

Final 3/21/05
Report to Board of Forestry on Heritage Tree Petition

Forest Practice Committee, March 2005

The BOF directed the Forest Practice Committee to discuss the following issues related to the heritage tree petition:

- The definitional issues of old growth, including variations by region and species
- Disclosure requirements and how these requirements are fulfilled under the current regulatory system
- What, if any, improvements can be made either in the context of the THP for disclosure, or what mechanisms can be made for earlier disclosure

The BOF emphasized exploring voluntary methods of conservation and that no disincentives be made to further the production of large diameter trees.

The table below summarizes conclusions reached during our committee discussions on each of the above and proposes actions that the BOF could take to improve conservation of heritage and other large diameter trees.

ISSUE 1 Definition of old growth

FINDINGS

The definitions of old growth vary widely by site, region and species. Once defined, the importance of individual trees and stands of trees also vary by the value (i.e. biological, cultural, historical and aesthetic) under consideration. The Forest Practice Act generally define that values associated with the environment need to be disclosed where significant effects are likely to result from a project. Significant impacts to resources must be reduced to less than significant or a statement of overriding considerations can be made in cases where impacts can not be reduced to less than significant.

The relationship between the term “heritage tree” and old growth was discussed at length in the committee. There presently is no statutory definition for heritage tree. During the course of committee discussions, the term “heritage tree” was set aside and discussion was focused on issues related to defining old growth.

RECOMMENDED ACTIONS

1. Rely on the existing references in the FPR and professional judgment to define large old and old growth trees.
2. The Department of Forestry and Fire Protection (CDF) will provide a guidance letter to inform RPFs, CDF personnel, and Review Team members of the expectation that THPs should identify trees having significant or

unique characteristics and those activities or operations having the potential to affect such trees, resulting in significant adverse impacts on the environment. This letter will include a reminder that disclosure of potential significant adverse impacts to large old trees having significant or unique characteristics is required, even in those situations involving a single tree or small stand of trees less than 20 acres in size (i.e. does not meet the minimum stand acreage for Late Succession Forest Stands per 14 CCR § 895.1).

ISSUE 2 Disclosure requirements related to significant impacts to large old trees or old growth trees

FINDINGS

CDF provided numerous examples from the Coast, Northern and Southern Forest Districts where disclosure of the presence of large old trees (or old growth trees) had been addressed by RPFs in THPs submitted to the Department.

CDF staff indicated that discovery of and protection measures for large old or old growth trees having significant or unique characteristics were often developed during the THP review period or during the pre-harvest inspection. Testimony indicated that while issues regarding large old trees were addressed in some THPs, documentation in the THP of such actions was not always done. Because disclosure of effects to large old or old growth trees is not always disclosed in the THP, it is difficult to monitor this issue.

Another situation was discussed in committee regarding the necessity for the disclosure of a single tree, or small groups of large old trees. Current regulations do not directly address disclosure of individual or small groups of large old trees. Disclosure is required when the harvesting of late succession forest stands greater than 20 acres are proposed that may result in a significant adverse impact (14 CCR §919.16 [939.16], [959.16]). This regulatory “gap” was identified as a fundamental reason for lack of documented disclosure of the presence, value and impact to single or small groves of large old or old growth trees. However, testimony and case THP examples indicated that individual trees have been identified as significant (from a CEQA or FPA perspective) and have been addressed in some THPs.

The participation of the Department of Fish and Game during THP review is critical to an adequate review of the biological values associated with large and/or old trees. In the absence of DFG involvement during plan review, the project proponent (RPF) may be required to hire the services of a professional consulting wildlife biologist to assist in addressing biological issues related to large old trees.

Training for RPFs directed specifically at the conservation of large old or old growth trees is not presently available.

RECOMMENDED ACTIONS

1. The Department of Forestry and Fire Protection (CDF) will provide a guidance letter to inform RPFs, CDF personnel, and Review Team members of the expectation that THPs should identify trees having significant or unique characteristics and those activities or operations having the potential to affect such trees, resulting in significant adverse impacts on the environment. This letter will include a reminder that disclosure of potential significant adverse impacts to large old trees having significant or unique characteristics is required, even in those situations involving a single tree or small stand of trees less than 20 acres in size (i.e. does not meet the minimum stand acreage for Late Succession Forest Stands per 14 CCR § 895.1).
2. The BOF will actively discuss and promote with the administration and legislature the need to fund staff positions to ensure an adequate field review of THPs. These necessary staff positions include staff from the CDF and staff from the California Department of Fish and Game.
3. The BOF will ask the California Licensed Foresters Association (CLFA), or other organizations, to provide training opportunities via their newsletters, breakfast meetings, workshops or other venues compatible with their organization to ensure that RPFs know the characteristics and values associated with old growth trees including wildlife, cultural and social elements.
4. The BOF will ask that the PFEC include questions related to the assessment of large old or old growth trees on the licensing exam.

ISSUE 3 Earlier disclosure of large old, or old growth trees having significant or unique characteristics resources

FINDINGS

The California Department of Fish and Game encourages early consultation from timber land owners in the planning of THPs that involve trees of high wildlife value. The voluntary work done between Green Diamond Resources and CDFG serves as a case in point; their adopted approach regarding wildlife trees increases consistency among THPs and reduces the debate over individual THPs.

Because the disclosure of significant large old or old growth trees may occur during THP review, the public may not know until late in the process that large old or old growth trees may be at issue.

RECOMMENDED ACTIONS

1. The BOF will encourage early consultation with CDFG to determine if trees with high biological values are present.
2. The Department of Forestry and Fire Protection (CDF) will provide a guidance letter to inform RPFs, CDF personnel, and Review Team members of the expectation that THPs should identify trees having significant or unique characteristics and those activities or operations having the potential to affect such trees, resulting in significant adverse impacts on the environment. This letter will include a reminder that disclosure of potential significant adverse impacts to large old trees having significant or unique characteristics is required, even in those situations involving a single tree or small stand of trees less than 20 acres in size (i.e. does not meet the minimum stand acreage for Late Succession Forest Stands per 14 CCR § 895.1).

ISSUE 4 Maximizing incentives

FINDINGS

Some interested parties identified that a regulatory requirement for preservation of large old or old growth trees would be a financial disincentive to landowners holding these trees.

There is uncertainty about how much funding actually exists to protect individual large old or old growth trees.

A number of programs have been identified that fund conservation of old growth, including the Natural Heritage Preservation Tax Credit (NHPTC) administered by the Wildlife Conservation Board, and the CDF Forest Legacy Program. Neither of these programs is directly related to conserving large trees and the NHPTC (as of September 2004) is currently suspended from funding projects.

There is uncertainty about whether willing sellers and willing buyers are able to find each other.

RECOMMENDED ACTIONS

1. The BOF, or other appropriate State agency departments, will develop information resources to distribute to timberland owners and RPFs informing them of the various programs that can be applied to support

conservation efforts. For example, a resource page on the BOF website directing interested parties to the programs funding available.

2. The BOF will encourage the financial support of programs that support the conservation of large old or old growth trees among willing sellers and buyers (e.g. Wildlife Conservation Board, Sierra Nevada Conservancy).
3. The BOF will place a high priority on facilitating the development of legislation that would introduce tax incentives that encourages the production of large trees and the retention of large old or old growth trees.
4. The BOF will develop a program to recognize those forestland owners and managers who retain or sustain large old trees.
5. The BOF will evaluate opportunities to provide regulatory certainty or streamlining for those plans that addresses conservation of large old trees.

ISSUE 5 Areas for improvement or change

FINDINGS

Several actions that could increase the conservation of large old or old growth trees were identified. Changes to rule language are not recommended at this time.

Interested parties remain concerned that significant effects to large old or old growth trees with significant or unique characteristics are not adequately disclosed in THPs especially when present as individual trees or in stands less than 20 acres in size. Further, these interested parties question whether or not mitigation measures to reduce impacts to less than significant have been appropriately applied.

RECOMMENDED ACTIONS

1. The BOF will implement the recommendations stated above.
2. The BOF will evaluate the effectiveness of the adopted recommendations within 12 months.