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MINUTES
BOARD OF FORESTRY AND FIRE PROTECTION

Sacramento, CA

August 5-6, 2008

BOARD OF FORESTRY MEMBERS:

Present:

Stan Dixon, Chair
Pam Giacomini, Vice Chair
Lloyd Bradshaw
Gary Nakamura
David Nawi
Jim Ostrowski
Doug Piirto
Bruce Saito
Tom Walz

BOARD STAFF:

George Gentry, Executive Officer
Eric Huff, Executive Officer, Forester's Licensing
Teri Ashby, Board Counsel
Chris Zimny, Regulations Coordinator

DEPARTMENT STAFF:

Del Walters, Executive Officer
Crawford Tuttle, Chief Deputy Director
Bill Snyder, Deputy Director, Resource Management
Russ Henly, Asst. Deputy Director, Resource Management
Dennis Hall, Staff Chief, Forest Practice

The Board's Mission:

To lead California in developing policies and programs that serve the public interest in environmentally, economically, and socially sustainable management of forest and rangelands and a fire protection system that protects and serves the people of the state.

1. **Call to Order**

Chair Dixon called the Board to order at 1607 hours on August 5th, 2008, and adjourned the Board to Executive Session.

2. **Executive Session**

3. **Reconvene Regular Session**

Chair Dixon reconvened the Board at 0805 on August 6th, 2008.

4. **Announcement of Actions taken in Executive Session**

No actions were taken in Executive Session

5. **Approval of Minutes from July, 2008.**

08-08-01: Member Giacomini moved to approve the minutes. Member Nawi seconded the motion. All Members were in favor and the motion passed unanimously.

6. **Report of the Chairman.**

The Chair reported that he and the Executive Officer met with representatives from the Forest Service that morning, including Regional Forester Randy Moore and Deputy Regional Forester Jim Pena, to discuss cooperative efforts in the field of climate change.

7. **Report of the Director/Department.**

Deputy Director Crawford Tuttle discussed the status of legislative budget negotiations, the formation of Humboldt Redwood Company (formerly Palco), and gave a review of the post fire efforts resulting from the Northern California fire Siege. Mr. Tuttle talked about the Office of Emergency Services (OES) heading up a new "State Emergency Assessment Team" (SEAT) to assist in the efforts.

Executive Officer Del Walters discussed the ongoing fire suppression efforts, and stated that the situation is improving. He also noted the unprecedented cooperation the state has received from around the nation and the world.

The Board engaged in discussion regarding nursery capacity and funding sources for rehab efforts. The Board also discussed the issues raised by Senator Aanestad, regarding the comparison of Tahoe to the state as a whole. The Board also learned the harvest review teams are operational, with the stabilization of the fire suppression efforts. It was further reported that JDSF may begin harvesting in September.

8. **Report of the United States Forest Service. Jim Pena, Deputy Regional Forester for State and Private Forestry, Region 5**

Mike Chapel, Regional Forester's Representative, introduced Forest Service Personnel present. There were: Randy Moore, Regional Forester; Jim Pena, Deputy Regional Forester; Mark Nechadom, Climate Policy Coordinator; Bruce Goines, Rural Community Assistance program; and Chris Nota, Regional Forester's Representative.

Mr. Pena gave some brief remarks concerning the fire situation, and the plans for Region 5 to assist in the climate effort. Mr. Pena stated that USFS is gearing up the nursery program, assessing the burned areas and prioritizing rehab efforts, and reviewed the recent ruling on the Sierra Nevada Framework.

Member Walz asked about apparent risk aversion to fire fighting from USFS, specifically the reluctance to utilize hand crews, and 24 hour staffing. Mr. Pena responded that the service lacks the resources to be aggressive. Their priority is protection of the interface and for values at risk. They have 21,000 personnel in California to assist in the current efforts. Member Ostrowski asked about funding for reforestation, and was told that Senator Feinstein was working on funding for the effort. The subject of salvage logging to finance these efforts was also discussed, but stumpage prices are very low.

Member Nawi asked is there was a National Policy regarding climate, and was told a draft policy is being considered. Mr. Nechadom stated they are looking adaptation and mitigation strategies, in addition to working with CCAR, the Board, and the ARB.

Member Bradshaw asked about salvage, reforestation, and values at risk. Mr. Pena discussed the need to utilize limited resources in a prioritized fashion.

Mr. Moore stated that the USFS is looking for the Board to help shape the climate strategy for the State, and feels it will be a model for the nation.

9. **Address by California Air Resources Board Chair, Mary Nichols.**

Item deferred pending the arrival of Ms. Nichols.

10. **Update and Discussion the Board's Forestry Sector Report to ARB on the Plan to Reduce Greenhouse Gas Emissions in California (AB 32 Scoping Plan).**

Item deferred until later in the agenda.

11. **Department Report and Review on the Timberland Conversion Process. Report will cover topics such as lead agency issues and increasing complexities of review.**

The Executive Officer gave an overview of the topic. This is a "lead-in" to a more detailed discussion next month, to address the processing and policy issues that surround timber and forestland conversion. He then introduced Alan Robertson of the department, to give some more detail on the topics to be addressed next month. Board members briefly discussed the topics to be considered.

12. **Report of Board's Advisory Committees**

- **California Oak Mortality Task Force (COMTF)**

Katie Palmeiri, assisted by her daughter, reviewed the report in the binder. Of particular note, COMTF is requesting that assessment teams reviewing post fire efforts determine what effect SOD may have had on the fires.

- **Range Management Advisory Committee**

Mr. Stephens reported that RMAC will present its paper at the September meeting on resource investments in the acquisition of private lands, and funds necessary to maintain that investment. This paper was previously requested by the Board. RCD staff is assisting. Mr. Stephens also reported on the ongoing effort to assist in the education of department firefighters on range resources during suppression efforts.

- **Monitoring Study Group**

Mr. Gentry reported that MSG has not met, but is scheduling a meeting for some time in September.

- **Professional Foresters Examining Committee**

Mr. Huff reported that Mr. Walter Schloer, RPF #1084, had requested withdrawal of his license

08-08-02: Member Nawi moved to accept Mr. Schloer's request for withdrawal. Member Ostrowski seconded the motion. All Members were in favor and the motion passed unanimously.

Mr. Huff reported that the PFEC would meet August 21st to review the October RPF exam, and to review and approve the applicants for examination. Mr. Huff also reported on the voluntary relinquishment of RPF license #535, by Edward M. Galdish.

13. **Action Item: Amend 14 CCR § 1038(i) Exemption. The California State Board of Forestry and Fire Protection (Board) will consider the adoption of responses to comments, a final statement of reasons, and the final adoption of a regulation to clarify fire hazard reduction treatment standards and eliminate redundant language for this section.** Changes are generally non-substantial revisions. The Forest Fire Prevention Exemption exempts persons who conduct timber operations from preparing and submitting Timber Harvest Plans, completion reports, and stocking reports when harvesting trees and other commercial forest products for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability, and ignition of tree crowns.

Mr. Zimny introduced the topic, and gave an overview of the proposal. Comments received were limited to non-substantive edits.

08-08-03: Member Nawi moved to adopt the findings as well as the Response to Comments and Proposed Regulation. Member Piirto seconded the motion. All Members were in favor and the motion passed unanimously.

14. **Action Item: Amend 14 CCR § 1052.4 Emergency Notice for Fuel Hazard Reduction, 2008. The California State Board of Forestry and Fire Protection (Board) will consider the adoption of responses to comments, a final statement of reasons, and the final adoption of regulations for timber harvest practices that reduce wildfire threat and hazardous fuel conditions in the State's private timberlands.** The amendments proposed clarify fire hazard reduction treatment standards and eliminate redundant language for this section. Changes are generally non-substantive revisions

Mr. Zimny introduced the topic, and gave an overview of the proposal. Comments received were limited to non-substantive edits.

08-08-04: Member Ostrowski moved to adopt the findings as well as the Response to Comments and Proposed Regulation. Member Giacomini seconded the motion. All Members were in favor and the motion passed unanimously.

18. **(Item taken out of order to accommodate schedules, per Chair Dixon) Discussion of 14 CCR § 1257(a)(3).** (This exemption allows for healthy, mature trees (trunks and limbs), that do not present a risk to public safety, to be retained. The proposed exemption was permitted for a limited period, and expires December, 31 2008, and only applied to utilities lines in the State Responsibility Area (SRA). This report is to provide information for the Board's consideration in renewing this regulation.)

Ernylee Chamlee, Staff Chief, Wildland Fire Engineering, introduced the topic. She requested a one year continuation of the regulation, to provide for continuing evaluation.

Member Walz asked about timing of the regulation. Mr. Zimny responded that the hearing would held in October. Member Bradshaw asked about the need to develop an Initial Statement of Reasons. Mr. Zimny stated that there would be no change for the previous statement, as this is only an extension.

08-08-05: Member Saito moved to notice the proposal for 45-day notice. Member Ostrowski seconded the motion. All Members were in favor and the motion passed unanimously.

15. **Review of the Department's Draft Initial Study/CEQA Checklist for the Draft Boggs Mountain Demonstration State Forest Management Plan Update. Possible Action Item:** The Board may approve the Initial Study and CEQA Checklist, and provide additional direction to the Department.

Member Piirto, as chair of the Management Committee, introduced the topic. He reported that the committee had reviewed the Initial study and Checklist and was prepared to make a motion.

08-08-06: Member Piirto moved to: 1) approve the Initial Study and Checklist, and 2) direct the Department, working with Board staff, to prepare a draft Mitigated Negative Declaration. Member Giacomini seconded the motion.

Member Nawi asked what issues had been raised by the initial study. Helge Eng, State Forest Program Manager responded that the issue of unstable soils and hazardous materials were identified, and that the proposed mitigations would be similar to those proposed for LaTour. Member Piirto introduced Wayne Conner, Forest Manager, and Kim Sone, Assistant Forest Manager.

All Members were in favor and the motion passed unanimously.

16. **Review of the LaTour Demonstration State Forest Mitigated Negative Declaration and Updated Management Plan. Possible Action Item:** The Board may certify the Mitigated Negative Declaration, Approve the Updated Management Plan, and provide additional direction to the Department.

Member Piirto introduced and thanked Mike Chucel, Unit Chief, and Bruce Beck, Forest Manager.

08-08-07: Member Piirto moved to: 1) approve the Mitigated Negative Declaration, Mitigation Monitoring Program, and the Updated Management Plan and 2) direct the Executive Officer to submit the Notice of Completion. Member Giacomini seconded the motion. All Members were in favor and the motion passed unanimously.

19. **(Item taken out of order to accommodate schedules, per Chair Dixon) Discussion and Review of the Board's and Fish and Game Commission's Joint Policy for Anadromous Salmonids.**

The Executive Officer reviewed the progress to date on the Joint Policy Statement. The Department of Fish and Game had made some additional recommendations since the last Board meeting, and as a result the Executive Officer was requesting this topic be deferred until these items could be reviewed.

17. **Review of a Petition for Emergency Rulemaking for Title 14 CCR §§ 916.9.1, 916.9.2, 923.9.2, 936.9.2, and 943.9.2 Regarding "Coho Incidental Take" CalTrout, EPIC and the Sierra Club.**

Mr. Bill Yeates, representing the petitioners described the petition. He referenced the Governor's proclamation, an exhibit (#2) from NMFS, an exhibit (#3) documenting the central coast issue, and the silver salmon issue. He also discussed the economic impact to coastal communities regarding the curtailed fishing season. He said the Board had the authority to adopt these regulations in light of the threat of extinction, and that these were unforeseen circumstances. Member Nawi asked him to clarify his remarks regarding recovery. Mr. Yeates said these were focused and minor changes required to reach harvestable levels of coho salmon.

Ms. Charlotte Ambrose reviewed an earlier letter to the Board of Forestry and Fire Protection, and discussed the need for partnerships. NMFS recommended the Board fully consider the request.

Mr. John McCamman (DFG) reported that his department supported the recovery of coho salmon, including recently adopted 2112 regulations, and endorsed the approved recovery strategy that emphasizes voluntary measures. He noted that the department had seen gradual, slow and significant improvement in practices, and that foresters are much more understanding of fisheries needs. He also noted the progress on the Joint Policy. Member Giacomini asked if the 2112 regulations were effective. Mr. McCamman said yes. Mr. McCamman went on to discuss the cooperative process between the Board and the Departments, and DFG's support for coho recovery and all of its voluntary measures.

Member Nawi asked Mr. McCamman to compare the petition to the previous proposal the Board considered. Mr. McCamman said the petition reflected the earlier proposal. Member Nawi then asked if Mr. McCamman supported the approach the petitioners had asked for. Mr. McCamman said that DFG asked for the Board's scientific review process to evaluate the accuracy of what we have, and that it needed to be comprehensively understand what we done to date before we take the next steps. Member Ostrowski asked if the reason for the earlier proposal was to develop a 4d or HCP. Mr. McCamman said yes. Member Walz asked if the current process allows for site specific measures to be recommended. Mr. McCamman said yes.

9. **(Continued from earlier in the agenda) Address by California Air Resources Board Chair, Mary Nichols.**

Chair Nichols stated her thanks to the Board for accepting challenge and responsibility of assisting the Air Resources Board on the issue of AB32. She then provided a brief overview of the process. She noted that the ARB along with its partners, such as the Resources Agency, is very excited about the opportunities. She also pledged ARB staff support for the Board's report.

Member Piirto asked about whether there are opportunities for funding projects. Chair Nichols said that ARB and the EPA are at the Western Climate Initiative, and that she hoped that the issue could be developed there. Member Bradshaw asked recognition for California forests and about the timeframes. Chair Nichols said there is a mandate to be part of the international arena. Chair Dixon noted the meeting he had this morning to develop partnerships with the USFS.

17. **Resumption of a Review of a Petition for Emergency Rulemaking for Title 14 CCR §§ 916.9.1, 916.9.2, 923.9.2, 936.9.2, and 943.9.2 Regarding "Coho Incidental Take" CalTrout, EPIC and the Sierra Club.**

The discussion resumed with Crawford Tuttle of CALFIRE stating support for the position of the Department of Fish and Game, including joint training, pre-consultation, and the science review. Member Nawi asked if there were any number showing level of voluntary compliance. Mr. Tuttle stated this is the information related to him from staff.

Michele Dias stated that the focus should be on the existing rules, and that the petition as submitted did not support a finding of an emergency.

Jodi Frediani cited declining coho populations in Santa Cruz, and that ocean condition impacts were unclear. She further referenced the listing of 303d watersheds and stated that logging clearly impacts these areas.

Peter Ribar stated that the petition as submitted did not support a finding of an emergency. He also stated that not only is take not allowed already, but that proactive efforts are underway. He also referenced that Pudding Creek had produced 25,000 coho, but only 120 returned from the ocean. Member Nawi asked if any take has occurred. Mr. Ribar responded he was unaware of any such finding.

Sharon Duggan recalled the attempted adoption of emergency regulations for Mendocino. She stated that the adoption was analogous to fire or fuel reduction rules. She said that we cannot wait for all the information. New information indicates action is necessary.

Richard Gienger said that the petition is reasonable and necessary to counter 100 years of destructive practices.

Zeke Grader said he was not a petitioner, but supported the action. He stated that the habitat was in trouble, and that extirpation is an emergency.

Jeff Shellito said he strongly supports the petition, and noted that there are two things being asked for, emergency regulations and 45 day notice for rulemaking. He said there is new evidence since previous actions of the Board, inaction was irresponsible.

Kevin Collins cited the presentation by NMFS, and noted no returning coho to Redwood Creek. He also said a mass reproduction strategy was necessary for ocean conditions. He supports the petition.

Paul Mason said that coho are headed to extinction faster than the Board thought. He is requesting the same rules adopted last year by the Board, without a "take" determination. He expressed concerns over the threshold for take. He also noted the loss of central valley fish non-coho salmon. He urged the Board to maintain 45 day notice option.

Chair Dixon reviewed the procedure: the Board will ask any questions of speakers discuss the options, take a short break, and the return for a discussion.

Member Walz asked Board Counsel to review emergency decision procedures. Counsel Ashby said that the discretion is there, and passed out the Government Code pertaining to emergency. She noted that what you have to do is make findings by substantial evidence. It is ample or strong, not uncontroverted. Member Ostrowski asked if it meant immediate action to avoid serious harm to the public. Counsel replied not 100%, but substantial evidence, connected to the harm.

Member Nawi asked Charlotte Ambrose the distinction between extinction and harm, and if this was necessary for extinction prevention now, verses 2010. Ms. Ambrose replied that central coast was in danger, as they had lost the strongest year class.

Member Nawi asked if the Department supported enhancements without a "take" determination. Bill Snyder, Deputy Director, responded that they believe current process is working. There is a provision for avoidance of take. In acreage, more than half are subject to Habitat Conservation Plans (which the regulation would not change), the remainder are non-industrials.

Member Bradshaw asked two questions: 1) what has changed since our last consideration? 2) to Ms. Ambrose, is the current carrying capacity of streams at or above levels necessary to support populations? Ms. Ambrose cited the Pierce report on population viability. There is an ongoing evaluation of data for instream conditions. Member Bradshaw asked if the data was rigorous enough, verses ancillary data. Ms. Ambrose said there was not enough data for impending warnings, and a lack of coast-wide monitoring. Member Bradshaw asked about Redwood Creek rehab work, with miles of available habitat, and no returners. Ms. Ambrose believes it is still an emergency and that reproductive strategies in conjunction with ocean conditions must be considered.

Member Nakamura asked Ms. Ambrose if outgoing coho numbers are monitored. Ms. Ambrose said they were not. Member Nakamura asked if we stop all activities now, will we see increase in numbers. Ms. Ambrose said what was needed was a statewide HCP.

Member Piirto stated he thought the actions by the Board last year for 2112 regulations were aggressive, and was, waiting to see scientific information related to that effort. He also noted that the report from McFarlane (Coho and Chinook Salmon Decline in California during the Spawning Seasons of 2007/08 Prepared by R.B. MacFarlane, S. Hayes, B. Wells 2 February 2008), states that the spatial extent indicates ocean conditions. He quoted from the report as follows:

“Although there are no shortage of potential contributors to the decline, including such wide ranging factors as poor fecundity of the 2004/05 yearclass; hydrologic flushing of fry prematurely to sea by high stream flows in 2005; increased predation by avian, pinniped, and/or other marine predators; and anthropogenic factors such as oil spills, fishing bycatch mortality, irrigation, and water exports from streams, the spatial extent of the problem points toward a broader agent: ocean conditions.”

Ms. Ambrose said ocean conditions play a significant role, but so does impairment of freshwater environment. Member Piirto asked if there is compelling evidence that landowners are causing major decline. Ms. Ambrose said there are many other needs including a monitoring system.

Chair Dixon noted that a statewide HCP is the real target, but it is long term. He asked if NMFS was monitoring ocean conditions. Ms. Ambrose said yes. Chair Dixon said that information is vital to the discussion. Ms. Ambrose said that it also involves freshwater conditions, and that NMFS presented to the Board a take permit conversion issue. She sees this as a collaborative effort. Chair Dixon stated that the Board members recognize collapse of coho, but the evidence indicates ocean conditions.

Member Nakamura asked what the board can do to help NMFS in the monitoring situation. John McCamman of Fish and Game said that a monitoring plan is underway, and needed the Wiggins bill to implement. He suggested that DFG, SWRCB, integrate with Board monitoring requirements.

Member Nawi said the Board should do something now. He asked if the enhancements were necessary. Ms. Ambrose said yes, but also adaptive management.

Member Nawi asked if a regular 45 day notice could occur to allow for January 1, 2009 implementation. The Executive Officer replied that it was unlikely. Member Walz asked about costs. Could the Board accept the petition with public funding aspect? Member Nawi responded that it was a philosophical question. Member Bradshaw asked a process question: Is the petition complete? The Executive Officer reiterated the three requirements outlined in Government Code, and noted that the emergency provision is the discretion of the Board. Member Ostrowski noted that the idea of the science review was to uncover improvements.

Member Nawi said his initial reaction was that this was awful timing for getting regulations done, especially considering the review of existing rules. It was tempered by the fact that it involves the extinction of fish. He stated that the central coast should be focus, and some action should be taken. He suggested emergency rules for the central coast, with regular rulemaking for this coming year.

Member Nakamura noted that the THP is a blunt instrument for such purposes and on the need to focus on recovery plans. Ms. Ambrose noted the state recovery plan, and that federal recovery plans will be coming out shortly. Member Nakamura asked if regulations or a voluntary recovery plan were the preference. Ms. Ambrose said it was difficult to get voluntary cooperation. Member Giacomini noted her participation in the formulation of the coho recovery plan and said voluntary efforts are critical. “Take” component was the impetus to get things done. Member Saito suggested the Board vote.

08-08-08: Member Bradshaw moved to deny the petition in whole. Member Ostrowski seconded the motion.

Member Walz stated that he would vote for the petition if included public funding. Member Bradshaw stated that the science review should move on.

Roll Call Vote: **In favor: Bradshaw, Piirto, Nakamura, Walz, Ostrowski, Giacomini**
Opposed: Nawi, Saito, Dixon

10. **(Continued from earlier in the agenda) Update and Discussion the Board’s Forestry Sector Report to ARB on the Plan to Reduce Greenhouse Gas Emissions in California (AB 32 Scoping Plan).**

Executive Officer Gentry gave a brief overview of the Board and Department staff's progress to date on the Report. Deputy Director Snyder added additional comments. Member Bradshaw recommended that Board members should send comments to the Executive Officer. Member Piirto stated that the funding issue needed to be addressed. Bill Key commented on the opportunities for forestry in this area. Member Walz noted that there are infrastructure needs.

18. **(Item taken earlier to accommodate schedules, per Chair Dixon) Discussion of 14 CCR § 1257(a)(3).**

19. **(Item taken earlier to accommodate schedules, per Chair Dixon) Discussion and Review of the Board's and Fish and Game Commission's Joint Policy for Anadromous Salmonids.**

20. **Report of Forest Practice, Policy, Management, and Resource Protection Committees.**

Forest Practice Committee- no action items, expecting literature review report next month.

Policy Committee - no action items

Management Committee- no action items

Resource Protection Committee- no action items, expecting VTP administrative draft in October.

21. **Report of the Regulations Coordinator.**

Mr. Zimny reported that two regulations concerning Northern Spotted owl would be held in September, and was anticipating receiving the literature review. Member Nakamura said that he encouraged Board members to read the primers related to that topic.

22. **Report of Executive Officer.**

23. **Public Forum**

Richard Gienger reviewed various items, including the coho confab (calsalmon.org), JDSF advisory meetings, the Buckeye Conservancy meeting, Palco, monitoring protocols, and cumulative effects.

24. **New and Unfinished business**

The SAF National Meeting will be held in Reno, on November 3, 4, and 5. The Board will need to discuss possibly changing its meeting dates.

25. **Adjournment**

Chairman Dixon adjourned the August 2008 meeting of the Board of Forestry and Fire Protection at 3:30.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman

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