

## BOARD OF FORESTRY AND FIRE PROTECTION

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### MINUTES BOARD OF FORESTRY AND FIRE PROTECTION June 8 and 9, 2004 Sacramento, California

#### BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman  
Kirk Marckwald, Vice Chair  
Mark Bosetti  
Susan Britting  
David Nawi  
Tharon O'Dell  
Gary Rynearson

#### BOARD STAFF PRESENT:

George Gentry, Executive Officer  
Eric Huff, Executive Officer, Foresters Licensing  
Donna Stadler, Executive Assistant  
Chris Zimny, Regulations Coordinator  
Mark Hite, Committee Staff

#### DEPARTMENTAL STAFF PRESENT:

Andrea Tuttle, Director  
Bill Snyder, Deputy Director  
Resource Management

#### CALL TO ORDER

Chairman Dixon called the June 2004 meeting to order.

#### REPORT OF EXECUTIVE SESSION

Mr. George Gentry, Executive Officer for the Board, reported that in the matter of the Department vs. Walter L. Simonis, CDF docket number CP-02-06, following a review of the record, the Board, pursuant to Government Code §11517 affirmed the factual findings and legal conclusions of the OAL.

#### APPROVAL OF MINUTES

Chairman Dixon asked that the Board to consider approval of the May 2004 minutes.

**04-6-1** Mr. O'Dell moved to approve the May 2004 minutes as amended. Mr. Bosetti seconded the motion, and all were in favor.

## **CONSENT CALENDAR**

There was nothing to report.

## **REPORT OF THE CHAIRMAN**

Chairman Dixon asked for a moment of silence for former Governor of California and the fortieth President of the United States, Ronald Reagan. He also commended staff for putting on the evening honoring ex-member Heald. He expressed his regrets that he was not able to attend due to personal reasons.

## **REPORT OF THE DIRECTOR**

Ms. Andrea Tuttle, Director of the California Department of Forestry and Fire Protection (CDF), reported on the fire season and budget issues. She commented that CDF was moving forward on the implementation of the SRA fees. She also reported on legislation and personnel matters for the Board.

Director Tuttle announced that Governor Schwarzenegger has named Friday, June 11, 2004, as a day of remembrance in honor of Ronald Reagan.

## **PRESENTATION ON THE BLUE RIBBON COMMISSION REPORT**

Director Tuttle provided a presentation on the progress of the Blue Ribbon Commission (BRC) for the Board. She commented that the recommendations from the BRC have been submitted to the Governor's Office. She provided a list of items that CDF was currently doing respective to those recommendations and reviewed them for the Board. She reported that the Fire Marshal is revising proposals to the Building Standards Commission for building standards and defensible space regulations.

There was some discussion.

## **REPORT OF THE OAK MORTALITY TASK FORCE (COMTF)**

Mr. Stephen Jones reported for the COMTF, presented his written report and reviewed it for the Members. He noted that in early July there would be a training session for the Nursery Industry in the San Joaquin Valley on *Phytophthora ramorum*, focusing on diagnosis and control. The COMTF report contained a feature on the State of Washington. A copy of this report is available at: <http://suddenoakdeath.org>

Mr. Jones commented that last year the Board approved an amendment to the Zone of Infestation for Sudden Oak Death, which included 12 counties. Within that amendment, there was a Department of Food and Agriculture (DFA) code section that listed the infested counties. When Food and Ag added Lake County, the Zone document automatically included Lake County. He wanted to know if the Board wanted to take official action to address that change; and that it could be done at a future meeting if the Board chooses.

Mr. Rynearson wanted to know if the Board needed to declare a Zone of Infestation either on a geographic basis or on a county basis.

Mr. Jones commented that the Board could do that by the reference to the CDFA regulations, which have now changed.

Mr. Marckwald asked that the Board's Council look into this issue and report back.

## **REPORT OF THE ADVISORY COMMITTEES**

### **CALIFORNIA FOREST PEST COUNCIL**

Mr. Jesse Rios, CDF Resource Management, reviewed the Executive Summary from the Forest Pest Conditions in California 2003 for the Board; he provided copies of the report for the Members.

### **DISCUSSION REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) AND MANAGEMENT PLAN FOR JACKSON DEMONSTRATION STATE FOREST**

Chairman Dixon introduced the topic and asked Member Nawi to report on this issue.

Mr. Nawi wanted to know if there were people that planned to be in attendance for this presentation that were not here yet.

Mr. George Gentry, Executive Officer for the Board, commented that he had not received any indication that individuals wished to address the Board during this discussion.

Mr. Nawi commented that the Department, as the Board's contractor for the EIR, had been working closely with the Executive Officer. The Department has been very cooperative and it is on schedule with the DEIR.

Mr. Ryneason commented that there had been a coordination meeting that went very well. He expressed his appreciation to CDF staff for their efforts to move forward with the document.

Ms. Britting asked about the detailed work plan that the minutes from the last meeting indicated that the Board was supposed to receive for review.

Mr. Gentry commented that the Department provided the Committee members with a detailed work plan and that he would provide a copy for the full Board.

Mr. O'Dell wanted to know if the alternatives were selected and if the Board could expect a drafting of those alternatives for public review soon.

Mr. Nawi commented that the range of alternatives were discussed at the meeting; based on that discussion, the Department believes it has enough direction to proceed with the concurrence of the Committee.

Mr. O'Dell wanted to know when the Board would see something to review.

Mr. Gentry commented that based on discussion with the Attorney General's Office, it was his understanding that when the Department has completed the Administrative Draft EIR (DEIR), it will present it to the Board for its approval or recommendations prior to being sent out for public distribution. The Attorney General advised the Board to be very cautious of being too involved in the administrative work to avoid the appearance of having a predetermination. .

There was some further discussion regarding process.

Chairman Dixon commented that he believes that there is a difference in directing the process and directing the outcome of a process.

Mr. Richard Gienger thought that a public airing of how the process is coming along would be beneficial.

Chairman Dixon indicated that Mr. Gienger's suggestion would be noted. He asked that the Executive Officer sit down with the Board's attorney to make sure the Board is on solid ground.

Mr. Nawi commented that he would like some assurance that the Board is okay going in the direction that it is going and if not; find out from the Board's attorney what can be done differently.

## **PUBLIC HEARING ON 45-DAY NOTICE OF PROPOSED RULEMAKING; TRANSITION SILVICULTURE 2004**

Chairman Dixon introduced the topic.

Mr. Christopher Zimny, Board's Regulations Coordinator, provided an overview and reviewed the amendments within the 45-Day Notice for the Board.

Mr. Dennis Hall, CDF, referred to the Department's May 24, 2004 comment letter and reviewed its recommendations for the Board. CDF's primary concern is extensive application into all forest types and regions.

There was some discussion.

Mr. Roy Richards, Jr., proponent of the proposed rule amendment, referred to his letter of June 5, 2004, responding to the CDF's letter of May 24, 2004, which commented on the proposed Transition Silviculture Rule and reviewed it for the Board.

Mr. Paul Mason, Sierra Club, spoke in support of CDF's comments. He commented that the petition was focused on the northern region.

Mr. Dan Weldon, Forest Landowners of California (FLOC), spoke in support of the package and believes it should have statewide application.

Mr. Peter Rebar, Campbell Timber Company, spoke in support of CLFA's position on this package. He believes that statewide application is appropriate.

Ms. Britting wanted to know if the hearing should remain open so that the Board could ask questions of the Department.

Mr. Bruce Reeves, Deputy Attorney General and Counsel for the Board, recommended leaving the public comment open while issues are being explored with the Department.

Ms. Britting asked the Department about the comments in section two regarding the concern about harvesting young vigorous stands under the system using transition rather than applying commercial thinning. She wanted to understand the Department's thinking about why there isn't sufficient direction in the proposed Transition Rule to address its concerns about young vigorous stands.

Mr. Dennis Hall, CDF, commented that part of the concern is that the Board has developed a fairly complex process for identifying appropriate silviculture methods. The Department would prefer when RPFs submits THPs, they identify the appropriate silviculture prescription. This rule does allow leeway to get information to describe what is being proposed, but it might not be the appropriate application. He explained his position to the Board.

Mr. Rynearson commented that the issue is that one cannot use selection, and under the current standards, one cannot use transition because the seed tree requirement had not been met.

Mr. Hall indicated that was true if it is a selection that needs to be looked at if it is transition, but if it is commercial thin, it is a commercial thin. But if there are low stem diameters and high stocking, that sounds like they should be doing a pre-commercial thin.

Ms. Britting wanted to know the barriers the proponent sees in using pre-commercial thin to the objectives he is trying to achieve.

Mr. Richards commented that he believes that it is the major crux to the problem. He explained that statutorily NTMPs have to use uneven-aged management; that has been interpreted by CDF to mean that you can only use uneven-age management rules. There is selection, group selection, and transition; if you are filing an NTMP, you get used to using just those three. But if an NTMP could use commercial thinning as a silvicultural prescription on one of the units, it is not an uneven-aged management and therefore cannot be in the NTMP.

There was further discussion.

Mr. Nawi expressed his concern about the process. He commented that there are a number of issues and he was not sure that the Board came up with the appropriate resolutions to these issues. He would prefer to defer the matter and send it to Committee and have that committee report back to the Board with recommended changes. He asked Counsel if CDF and Board staff could meeting informally to come up with recommendations for public comment in the form of a 15-Day Notice for public hearing in July.

Mr. Reeves commented that he did not know if it would be prohibited. The Bagley-Keene defines meeting as a congregation of the majority of the members. He did not know of anything prohibiting the three members of one of the Committees from meeting with the proponent and CDF to discuss those matters so long as the changes that arise are properly vetted as 15-Day Noticed changes and subsequent noticed meeting.

**04-6-2** Ms. Britting proposed that the Board authorize her as the Acting Chair of the Forest Practice Committee to meet with Committee members, the proponent, and the Department to try to resolve the issues raised by both; and given that the resolutions can be found in a way that is amenable to all parties, then to direct a 15-Day Notice on that wording with the intent of having the second hearing in July.

Mr. Marckwald proposed that if the three Members feel there is a package that makes sense, he would like to authorize them to put out the 15-Day Notice; if the Members believe that it should come back to the full Board because there are some things that need a broader discussion, then bring it back. He would like to move it along and give the Forest Practice Committee broader authority.

Chairman Dixon asked if Member Marckwald's comments were a second to Member Britting's motion and he said that it was. He then asked Counsel if the hearing should be left open.

Mr. Reeves indicated that there would need to be subsequent hearings on any changes that were generated, but for now it is appropriate to close the hearing.

**04-6-3** Mr. Marckwald moved to close the public hearing. Mr. Rynearson seconded the motion, and all were in favor.

Chairman Dixon referred to the motion on the floor, which was to ask the Chair of the Forest Practice Committee and its Members to meet with the proponent and staff members and the Department to iron out the differences between the Department's rules and the proponent's contentions and also to authorize that committee to prepare language for a 15- Day Notice.

Mr. Mark Rentz wanted to know if a representative from CDF would meet with the proponent and three members of the Board of Forestry or less, would that involve a notice for anyone who is interested to sit in and comment during that meeting or not.

Mr. Reeves commented that so long as the meeting definition of the Bagley-Keene Act is not violated and the number that is involved is below a majority, they are permitted to do that.

Chairman Dixon ask for a voice vote on motion **04-6-2**, all were in favor.

## **REPORT OF STATE AGENCIES; INCLUDING STATE WATER QUALITY CONTROL BOARD, DEPARTMENT OF FISH AND GAME, AND GEOLOGIC SURVEY**

Dr. Bill Stewart, Chief of FRAP for CDF, commented that there are two issues involving collaboration with a range of agencies dealing with forests that are under high or very high fire threats where public safety and important habitat types are in danger. Next week the California Biodiversity Council will meet in Lake Arrowhead. The Council is trying to work with the Forest Service, CDF, Fish and Wildlife Service, Fish and Game, the local water agencies, and the Air Board. There has been excellent progress. CDF has also been working with the Resources Agency and the U.S. Forest Service on the Sierra Nevada Framework. The new Record of Decision is out and in effect. They are looking a variety of field projects. He indicated that he would report back to the Board in July or August 2004.

## **REPORT OF NATIONAL OCEANIC AND ATMOSPHERIC AGENCY (NOAA) - FISHERIES**

Ms. Charlotte Ambrosia, NOAA, provided a tribute for Joe Blum. She noted that Joe was dedicated to working on conservation issues relative to fish and wildlife and the environment. The Board of Forestry was a big part of Joe's life and he will be missed.

## **REPORT ON THE STEWARDSHIP NON-INDUSTRIAL TIMBER MANAGEMENT PLAN (SNTMP)**

Mr. Patrick Ruttan, Field Supervisor for NOAA on the Central Coast, commented that NOAA supports the SNTMP as it is going to be presented. He likes the concept that there is a method to improve regulatory relief for small landowners.

Ms. Charlotte Ambrosia, NOAA Fisheries Recovery Coordinator for the North Central California Coast domain for Salmon and Steelhead, provided an overview and the NOAA Fisheries position on a program that it developed as an alternative process to the regulatory landscape for family forests. She commented that the Forest Stewardship Committee had identified issues and burdens facing small landowners and discussed with NOAA Fisheries the opportunities to reduce or eliminate the burdens. Four conceptual regulatory frameworks have been developed, they are: Inter-agency Watershed Analysis; Charter Forests; Community Watershed Plan; and the Stewardship Non-industrial Management Plan. She commented that today's presentation would provide the Board with a look at the progress, to-date, and the intent behind the SNTMP. She introduced those with her for the presentation. She asked that NOAA be allowed time on the Board's November agenda so that they may bring the SNTMP report back again with the intent that Board staff change the document into rule language for committee discussion beginning in January 2005. She referred to a letter with a suggestion that the STNMP be further developed through field application; NOAA will be exploring that option.

Mr. Craig Blencowe, consulting forester from Fort Bragg, indicated that he did not like everything in the document. He provided a handout and reviewed it for the Members. He believes that there is an opportunity to practice a different type of forestry and an opportunity to start a new and different type of relationship with regulatory agencies.

Dr. Marty Berbach, Department of Fish and Game (DFG), agreed with Mr. Blencowe's comments. DFG agrees that the document meets the spirit of the DFG's recovery plan and that it would contribute to recovery. DFG would like to see the SNTMP as a model for the 1600 Programmatic Agreements. DFG also believes that this document mitigates any potential cumulative effects. He believes that it is almost like a categorical exemption type process and would like to look into that possibility further. He looks forward to continuing working with the Committee and investigating a field example and coming back in November to help develop a rule package for some relief mechanism from the process.

Ms. Christine Wright-Shacklett, North Coast Regional Water Quality Control Board (NCRWQCB), expressed the NCRWQCB's support of the SNTMP. The NCRWQCB believes that the SNTMP has elements that are likely to be consistent with future TMDLs for sediment and the exiting Garcia River TMDL and would eventually meet with different requirements under waivers waste-discharge retirements to be adopted by the Regional Board.

Mr. Anthony Lukacic, CDF, commented that CDF supports the concept of the SNTMP and would like to see it continue.

Mr. Richard Gienger commented on cumulative impacts and the Road Management Plan.

Mr. Paul Mason, Sierra Club, commented that the Sierra Club believes that the SNTMP is a step in the right direction.

Ms. Lisa Wager commented that she has used the uneven-aged process on her lands. She believes that this process could become a beacon.

Mr. Peter Parker commended that he manages his lands under the spirit of the SNTMP. He believes that there is a need for regulatory relief.

Ms. Charlotte Ambrosia indicated that she would provide a copy of the Executive Summary to the Members, as well as a copy of the draft SNTMP. She provided an address for anyone wishing to send condolences to the family of Joe Blum.

There was some discussion.

Mr. Gentry commented that he would remain in close contact with Ms. Ambrosia so that he can obtain updates as they occur and then pass those developments on to the Members.

## **CDF REPORT ON THE MODIFIED COMPLETION REPORT MONITORING**

Mr. Clay Brandow, CDF Watershed Specialist, provided an update on the Modified Completion Report program. He provided a hard copy of his Power Point presentation. His presentation was on the implementation and the effectiveness of the Forest Practice Rules in protection of water quality. A copy of this presentation is available at the Board Office.

## **CONTINUED REPORT OF THE ADVISORY COMMITTEES**

### **MONITORING STUDY GROUP (MSG)**

Mr. Peter Cafferata, CDF, provided a copy of his report on the MSG field tour regarding watercourse crossings for the Board. He thanked those who were instrumental in putting together the field tour. The next MSG meeting will be at Howard Forest, the date to be determined. A copy of his report is available at: [www.bof.fire.ca.gov/board](http://www.bof.fire.ca.gov/board).

Mr. O'Dell commented that the field tour was time well spent and was educational. The field trip on SPI property in the western Sierra outside of Red Bluff was also beneficial. Central Valley Water Board staff participated and it was good to get more exposure and getting new people into the discussions.

Mr. Cafferata reported that Dr. Cajun James plans on having a study plan ready by August 15, 2004.

Mr. Richard Gienger expressed his appreciation and commented on the field trip held in Mendocino County. He also expressed his concerns over crossing issues.

## **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. Eric Huff, Executive Officer for the Board, commented that he would be meeting with the graders of the RPF exam in the first part of July to review the results of the April Exam. The PFEC will meet on July 8, 2004, and he would have a list of approved RPF candidates at the Board's July meeting.

## **STANDING COMMITTEES OF THE BOARD**

### **REPORT OF THE SENSITIVE WATERSHED NOMINATIONS REVIEW**

Mr. O'Dell reported that the minutes from the Review Committee's May 12, 2004, organizational meeting were emailed to the Members. He commented that it was a good first meeting; he indicated that this process might not be completed in 2004. The next meeting is tentatively set for July 6 and 7, 2004, the first half day for discussion and then goes to the field for half day followed by a full day; those field stop are still being considered. He will keep the Board informed.

Richard Gienger commented that the process. (There was too much static and this portion was not audible). He believes that the focus should be on cumulative impacts.

### **RESOURCE PROTECTION COMMITTEE MEETING (RPC)**

Mr. Mark Bosetti, Chair of the RPC, commented that the RPC received a presentation from the Regulations Coordinator and Dean Cromwell regarding the SRA fee issue. A public notice has been issued and the hearing date is July 20, 2004, at 1:00 p.m. in Sacramento. The Committee received a report from RMAC regarding the hearings it held on oak woodlands. RMAC staff will put all the findings together and present them to the Policy and Management Committee in August.

Mr. Bosetti commented that the Department provided a report on state nurseries. The Committee also received a report on the Volcan Mountain properties. The Department of Fish and Game are the lead on that project and there has been some discussion of developing a demonstration forest on that property.

### **AD HOC ROADS AND WATERSHED COMMITTEE**

Mr. Rynearson, Chair of the *Ad Hoc* Committee, commented that the Committee focused on the Road Management Plan. The Committee needs a little more time to reviewing the input from the Department of Fish and Game and to be sure that the Committee has addressed all of the concerns from the State Water Quality Control Board. This issue will be the first item for the Committee at next meeting and will bring the package to the full Board for consideration for a 45-day package.

### **POLICY AND MANAGEMENT COMMITTEE (PMC)**

Mr. Tharon O'Dell, Chair of the PMC, commented that the Department provided an update regarding the CDF budget issues. The Committee discussed Board tasks and goals so that it could put the Policy Statement into a form to present to the Board for public input. There is a hearing scheduled in July, which will be a public information gathering hearing. The Committee will make comments on all the material gathered and Board staff can assemble it and have a final Statement later in the autumn. CLFA expressed an interest in making a presentation to the Board in July about the FRAP Statement.

Mr. O'Dell commented that RMAC briefed the Committee on the oak woodland legislation. The bill looks now to be county centric. The information gathered by RMAC in the two-day hearing received 1443 form letters and 47 other letters. People agree that oak woodlands are a very important resource in this state. There will be a lot more discussion on this issue and RMAC will get back to the Board with its recommendation. Development is an ongoing problem and that is a local planning issue. Counties have done a good job, but the application of the California Environmental Quality Act to review and assess projects that affect oaks is very uneven at the County level. FRAP is a good source for educational outreach for counties, but it will take a coordinated effort to make the oak woodland issue acceptable.

Chairman Dixon expressed his appreciation to RMAC for taking on the oak woodland issue. He believes that it is important that the County play a role in the regulation of hardwoods. He suggested that this Board might want to play a role in sponsorship of a statewide educational process for county officials.

Mr. Nawi commented for clarification regarding the Policy Statement. He noted that the three committee members were going to comment individually to the Executive Officer (EO) and that the EO should be free to indicate alternative approaches to various issues.

### **FOREST PRACTICE COMMITTEE (FPC)**

Ms. Sue Britting, Chair of the FPC, provided an overview of three items, which require Board action on the recommendations from the FPC's. The Regulations Coordinator will introduce those action items.

Ms. Britting commented that the Committee continued its discussion regarding hazardous fuel reduction and while progress was made, there are still some unresolved items. The Committee discussed AB 47 and some rule language, which is before the Members. The Heritage Tree disclosure issue was briefly discussed. The Department provided its opinion on the original petition plus other information, which the Committee will discuss at its next meeting.

### **REPORT OF THE REGULATIONS COORDINATOR**

Mr. Chris Zimny, Regulations Coordinator, provided the Board with a handout and commented that the action items are the revised notice for AB 47 Mapping Requirements; the latest revised language on the Fuel Hazard Reduction Emergency Rule; and the latest revision to the companion emergency declaration that the Board would need to take to implement the Fuel Hazard Rule.

Mr. Zimny referred to tab 18 in the Board's binder and the summary of the rule-making calendar, current rule packages, and schedules that would need to be adhered to in order to get through items needing to be dealt with this year; he reviewed it for the Members. If the Road Management Rule was the only rule to get out this year to become effective 2005, then it might be possible to manage that without a special meeting. He indicated that everything had to be at OAL by October 18, 2004, or it would not become effective by 2005.

Mr. Zimny reviewed AB 47 proposed rule language for the Members. He thanked the members of the workgroup for all the work they did to come up with this package. The language was acceptable to the Committee except for the minimum map scale that the past and future activities need to be mapped to. He reviewed that scale for the Members. He commented that the Committee agreed to leave it in as an Option.

Mr. Rynearson explained the reasoning for keeping that scale in as an Option.

Mr. Zimny commented that the recommendation from the Committee was to send the package out to a 45-Day Notice upon deciding on the Option issue.

Chairman Dixon wanted to know where the original scale came from.

Mr. Rynearson commented that it is his understanding that it came from a compromise between committee members. He believed that it would be useful for the Option to stay in the 45-Day Notice package and receive testimony during the hearing process.

There was some further discussion.

**04-6-4** Ms. Britting moved to send the proposed rule language for AB 47 to 45-Day Notice. Mr. Nawi seconded the motion, and all were in favor.

Mr. Zimny provided the Members with a draft version of the amendments and reviewed the proposed language for an Emergency Rule for Fuel Hazard Reduction. He noted that an emergency declaration would need to be attached to the notice should the Board elect to adopt this package. The package that the Board is looking at would be an Emergency notice filing; there was some concern regarding the treatment of slash. One option that the Committee considered was how to deal with the surface fuels or materials treated by activity fuel. The

Committee selected a slash treatment option, which suggests treatment of the slash to a performance standard base. He referred to the suggested language within the document.

Mr. Nawi wanted some assurance from Board's Counsel that the notice through this emergency rule is sufficient for the Board to go ahead and adopt an emergency regulation.

Mr. Bruce Reeves, Deputy Attorney and Counsel for the Board, indicated that he believed that it was.

Mr. Nawi commented that he wanted to know if the Board was in compliance with Bagley-Keene Meeting Act.

Mr. Reeves commented that he believed it did comply.

Mr. Nawi indicated that he would rely on Counsel's advice.

Mr. Marckwald wanted verification that as emergency regulations they are in effect for 120 days and that they can be extended once.

Mr. Reeves commented that they could be extended through ordinary rule-making processes during that 120 day period.

Mr. Marckwald commented that he believed that they could also be rolled the over once as emergency regulation for another 120-day period.

Mr. Reeves indicated that he believed that to be the case.

Mr. Gentry commented that the APA provides for that.

Mr. Zimny reviewed that remaining issues with this package for the Board.

Ms. Britting commented that in Committee the preference of Option one or Option two was split. She explained that the differences between the two options have to do with the treatment on the land. She commented that everyone was in agreement that treating the surface and the ladder fuels substantially reduces the threat of fire.

Mr. Bosetti wanted to know if Member Britting talked about the disagreement on canopy closure.

Ms. Britting referred to page five and the two options for coast redwood, 50 percent vs. 60 percent canopy closure. She reviewed the concern around that issue.

Mr. Rynearson reviewed some minor changes for the Board.

There was some further discussion. Due to an interruption in the recording, a portion of this discussion was not recorded.

**04-6-5** Ms. Britting moved to adopt the proposed rule language as an Emergency Rule with Option two (a) and 60 percent for coastal Redwood. Mr. Nawi seconded the motion, and a roll call vote was taken:

Bosetti	Nay
Marckwald	Aye
Nawi	Aye
Rynearson	Nay
Britting	Aye
O'Dell	Nay
Dixon	Nay

The motion failed by a 3-4 vote.

There was further discussion.

**04-6-6** Mr. Nawi moved to adopt the proposed rule language as an Emergency Rule with Option two (b) with 30 inches inside bark diameter. Mr. Bosetti seconded the motion, and a roll call vote was taken:

Marckwald	Aye
Nawi	Aye
Rynearson	Aye
Britting	Nay
O'Dell	Aye
Bosetti	Aye
Dixon	Aye

Mr. Rynearson offered a compromise on the canopy closure. Option three to be 60 percent for coastal Redwood in general, but 50 percent for coastal Redwood within the community protection zone. Mr. Bosetti seconded the motion

Ms. Britting expressed concern that there is no definition for community protection zone.

Mr. Rynearson commented that it was as defined in four (c) one.

Ms. Britting wanted that referenced.

Mr. Bosetti believed that it would be in all areas except three.

Mr. Rynearson moved to amend his motion to include 4 (c) one and two. A roll call vote was taken:

Nawi	Aye
Rynearson	Aye
Britting	Aye
O'Dell	Aye
Bosetti	Aye
Marckwald	Aye
Dixon	Aye

The motion passed unanimously.

Mr. Marckwald wanted to know if there was any guidance from the Committee in terms of was the Board going live with this as the best way to get there, or that it will try to deal with if there is any kind of non-emergency effort, or that it will come back to the Board for more discussion.

Mr. Rynearson commented that he believed it appropriate that the Board ask the Department to report on the application of this particular emergency and to get feedback from the Department and the public and other agencies as to how it is being implemented and if there are concerns about how it is being implementation.

Ms. Britting commented that the Committee realized that this was a narrow scope and that there were other issues. The Committee has a desire to look at larger landscape issues.

There was some further discussion.

Mr. Nawi expressed his concern that the rule could die at the end of 120 days without the Board providing some direction as to what comes next; take it further, or extend it, or bring it back for permanent adoption.

Mr. Zimny commented that the details on the review, once this is enacted, would be dependant on staff and the amount of work that needed to be done to get an effective evaluation.

Chairman Dixon commented that there would need to be some kind of review if the Board would consider extending it for another 120 days, so it would be back before the Board in four months at the latest.

Ms. Britting commented that if the FPC has this item on its September agenda with a request from the Department to provide an update on the number of emergencies that had been used and the nature of them, the FPC could come to the Board in September or October with an update; and possibly address cost and other issues in that review.

Chairman Dixon wanted to know if it was necessary to adopt findings at this point.

Mr. Zimny commented that Regulatory Statutes requires that the Board declare an emergency condition and that it makes findings.

Chairman Dixon asked Board's Counsel if he has had time to review the draft findings.

Mr. Reeves commented that he had reviewed the draft findings and that they appear to meet the regulatory requirements.

**04-06-7** Mr. Bosetti moved to adopt the findings. Mr. Marckwald seconded the motion, and all were in favor.

## **EXECUTIVE OFFICERS REPORT**

Mr. George Gentry, Executive Officer to the Board, commented that he had nothing to report.

**PUBLIC FORUM:** Members of the public may address the Board on any topic within its jurisdiction not otherwise on the agenda. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Board. Please be prepared to summarize comments to three minutes in length, or otherwise at the discretion of the chairman.

Mr. Peter Ribar, Campbell Timber Products, committed that the Mendocino County Board of Supervisors' had voted 4-0 in opposition to SB 1648. They urged Senator Chesbro to find funding that would allow the EIR to be completed as soon as possible. There was concern that that would allow operations to commence and, therefore, would be some economic benefit to the County. He indicated that he would attempt to get a copy of that resolution for the Board.

Mr. Richard Gienger commented that the public no longer has confidence that the resources are being protected.

The recording was not audible at this point.

Mr. Gienger suggested a field trip to view the implementation of the Emergency Rule just passed.

## **NEW AND UNFINISHED BUSINESS**

Mr. Bruce Reeves, Deputy Attorney General and Counsel for the Board, commented that he reviewed the State Body definition that is in Bagley-Keene for the purposes of the proposed meeting with Mr. Richards and the Department. Bagley-Keene would apply if there were three Board Members; however, it would not if two or fewer members were to meet. He suggested that the Board consider doing that.

Chairman Dixon asked the Chairman of the Forest Practice Committee to appoint one other member of her committee to do the work. Member Britting agreed.

Mr. Paul Mason, Sierra Club, expressed his frustration as to the passing of the Emergency Rule.

Chairman Dixon asked that the Sierra Club give the Emergency Rule chance before you decide to oppose it.

Mr. Mason commented that he would have been more comfortable beginning closer to a comfort zone and expanding if the evidence indicated that the goals were not being met.

### **ADJOURNMENT**

Chairman Dixon adjourned the June 2004 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry  
Executive Officer

Stan Dixon  
Chairman

Copies of the attendance sheets can be obtained from the Board Office.