

Memorandum

To: Dennis Hall
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Management

Date: June 9, 2016

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From: 
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Subject: RPF/LTO Responsibility Issue, Violation Analysis

You asked me to compile information regarding inspections, violations and enforcement actions for the period of January 1, 2010 to December 31, 2015. The analysis is in response to the issue presented by Associated California Loggers (ACL) where their members raised the concern that timber operators were receiving unequal treatment in issuance of violations by CAL FIRE. ACL members believe that they were receiving violations that were the direct result of actions by the administering registered professional forester (RPF) and that the administering RPF was not appropriately held accountable.

The data used for the analysis came from the Forest Practice System (FPS) database, which is a reflection of the official file in terms of general information. Any errors or omissions in FPS may be reflected in the results of the analysis. Information that was easily accessible was evaluated; such as the description/notes fields in FPS, inspection reports and violation notices. It should be noted that assumptions and interpretations made from documents after the fact are problematic. It is plausible that an inspection report could document elements of a violation but a Notice of Violation was not issued. A return letter for a harvest document would be an example of a violation which was not documented on a Notice of Violation. This would apply to a RPF. The analyses will also not capture those times when a violation occurred but was not documented or enforcement action taken. The factors used by the forest practice inspectors in the determination of whether or not a violation was issued may not all be included in the documents. The choice of enforcement action should be measured by what the inspector knew at the completion of his or her investigation. Assumptions by others based on information included in the documents should not be made after a document has been finalized.

As stated above, the window of time considered for the analysis was January 1, 2010 to December 31, 2015. The information was evaluated for the whole state on an annual basis and not fiscal year. Violations issued to the landowner, timber operator and registered professional forester were the only violators considered in the analysis. Inspections were tallied based on the date and the harvest document. Violations were tallied by violator, harvest document and date. There could be multiple violations that were documented on one inspection, but there would only be one inspection for that harvest document on a given date.

RPF/LTO Responsibility Issue
Violation Analysis
June 9, 2016

In 2010, there were a total of 3,639 inspections conducted across the state. There were 381 violations issued in 2010, resulting in 52 enforcement cases. Sixty seven percent (67%) of the Forest Practice cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 188 violations in 2010; RPFs were issued 25 violations; and Licensed Timber Operators (LTOs) were issued 168 violations in 2010. There were six documented instances where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:11. The ratio of violations to cases is 1:13. Violations related to harvest document type in 2010 are as follows: there were 106 violations associated with timber harvesting plans; there were 120 violations associated with exemptions; there were 4 violations associated with emergencies; there were 23 violations associated with nonindustrial timber management plans; and non-documents had 127 violations issued.

In 2011, there were a total of 4,391 inspections conducted across the state. There were 355 violations issued in 2011, resulting in 44 enforcement cases. Seventy nine percent (79%) of the Forest Practice enforcement cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 149 violations in 2011; RPFs were issued 33 violations; and LTOs were issued 173 violations in 2011. There were 6 documented instances where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:12. The ratio of violations to cases is 1:12. Violations related to harvest document type in 2011 are as follows: there were 162 violations associated with timber harvesting plans; there were 77 violations associated with exemptions; there was 1 violation associated with emergencies; there were 22 violations related to nonindustrial timber management plans; and non-documents had 88 violations issued.

In 2012, there were a total of 4,399 inspections conducted across the state. There were 313 violations issued in 2012, resulting in 35 enforcement cases. Sixty percent (60%) of the forest practice enforcement cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 188 violations in 2012; RPFs were issued 14 violations; and LTOs were issued 111 violations in 2012. There were 2 documented instances where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:14. The ratio of violations to cases is 1:11. Violations related to harvest document type in 2012 are as follows: there were 85 violations associated with timber harvesting plans; there were 76 violations associated with exemptions; there were 2 violations associated with emergencies; there were 6 violations associated with nonindustrial timber management plans; and non-documents had 144 violations issued.

In 2013, there were a total of 4,416 inspections conducted across the state. There were 267 violations issued in 2013, resulting in 42 enforcement cases. Ninety five percent (95%) of the forest practice enforcement cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 174 violations in 2013; RPFs were issued 13 violations; and LTOs were issued 80 violations in 2013. There were 2 documented instances where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:17. The ratio of violations to cases is 1:17. Violations related to harvest document type in 2013 are as follows: there were 51 violations associated with timber harvesting plans; there were 64 violations associated with exemptions; there were 14 violations associated with emergencies; there were 12 violations associated with nonindustrial timber management plans; and non-documents had 126 violations issued.

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In 2014, there were a total of 3,236 inspections conducted across the state. There were 195 violations issued in 2014, resulting in 28 enforcement cases. Seventy eight percent (78%) of the forest practice enforcement cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 94 violations in 2014; RPFs were issued 23 violations; and LTOs were issued 78 violations in 2014. There were 4 documented instances where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:17. The ratio of violations to cases is 1:14. Violations related to harvest document type in 2014 are as follows: there were 52 violations associated with timber harvesting plans; there were 35 violations associated with exemptions; there were 5 violations associated with emergencies; there were 17 violations associated with nonindustrial timber management plans; and non-documents had 86 violations issued.

In 2015, there were a total of 3,889 inspections conducted across the state. There were 201 violations issued in 2015, resulting in 12 enforcement cases. Eighty three percent (83%) of the forest practice enforcement cases were related to harvesting without a harvest document/conversion permit. Violations in relation to violator are as follows: Landowners were issued 110 violations in 2015; RPFs were issued 10 violations; and LTOs were issued 81 violations in 2015. There was 1 documented instance where the RPF and the LTO were both issued violations for a related issue. The ratio of violations to inspections 1:19. The ratio of violations to cases is 1:05. Violations related to harvest document type in 2015 are as follows: there were 41 violations associated with timber harvesting plans; there were 65 violations associated with exemptions; there were 4 violations associated with emergencies; there were 12 violations associated with nonindustrial timber management plans; and non-documents had 79 violations issued.

A table has been attached to this memo to provide a visual comparison of the information.

The data provides a good assessment of where CAL FIRE enforcement efforts have been focused in the last five years; which has primarily been on operations without a harvest document, conversion without a conversion permit, or operations without a timber operator's license. This accounts for the high number of violations issued to the landowner. Generally the landowner is found to be responsible in many of these cases and in some instances a LTO. Non-harvest document cases have averaged 77% of CAL FIRE's Forest Practice case load for the last five years. The ratio of inspections to violations and violations to enforcement cases is consistent as well. The top two types of harvest documents having the most violations are timber harvesting plans and exemptions. If you remove non-document violations; LTOs receive the most violations, followed by landowners. RPFs receive the fewest documented violations.

The purpose of this analysis was to try to determine if there is data to support the contention that 1) LTOs are not being treated equally in terms of issuing a violation and 2) whether they are being issued violations that result from the actions of a RPF. This analysis appears to demonstrate that data is not available to either support or refute the contention. It does show that RPFs receive the least amount of violations than any other group and it does show that in the 5 year period, RPFs and the LTOs have both been identified as responsible for violations 21 times. Evaluating every inspection report and every notice of violation would be the next step in investigating this issue, but as stated in the introduction, this will lead to assumptions without supporting data. As CAL FIRE has stated on numerous occasions, the rules specify that the LTO is ultimately responsible for timber operations. The RPF is responsible for preparation of the plan and anything that they are hired by the plan submitter to do after approval. The responsibilities cannot be transferred and the law identifies who is responsible for the violation not the inspector.

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Violation Issued To:	2010	2011	2012	2013	2014	2015
Landowner	188	149	188	174	94	110
RPF	25	33	14	13	23	10
Timber Operator	168	173	111	80	78	81
Total Number of Violations:	381	355	313	267	195	201
Number of Enforcement Cases	52	44	35	42	28	12
% of cases that NON-Documents	67%	79%	60%	95%	78%	83%
Total # of Instances where RP & LTO were issued violations	6	6	2	2	4	1
Total Number of Inspections:	3639	4391	4399	4416	3236	3889
Ratio of Violations to inspections:	1:11	1:12	1:14	1:17	1:17	1:19
Ratio of Cases to Violations:	1:13	1:12	1:11	1:17	1:14	1:05

77% Avg

Violations by Harvest Document							
	THP	EX	EM	NTMP	NON	Total	Year
Landowner	26	51	1	11	99	188	2010
RPF	15	4	1	5	0	25	2010
Timber Operator	65	65	2	7	28	167	2010
	THP	EX	EM	NTMP	NON	Total	
Landowner	38	13	0	8	85	144	2011
RPF	23	9	0	1	0	33	2011
Timber Operator	101	55	1	13	3	173	2011
	THP	EX	EM	NTMP	NON	Total	
Landowner	23	27	0	1	137	188	2012
RPF	10	2	0	2	0	14	2012
Timber Operator	52	47	2	3	7	111	2012
	THP	EX	EM	NTMP	NON	Total	
Landowner	14	47	2	2	109	174	2013
RPF	5	0	2	5	1	13	2013
Timber Operator	32	17	10	5	16	80	2013
	THP	EX	EM	NTMP	NON	Total	
Landowner	6	9	0	0	79	94	2014
RPF	7	5	1	10	0	23	2014
Timber Operator	39	21	4	7	7	78	2014
	THP	EX	EM	NTMP	NON	Total	
Landowner	6	30	0	1	73	110	2015
RPF	4	2	1	3	0	10	2015
Timber Operator	31	33	3	8	6	81	2015