



August 25, 2014

California State Board of Forestry and Fire Protection
Management Committee
Mr. Stuart Farber, Chair
P.O. Box 944246
Sacramento, CA 94244-2460

RE: WORKING FOREST MANAGEMENT PLAN, August 18, 2014 DRAFT.

Dear Chair Farber,

CLFA has been involved with collaborative efforts formulating the WFMP since the beginning of its legislative journey providing our expertise to the California legislature. Contained within this letter are six items that should be considered before this rule package goes before the full Board. These items relate to potential implementation challenges that put the utility of the WFMP at risk and legislative intent. If you have any doubts related to legislative intent we encourage you to consult with Mario DeBernardo, consultant to the Assembly's Natural Resource Committee.

1. Allowance for explanation and justification of treatments other than the standard rules.

Contained within the Implementation of the Act Intent, 14 CCR 897(e) states:

Based upon site-specific conditions where, in the judgment of the RPF, the application of rules pertaining to how a timber operation will be conducted will not achieve the intent of the Act and rules, and where the RPF can describe a practice(s) which will meet or exceed the intent of the Act and rules, the RPF may prescribe an alternative practice(s) in lieu of those in the rules. The practice(s) shall:

(1) be explained and justified by clear and convincing evidence in the plan:

- (2) be written so they provide clear instructions and enforceable standards for the timber operator;
- (3) provide a result(s) at least equal to that of the rule(s) to be supplanted; and
- (4) provide that, where appropriate for the alternative practice, the plan submitter is responsible for retaining an RPF to aid in interpreting the THP to the timber operator and timberland owner on a continuing basis to help to assure compliance with the alternative.

Given the extent that details related to issues related to transfers of ownership, growth and yield, and inclusion of an erosion control plan have been addressed thus far, CLFA believes that the record needs to show that allowances for professional judgment in proposing exceptions and in lieu practices to the Rules will be aligned with the Board's own stated Implementation of Act Intent the same as it is for all other Timber Harvest Plans. These items also need to apply to the WFMP and should be stated for the record somewhere as the amount of things that have been spelled out in detail is much more than was ever done for the THP or NTMP. In addition to these items, there are numerous exceptions to the standard rule where an RPF may propose an "exception" and the Director may grant the proposal if adequate justification is provided. This flexibility allows the RPF to use existing roads, trails, landings and other features that would otherwise have to be built outside of protection zones. Most of the time these In Lieu Practices and exceptions to the rules can be mitigated and be more successfully treated than building new infrastructure.

2. WFMP Timber Marking Requirements

"Trees to be harvested or trees to be retained shall be marked by or under the supervision of the RPF prior to felling operations." This statement occurs throughout the Rules with specific exceptions. In watersheds with listed anadromous salmonids, trees within the WLPZ shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. Lake County Rules require all trees to be harvested shall be marked within the Scenic Combining District prior to a preharvest inspection for evaluation.

Article 3 Silvicultural Methods require sample areas to be marked prior to a preharvest inspection where decisions of trees to retain or cut are involved. The sample area shall

include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present.

Due to the fact that WFMPs have no expiration and there may be a significant delay between preharvest inspection and timber harvest for portions of the plan area, CLFA requests that Rule language explicitly states that prior to preharvest inspection a sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present including WLPZs in watersheds with listed anadromous salmonids. Failure to include such a provision would place an unnecessary and incredibly large expenditure on the landowner which would have to be reincurred should log markets shift or significant time passes between preharvest inspection and timber operations.

3. WFMP Flagging and Mapping Requirements and Development of Standard Operating Procedures

The original concept for this document was to be programmatic in designing mitigations. CLFA would like to propose that Standard Operating Procedures can be developed for each type of item and that a sufficient sample can be flagged and mapped within the first unit or two to be harvested, but that the RPF does not have to flag and map every single location for the entire WFMP area during the initial review of the WFMP. A Review Team is only going to have time to look at a sample of these points during a PHI anyway, so it would make sense then to provide that sample and cover each type of point with a representative of each type of practice that is proposed within a WFMP.

For example, the FPRs require that skid trails on steep slopes be flagged prior to plan submittal. Most of the time, the mitigation for a trail on steep slopes (those over 65% or over 50% on soils with High or Extreme EHR) is to waterbar them to a higher standard (if the EHR is Moderate, then the erosion control spacing will be upgraded to High) and slash pack the trail upon completion of the logging. If there are other treatments that will be proposed within the Plan Area on similar features, then at least a sample of each must be provided in the field and on paper to be evaluated.

This could be done for trails and roads which are within a WLPZ, landings within a WLPZ, operations on unstable areas which do not require a CGS Note 45 (for example, a simple cut bank failure being cleaned up or humped up and over).

In reality it could also be done with Class III watercourse crossings, but that probably isn't something that the Board is willing to allow. If you look at most class III watercourse crossings, they are one of about three simple designs, a ford crossing, a culvert crossing, or a stringer crossing. All of these can be easily described in a few brief sentences.

Also please remember that the majority of the plans which are going to utilize a WFMP are already harvesting and doing so on a THP by THP basis. Most of these points are already going to be known. It is going to be the very odd property that hasn't been actively harvested and done so via THPs that covers large portions (that will cover 5 years) of the property. A place for example, Jenner Headlands or the addition to the Arcata Community Forest, where there is much for the new landowner to learn about their property because they just purchased it and it hasn't had a lengthy history of THPs in rapid succession. Remember please that the intent was to reward landowners who committed to uneven-aged long-term forest management and not cost them more than the cost of THPs. We are very rapidly approaching that line.

4. Department of Fish & Wildlife Species that meet the Criteria under Section 15380(d) of the CEQA Guidelines.

Because of the geographic scale of WFMPs and the fact that the plan does not expire, determination of the locations of threatened, endangered or sensitive species has little value at the time of plan submission as demonstrations of take avoidance. Wildlife and to a lesser extent plant species are dynamic moving across the landscape over time. This fact was recognized in AB904 by tying locational information of species to the NTO. It was understood in drafting the legislation that there are accepted survey protocols for threatened and endangered species and that as new species become listed survey protocols for those species would be developed and implemented.

CLFA requests that each WFMP be allowed to propose mitigation measures for those listed and 15380(d) rare species that suitable habitat intersects the plan area minimizing costly locational information determinations prior to plan submittal. Each NTO, a public document, would then provide results of any surveys and database queries. Each NTO would certify, as needed, that mitigation measures approved in the plan will be implemented or alternative site specific mitigation measures as agreed to by DFW following a consultation will be implemented.

5. Five Year Review.

The purpose of the five year review is for an interdisciplinary review team to analyze the administrative record. Guidance provided to the Board in determining what information to use for this analysis includes the number of notices, acreage operated under each notice, violations received, the volume harvested in relation to projection of harvest in the plan, and information received from the public. The Department is required to develop a plan summary before each five-year review which will undoubtedly contain information on all forest practice inspections. Analysis of this information is to determine whether operations have been conducted in accordance with the plan and applicable laws and regulations. It is clear from this guidance that the Legislature did not intend for a full review of an approved WFMP itself or a CEQA compliant public comment period.

If the administrative record demonstrates that timber operations are being conducted in accordance with the approved plan then the five-year review can be closed.

If the administrative record does not contain adequate information to determine if operations have been conducted in accordance with the plan and applicable laws and regulations or if the administrative record indicates the possibility of systemic malpractice, the interdisciplinary review team has the option based on the determination by the Director to conduct site inspections to evaluate informational deficiencies and/or systemic malpractice.

If the determination is made that timber operations are not being conducted in accordance with the plan and applicable laws and regulations, then the Department has the authority to pursue enforcement action or recommend amendments to the approved WFMP if that is what will correct the problem. Once enforcement and/or corrective actions have been conducted the five-year review can be closed.

CLFA requests that the Board hold to the Legislative intent of the five-year review.

6. Additional Information

Please consider that AB904 represents intensive negotiations between forest landowners, agencies, and the public. A tremendous amount of thought and time went into the formulation of this legislation. While not every situation under the realm of possibilities was envisioned, a balance was achieved between assurances of environmental protection and landowner costs.

In enacting AB904 the Legislature declared that it is in the interest of the State for landowners to enter into long term management plans under the WFMP. The Board's responsibility to the Legislature is enacting rules that implements AB904 in a way that landowners will be motivated to use.

When the Board is faced with the decision of adding information to be included in the WFMP that goes above and beyond what is required by statute CLFA asks that the true utility of that information be fairly evaluated. While each item of additional information to be included in the WFMP may seem insignificant in and of itself, it culminates with other additional information resulting in a plan that becomes cost prohibitive forcing the target landowners to continue conducting timber operations utilizing THPs.

Thank you for your time in this manner and we look forward to this rule package moving out of committee and for the Board moving this to a 45-day notice. This rule package has been 4 years in the making and represents a huge investment from our coalition which has been made up of volunteers.

Sincerely,



Clayton E Code
RPF #2867
CLFA Vice President



The California Licensed Foresters Association, with a membership responsible for the sustained management of millions of acres of California forestland, represents the common interests of California Registered Professional Foresters. The Association provides opportunities for continuing education and public outreach to its membership, which includes professionals affiliated with government agencies, private timber companies, consultants, the public, and the academic community. Governed by an elected Board of Directors, CLFA was established in 1980 after the passage of the landmark California Professional Foresters Law.