife resources;

C. Relative to the removal of hardwoods, the Department shall recommend, seek and support the adoption of proposals appropriate for the protection and enhancement of fish and wildlife resources;

D. The Department periodically reassess the terms and conditions of existing regulations, permit processes and other administrative measures which affect conservation of hardwood resources and, where feasible, seek corrective action when the original terms and conditions have proven inadequate;

E. If after consulting with the sponsors on project modification, and based on scientific evidence, the Department still opposes the proposed project affecting hardwood resources, it will notify the Commission of its opposition. This opposition may include, but not be limited to, the issuance of permits or licenses, authorization or programs, and the appropriation of funds which it determines will result in the removal of hardwoods and other modifications of hardwood habitats and communities in a manner that will result in significant adverse effects to fish, wildlife, or plant resources for which mitigation and compensation measures are judged to be inadequate;

F. In the event of disagreement over implementation of this policy with the Department of Forestry and Fire Protection, the Department shall inform the Commission of the disagreement;

G. The Department shall provide active liaison to the Board and Range Management Advisory Committee in issues related to hardwoods, fish, wildlife, endangered plant and animal species, and the impacts of vegetation management and wildfire on wildlife; and

H. Annually, the Department will include a statement in the Director's report to the Commission addressing the status of hardwood conservation.

V. SPECIFIC POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

In addition to the joint policy, the Board of Forestry charges the Department of Forestry and Fire Protection with the following:

- A. Administer Departmental programs consistent with the terms of this joint policy statement;
- B. Implement the Forest Practice Act, other statutes and this policy consistent with mitigation of adverse impacts to fish, wildlife and with this policy;
- C. Continue to implement the Integrated Hardwood Range Management Program;
- D. Conduct a program of vegetation management, fire prevention, and Fire Safe to minimize the impact of wildfire on life and property, and where possible at the same time, maximize fire's natural beneficial effects on hardwood ecosystems;
- E. As part of the Board and Departmental Fire Plan, and in consultation with the Department of Fish and Game regarding the impacts on fish, wildlife, and plant resources, address issues related to the role of fire in hardwood-dominated ecosystems and the impacts of pre-fire, during-fire, and post-fire agency activities;
- F. Support research and development for hardwood utilization and manufacturing;
- G. Consistent with available staff and funding, provide for a thorough assessment of the status of the hardwood resource at least once every five years, commencing with 1995;
- H. Consistent with available personnel, provide staff support to the Range Management Advisory Committee;
- I. In the event of disagreement over implementation of this policy with the Department Fish and Game, inform the Board of the disagreement; and
- J. Provide active liaison to the Commission and Range Management Advisory Committee on issues related to forest and vegetation management, wildfire protection and prevention, and the assessment of hardwood resources.

(Adopted May 9, 1994)

Exhibit 2

Oak Woodlands Forum Oral and Written Comment

State Board of Forestry and Fire Protection: Range Management Advisory Committee

The following is a listing of persons and entities that submitted oral and/or written comment to the Range Management Advisory Committee as a consequence of the Oak Woodlands Forum conducted April 26-27, 2004. This list includes professional associations, institutions, businesses, land owners, and government agencies. In addition to the list below are letters from private parties both in favor and against statewide oversight that are too numerous to mention individually. As of July 13, 2004 RMAC and the Board have received approximately 1,775 letters. Of these approximately 1,700 were form letters with an identical message speaking in favor of statewide oversight of oak woodlands. Forty-seven were non-form letters speaking in favor of state-wide oversight and 24 were letters speaking against statewide oversight. Four letters expressed concern for oak resources; however, they did not specifically mention designation of oaks as commercial species. In addition, RMAC reviewed several technical reports provided by participants at the forum.

Italic text following each entry indicates those that spoke *in favor* or *against* statewide oversight of Oak Woodland regulation.

1. *In favor.* California Oak Foundation, Janet Cobb, President.
2. *Against.* Tehama County Board of Supervisors, Bill Borrer, Chair. *Against*
3. *Against.* Tehama County Planning Department, George Robson, Planning Director.
4. *In favor.* Public Health Institute, Jane Boggess, PhD.
5. Stewarts Point Rancheria, Kashia Band of Pomo Indians, Lester R. Pinola, Tribal Chairman. *Asked for protection of oaks but not specific.*
6. *In favor.* Forests Forever, Benjamin Farnum, Member.
7. *In favor.* Sierra Club, Julian Vidich, Sierra Club Lake Group Chair.
8. *In favor.* Santa Clara Valley Audubon Society, Craig Breon, Executive Director.
9. *In favor.* City of Foster City, Estero Municipal Improvement District, Parks and Recreation Department. Jonathan Korfhage, Parks and Recreation Superintendent.
10. *Against.* California Licensed Foresters Association, Roy Richards, Representing.
11. *Against.* Upper Salinas-Las Tablas Resource Conservation District, Donald Funk, Executive Director

12. Against. California Farm Bureau Federation, Bill Pauli, President
13. Against. California Cattlemen's Association, Susan LaGrande, Vice President of Government Relations
14. Against. California Association of Realtors, Eileen Reynolds, Legislative Advocate
15. Against. San Lucas Ranch, Nancy Crawford Hall, Owner
16. Against. Tehama County Cattlemen's Association, Walley Roney, President
17. Against. Underwood Estate Vineyards, Joe Peterson, Representing
18. Against. Sloan Ranches, Aubrey Sloan, Owner
19. Against. V.A. Rodden, INC. Agri-Business, William Jackson, Representing
20. Against. Tolenas Springs Cattle Co., Roy Gill, Owner
21. Against. Alameda County Farm Bureau, Sue Russo, Manager
22. Against. Calaveras County Cattlemen's Association, Sheri Overmier, President
23. Against. Shasta County Cattlemen's Association, Joseph Crowe, SCCA Oak Woodlands Committee
24. Against. California Forestry Association, Mark Rentz, Vice President, Environmental and Legal Affairs
25. University Of California, Doug McCreary and Susan Kocher, Representing
26. In favor of better CEQA Compliance. Resource Land Owner's Coalition, Bill Geyer and Jennifer West, Representing
27. In favor of a CEQA Prescreening Process. Natural Resources Conservation Service, Jon Gustafson, Representing
28. In favor of an Enhanced Conservation Easement Program. Coblent, Patch, Duffy & Bass, Attorneys, Gregory Hendrickson, Representing
29. Board Of Forestry and Fire Protection, George Gentry, Executive Officer
30. Board Of Forestry and Fire Protection, Stan Dixon, Chairman

Exhibit 3

Oak Woodlands Forum Literature Review

State Board of Forestry and Fire Protection: Range Management Advisory Committee

The following documents were examined by the Range Management Advisory Committee during the review of California oak woodland policy.

1. Joint Policy on Hardwoods. State Board of Forestry and Fire Protection and the Fish and Game Commission. Adopted May 9, 1994.
2. Compilation of Oak Woodland Policy Inventory. Susan D. Kocher. University of California/Berkeley Center for Forestry. 2003
3. A Compilation of County Oak Conservation Policies. Compiled by Susan Kocher and Richard Harris. University of California/Berkeley Center for Forestry.
4. Case Study: Forest Practice Rules Create Incentives to Clearcut or Subdivide. Buckeye Conservancy Report. James Able Forestry. Date unknown.
5. Campos-Palacin, P.; Huntsinger, L.; Standiford, R.; Martin-Barroso, D.; Mariscal-Lorente, P.; Starrs, P. Working woodlands: Public Demand, owner management, and government intervention in conserving Mediterranean ranches and dehesas. In: Proceedings of a symposium on oak woodlands: Ecology, management, and urban interface issues. 1996. USDA Forest Service Gen. Tech. Rep. PSW-GTR-160. 511-527.
6. Giusti, G.; Merenlender, M.; Inconsistent application of environmental laws and policies to California oak woodlands. In: Proceedings of a symposium on oak woodlands: Ecology, management, and urban interface issues. 1996. USDA Forest Service Gen. Tech. Rep. PSW-GTR-160. 473-482.
7. McCreary, D.; Kerr, G.; A comparison of the history and management of oak woodlands in Britain and California. In: Proceedings of a symposium on oak woodlands: Ecology, management, and urban interface issues. 1996. USDA Forest Service Gen. Tech. Rep. PSW-GTR-160. 529-538.
8. Thompson, R.; Noel, J.; Cross, S.; Oak woodland economics: A contingent valuation of conversion alternatives. In: Proceedings of a symposium on oak woodlands: Ecology, management, and urban interface issues. 1996. USDA Forest Service Gen. Tech. Rep. PSW-GTR-160. 501-510.

9. Light, R.; Pedroni, L.; When oak ordinances fail: Unaddressed issues of oak conversion. In: Proceedings of a symposium on oak woodlands: Ecology, management, and urban interface issues. 1996. USDA Forest Service Gen. Tech. Rep. PSW-GTR-160. 483-500.
10. Principle Investigator L. Drake. Economic evaluation of the section 404(B)1 "Alternatives Analysis" for the Palos Colorado Residential and Golf Course Development Project in Moraga, California. Prepared for Preserve Lamorinda Open Space. 2003. Golden Gate Economics, 507 Boynton, Berkeley, California. 16 p.
11. Draft comparison of CDF permitting responsibilities for the conversion of timberland and oak woodlands. 2003. California Department of Forestry and Fire Protection, Sacramento California. Unpublished data. 1p.
12. Steward, B. CDF FRAP review of oak woodlands issues raised to the BOF in 2003. California Department of Forestry and Fire Protection, Sacramento California. Unpublished data. 8p.
13. The case for State oak woodland oversight: Presented to the Oak Woodland Group. 2004. California Oak Foundation, 1212 Broadway, Suite 810, Oakland California. 7p.
14. The Changing California, Forest and Range 2003 Assessment, Hardwoods. California Department of Forestry and Fire Protection, Sacramento, California, Fire and resource Protection Program. 37p.
15. Senate Bill 711, Kuehl
16. Senate Bill 1334, Kuehl
17. Oak Woodlands Conversion Rules, (Proposed). Prepared by the California Oak Foundation. Letter to the Board of Forestry and Fire Protection. June 15, 2003.
18. The Oak Woodlands Conservation Act. Website <http://www.dfg.ca.gov/wcb/> Accessed May 12, 2004.