

**BOARD OF FORESTRY AND FIRE PROTECTION  
PROFESSIONAL FORESTERS REGISTRATION PROGRAM**



# **LICENSING NEWS**

**VOLUME 22**

**NUMBER 1**



**MARCH 2007**

## **The View from the 15<sup>th</sup> Floor**

### ***“SO WHEN’S THE NEXT EDITION OF LICENSING NEWS COMING OUT?”***

If I had a dime for every time I’ve heard that question directed at me from a remarkable variety of sources I’d be riding around in a fancy car and smoking them four-bit cigars. Well here it is, at long last and over four years in the making (slow even by government standards), the next edition of *Licensing News*.

Since the last time the licensing office produced one of these newsletters, 93 individuals have passed the RPF Exam and 10 have passed the CRM Exam. In that same time period we’ve lost 28 registrants to their mortality, 34 to voluntary relinquishment of their licenses, and 9 to revocation for non-renewal of their licenses. Do the math on those numbers and you realize that the net gain in registrants since 2003 is 32. And, in the coming months the Board will be called upon to revoke additional licenses for non-renewal.

Now I’m not going to say that the sky is falling on the licensing program, particularly since we have 40 applicants qualified for the upcoming exam that come to us from a notable diversity of sources. But, I do believe there is cause for some concern. It’s a fact that recruiting more registrants is really a small part of the much bigger question of how to bring more people into the forestry profession. Community college and university forestry program enrollments are depressed and some programs are in jeopardy of losing SAF Accreditation in the near future. Elementary and middle school textbooks are continuing to frame resource management in frighteningly destructive terms as indicated by California Forest Products Commission Education Coordinator, Ms. Lisa Perry’s textbook review. And, the average Californian has no idea what foresters do and why they do it. Speaking from personal experience, most of my extended family still believes that I’m a park ranger, while my own father thinks it’s wrong to cut a single Christmas tree down despite his being surrounded by the conveniences of suburban sprawl. Yep, a person could get mighty run-down thinking about the steep slopes this profession has to walk these days. Or we foresters can do as we always have and keep working up the hill.

The *California Undergraduate Forestry Education Summit* is a group of people doing exactly that: walking up the hill to meet the challenge of recruitment head-on. The *Summit* group is coordinated by Mr. Brian Wing, soon to be a PhD candidate in Forest Engineering at OSU, and includes representatives from community colleges and universities, the California Forest Products Commission & The Forest Foundation, the Society of American Foresters, the California Forestry Association, the California Licensed Foresters Association, and state & federal agencies among others. The folks involved in this effort are focused upon ensuring that SAF-accredited college and university programs stay that way through maintenance of faculty positions and active recruitment of students.

**View from the 15<sup>th</sup> Floor continued...**

Armed with the understanding that forestry is a little recognized profession despite the wide variety of career options with a forestry element, the group has taken on the task of producing tools for recruitment purposes. To date, they've received an SAF Foresters Fund grant in support of the creation of recruitment materials including a brochure, forestry careers website, and a PowerPoint recruitment presentation. These materials are being produced by the Forest Products Commission/Forest Foundation under the direction of Lisa Perry with the goal of having them ready this spring. But, the effort doesn't cease there. The group is also implementing new strategies to increase academic program support from college and university administrators. The next *Summit* meeting will be scheduled sometime between May and July to keep the momentum going. To find out more information about the *Summit* group, you can visit the Northern California SAF website at [www.norcalsaf.org](http://www.norcalsaf.org) and download the *Summit's* meeting summary document. In the meantime, I encourage all of you to consider lending a hand to this and other such efforts on behalf of our shared profession. If you'd like further information on the *Summit*, please give me a ring or send an email.

On that note I'll conclude with a few final words. A fair number of RPF's have passed since the last edition was posted, including a "founding father" of the licensing program and its first Executive Officer, Ed Martin. We also lost good friend and PFEC meeting regular, Roy Richards, Jr. While I did not know Ed, I have benefited from his efforts to frame this program and his endless support for the licensing of foresters. I did have a brief opportunity to get to know Roy Richards, Jr. and can only offer that I was not prepared for his departure. At the time of his passing, the PFEC was in the throes of a highly contentious policy discussion with other professions. As one of the two non-PFEC RPFs in the room for the majority of those discussions, Roy was instrumental in helping both sides find the way to a respectful compromise. More than that, he demonstrated to a licensing officer with more fight than brains that there was more to be gained from inclusion than exclusion. I envy those who had long associations with these two fine gentlemen and encourage you all to read the obituaries for Ed and Roy provided by Mr. Brian Barrette and the Forest Landowners of California, respectively. Nobody gets out of here alive, but neither will we be forgotten. Take a moment as you look over the names of those who've gone before to remember their personal and professional contributions.

**Post Script:** In the interest of saving time and money, I would like to start sending out Licensing News electronically. If you would like to receive Licensing News electronically, please send me an email to that effect. My email address is [eric.huff@fire.ca.gov](mailto:eric.huff@fire.ca.gov). Please note that all email addresses will be kept confidential and all electronic versions of the *News* will be sent blind to undisclosed recipients.

# **Board of Forestry and Fire Protection**

## **Foresters Licensing Program**

*Professional Foresters Registration shall protect the public interest through the regulation of those individuals who are licensed to practice the profession of forestry, and whose activities have an impact upon the ecology of forested landscapes and the quality of the forest environment, within the State of California.*

### **PROFESSIONAL FORESTERS EXAMINING COMMITTEE MEMBERSHIP**

|                            |                             |
|----------------------------|-----------------------------|
| Mr. Douglas Ferrier, Chair | RPF-Consultant              |
| Mr. Thomas Osipowich       | RPF-CDF                     |
| Mr. Otto van Emmerik       | RPF-Industry                |
| Mr. Gerald Jensen          | RPF-USFS, Retired           |
| Ms. Kimberley Rodrigues    | RPF-Public Representative   |
| Mr. Raymond Flynn          | Public Representative       |
| Mr. Michael Stroud         | CRM/RPF-Certified Specialty |

### **PROGRAM STAFF**

|   |   |
|---|---|
| Eric K. Huff, RPF No. 2544<br>Executive Officer<br>916-653-6634<br><a href="mailto:eric.huff@fire.ca.gov">eric.huff@fire.ca.gov</a> | Terra L. Perkins, Office Technician<br>Assistant to Executive Officer<br>916-653-8031<br><a href="mailto:terra.perkins@fire.ca.gov">terra.perkins@fire.ca.gov</a> |
|---|---|

### **HOW TO REACH US**

In addition to the email addresses and phone numbers listed above, questions about the status of your license; change of address notification; needs, wants or gripes may all be faxed or mailed as follows:

Eric K. Huff, Executive Officer  
Board of Forestry and Fire Protection  
Professional Foresters Registration Program  
P.O. Box 944246  
Sacramento, California 94244-2460  
FAX #916-657-5386

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## **Registered Professional Foresters/Certified Rangeland Managers**

### **RPF EXAMINATION RESULTS**

The following 93 individuals have successfully completed the RPF Examination since the last issue of *Licensing News* and been approved for Registration by the Board of Forestry and Fire Protection.

#### **OCTOBER 18, 2002 EXAMINATION:**

|                |              |                |              |
|----------------|--------------|----------------|--------------|
| Kim Witcher    | RPF No. 2745 | Todd McMahon   | RPF No. 2746 |
| Matthew Greene | RPF No. 2747 | Matthew Rourke | RPF No. 2748 |

#### **APRIL 11, 2003 EXAMINATION:**

|                   |              |                 |              |
|-------------------|--------------|-----------------|--------------|
| Gabriel Schultz   | RPF No. 2749 | Season Schultz  | RPF No. 2750 |
| Sean Griffis      | RPF No. 2751 | Andrew Mieske   | RPF No. 2752 |
| Chantz Joyce      | RPF No. 2753 | Dawn Pedersen   | RPF No. 2754 |
| William Forsberg  | RPF No. 2755 | Steven DeBonis  | RPF No. 2756 |
| Shawn Zimmermaker | RPF No. 2757 | Nathan Root     | RPF No. 2758 |
| Adam Deem         | RPF No. 2759 | Ed Fredrickson  | RPF No. 2760 |
| Peter Jackson     | RPF No. 2761 | Robert Hurst    | RPF No. 2762 |
| Casey Keller      | RPF No. 2763 | Douglas Madsen  | RPF No. 2764 |
| Dennis Garrison   | RPF No. 2765 | Dennis O'Neil   | RPF No. 2766 |
| Paul Savona       | RPF No. 2767 | Timothy Collins | RPF No. 2768 |
| Jason Poburko     | RPF No. 2769 | Michael Duffy   | RPF No. 2770 |
| Kathleen Edwards  | RPF No. 2771 |                 |              |

#### **OCTOBER 17, 2003 EXAMINATION:**

|                   |              |                |              |
|-------------------|--------------|----------------|--------------|
| Wesley Crum       | RPF No. 2772 | Matthew Dias   | RPF No. 2773 |
| Jason Moggahaddas | RPF No. 2774 | Jason Thompson | RPF No. 2775 |
| John Gold         | RPF No. 2776 | David Ragsdale | RPF No. 2777 |
| Seth Palmer       | RPF No. 2778 |                |              |

#### **APRIL 16, 2004 EXAMINATION:**

|                |              |                  |              |
|----------------|--------------|------------------|--------------|
| Loren Camper   | RPF No. 2780 | Jason Serna      | RPF No. 2779 |
| Daniel Porter  | RPF No. 2783 | Ryan Hilburn     | RPF No. 2782 |
| Jenny Whitaker | RPF No. 2786 | Cheyenne Borello | RPF No. 2784 |
| Scott Worden   | RPF No. 2785 | Mark Distefano   | RPF No. 2781 |

#### **OCTOBER 15, 2004 EXAMINATION:**

|                       |              |                      |              |
|-----------------------|--------------|----------------------|--------------|
| Robert G. Lewis       | RPF No. 2789 | Daniel E. Sooy       | RPF No. 2793 |
| Mathew Boone          | RPF No. 2790 | Brent M. Barriteau   | RPF No. 2787 |
| Nadia Jeanne Hamey    | RPF No. 2788 | Len M. Nielson       | RPF No. 2792 |
| Richard W. Fitzgerald | RPF No. 2791 | Jeremy Roland Wright | RPF No. 2794 |

**APRIL 15, 2005 EXAMINATION:**

|                       |              |                     |              |
|-----------------------|--------------|---------------------|--------------|
| Steven W. Narolski    | RPF No. 2795 | Jason D. Cushman    | RPF No. 2796 |
| Ryan Patrick Crans    | RPF No. 2797 | Geronimo Zuniga     | RPF No. 2798 |
| Andrew G. Morse       | RPF No. 2799 | Erik D. Wahl        | RPF No. 2800 |
| Rick P. Carr          | RPF No. 2801 | Eric Paul O'Kelley  | RPF No. 2802 |
| Joseph W. Fazio       | RPF No. 2803 | Colby J. Forrester  | RPF No. 2804 |
| Sterling Griffin      | RPF No. 2805 | Lance M. Purdy      | RPF No. 2806 |
| Forrest Costales      | RPF No. 2807 | Danielle E. Banchio | RPF No. 2808 |
| Travis E. Erickson    | RPF No. 2809 | Mitchell C. Haydon  | RPF No. 2810 |
| Brian Scott Renner    | RPF No. 2811 | Ryan Willis         | RPF No. 2812 |
| Timothy Warren Meyers | RPF No. 2813 |                     |              |

**OCTOBER 7, 2005 EXAMINATION:**

|                      |              |                      |              |
|----------------------|--------------|----------------------|--------------|
| Zachary Martin Jones | RPF No. 2814 | Elicia S. Wise       | RPF No. 2818 |
| Julia Davis          | RPF No. 2815 | Luis Garcia-Bakarich | RPF No. 2819 |
| Jack R. Harvey       | RPF No. 2816 | David E. Ahmadi      | RPF No. 2820 |
| John Stephen Melvin  | RPF No. 2817 | Ben C. Cohoon        | RPF No. 2821 |

**APRIL 7, 2006 EXAMINATION:**

|                       |              |                     |              |
|-----------------------|--------------|---------------------|--------------|
| Roger R. Petersen     | RPF No. 2822 | Dominik Leo Schwab  | RPF No. 2823 |
| Joshua R. Blankenship | RPF No. 2824 | Heather Windsor     | RPF No. 2825 |
| Jared Gerstein        | RPF No. 2826 | Daniel O. Prielipp  | RPF No. 2827 |
| Matthew T. Waverly    | RPF No. 2828 | Ryan W. Hadley      | RPF No. 2829 |
| John A. Dickson II    | RPF No. 2830 | Timothy J. Holliday | RPF No. 2831 |
| Robert Owen Hoover    | RPF No. 2832 |                     |              |

**OCTOBER 6, 2006 EXAMINATION:**

|                         |              |                  |              |
|-------------------------|--------------|------------------|--------------|
| Mary Beth Najera        | RPF No. 2833 | Benjamin G. Hawk | RPF No. 2834 |
| Scott W. Eckardt        | RPF No. 2835 | Elsa K. Hucks    | RPF No. 2836 |
| Brent Allen Vanderhorst | RPF No. 2837 |                  |              |

**CRM EXAMINATION RESULTS**

The following 10 individuals have successfully completed the CRM Examination since the last issue of *Licensing News* and been approved for Certification by the Board of Forestry and Fire Protection.

|                   |            |                 |            |
|-------------------|------------|-----------------|------------|
| Dennis Dudley     | CRM No. 82 | Marc Horney     | CRM No. 83 |
| James C. Maynard  | CRM No. 84 | Morgan P. Doran | CRM No. 85 |
| David D. Witt     | CRM No. 86 | David Amme      | CRM No. 87 |
| James Sullins     | CRM No. 88 | Michael Dolan   | CRM No. 89 |
| Theresa Becchetti | CRM No. 90 | Anthony Nelson  | CRM No. 91 |

**CONGRATULATIONS TO ALL AND WELCOME TO THE FOLD!**

## EXAMINATION SCHEDULE

The next Examination is set for **April 13, 2007**. The deadline for application filing was **February 16, 2007**. The fall examination is tentatively scheduled for October 12, 2007 with a deadline for filing of August 3, 2007. Application materials may be found on the licensing website at: <http://www.bof.fire.ca.gov/pdfs/NewRPFApplic.pdf>

## RPF/CRM VITAL STATISTICS

|                                 | <b>RPF's</b> | <b>CRM's</b> |
|---------------------------------|--------------|--------------|
| <b>Valid</b>                    | 1341 (1375)  | 80 (70)      |
| <b>Withdrawal</b>               | 160 (140)    | 2 (1)        |
| <b>Revoked</b>                  | 638          | 1            |
| <b>Voluntary Relinquishment</b> | 452          | 3            |
| <b>Total</b>                    | 1501 (1515)  | 82 (71)      |

*Note: Stats last reported in 2002  
Licensing News in parenthesis.*

## LOST IN THE WOODS

We've lost contact with the following RPF's and CRM's. If anyone out there has information on the whereabouts of these folks, I would be pleased if you'd ring me or send an email.

|                          |              |                         |              |
|--------------------------|--------------|-------------------------|--------------|
| Mr. John K. Bowman,      | RPF No. 1502 | Mr. Andrew J. Brantley, | RPF No. 1050 |
| Mr. Clifford D. Curry,   | RPF No. 1484 | Mr. Gerald L. Eoff,     | RPF No. 1278 |
| Mr. John W. Gray,        | RPF No. 694  | Mr. Richard B. Jones,   | RPF No. 2222 |
| Mr. Raymond E. Laboa,    | RPF No. 1146 | Mr. James D. Nichols,   | RPF No. 1962 |
| Mr. Dennis C. Osborn,    | RPF No. 1696 | Mr. Gilbert L.R. Ross,  | RPF No. 210  |
| Mr. James W. Radley,     | RPF No. 1438 | Mr. John C. Tappeiner,  | RPF No. 1212 |
| Mr. Douglas E. Staley,   | RPF No. 2096 | Mr. Raymond V. Whitely, | RPF No. 606  |
| Mr. Theodore J. Waddell, | RPF No. 224  |                         |              |

## WEBSITE UPDATE

Some of you may be aware that the Board and its Licensing Program had received support to complete a website overhaul awhile back. YG and I have since been advised that the Governor has provided additional directives for the construction and format of revised websites for many state agencies, including the Board. The bad news is that website construction will not likely be completed for some time. The good news is that by order of the Governor, our website is to utilize the colors of this state's two finest academic institutions: Cal Poly SLO and Humboldt State. *All Hail Green and Gold!*

## *In Memoriam*

I've often marveled at my good fortune for having chosen a profession in which I was compelled to walk ground that few would ever likewise tread. Here's to those RPFs and CRMs who've passed on since the last edition of the *News* and the ground they walked in their lifetimes, wooded and otherwise. Many thanks to folks like the late Roy Richards, Jr., Brian Barrette, Hazel Jackson, Niel Fischer and Mike Stroud for keeping the licensing office informed of the passing of RPFs and CRMs.

Professional Foresters Registration notes the passing of the following Registered Professional Foresters and Certified Rangeland Managers, and offers condolences to the family and friends of each.

|                        |              |                   |              |
|------------------------|--------------|-------------------|--------------|
| Kermit Cuff            | RPF No. 175  | Ronald Adams      | RPF No. 246  |
| John Brian Graham      | RPF No. 377  | Robert Cary       | RPF No. 1082 |
| Larry W. Mason         | RPF No. 1874 | Scott Hall        | RPF No. 2271 |
| Thomas Larsen          | RPF No. 2413 | Joseph Dorman     | RPF No. 2468 |
| Michael "Bill" Raibley | RPF No. 21   | Buel Hunt         | RPF No. 1455 |
| Charles H. Edwards     | RPF No. 142  | Loyd Forrest, Jr. | RPF No. 1853 |
| Robert G. Willhite     | RPF No. 1711 | Edward F. Martin  | RPF No. 2    |
| Albert H. DeVoe        | RPF No. 134  | Sandra Davidson   | RPF No. 2315 |
| Randall R. David       | RPF No. 341  | Paul E. Crebbin   | RPF No. 328  |
| Alfred E. Sheppard     | RPF No. 848  | Jack E. Moore     | RPF No. 739  |
| Douglas S. Smith       | RPF No. 2372 | David F. Thomas   | RPF No. 1822 |
| Robert D. MacGregor    | RPF No. 1135 | Howard E. Moore   | RPF No. 446  |
| Dr. Paul J. Zinke      | RPF No. 836  | Monte L. Bell     | CRM No.11    |
| Roy H. Richards, Jr.   | RPF No. 280  | John M. MacGregor | RPF No. 66   |

### ED MARTIN — FIRST EXECUTIVE OFFICER OF FORESTER'S LICENSING

BY BRIAN BARRETTE

Ed Martin, RPF Number 2, the first Executive Officer of Forester's Licensing passed away peacefully on May 27, 2006. Ed suffered a permanently disabling injury in a freak bicycle accident in Davis in 2003.

Ed was a graduate of UC Berkeley in 1951, and was one of the first Forestry Graduate Trainees appointed to CDF. He moved to Fortuna as an Assistant Forestry Technician (now Forester I), and in 1961 was promoted in place to Forestry Technician (Forester II) in the Forest Practice Program. He was one of the first Chairs of the Jed Smith Chapter of SAF, and when he promoted in 1965 to Senior Forestry Technician (Forester III) in Riverside, he remained active in SAF and became Chair of the Southern California Section, and a Co-host of the National Convention in Las Vegas.

*Ed Martin Continued...*

When the Forester's Licensing Act was passed in late 1972, Ed applied for and was appointed as the first Executive Officer under BOF Chair Howard Nakae (who recently passed away).

Ed was instrumental in setting up the Registration rules and regulations, and actively involved in the expanded Forest Practice Program following the ruling that the Forest Practice Act was Unconstitutional due to the fact that "acres" voted on rule changes. As a result of his input, he was awarded License Number 2 (Francis Raymond was Number 1).

In 1979 he moved into the CDF Legal Affairs Office, and was appointed in 1980 as the Forest Practice Litigation Coordinator, and in 1981 became the Assistant Deputy State Forester position as head of the Forest Practice Program; where he remained until his retirement in 1986 after 35 years with CDF.

Even after his retirement he remained involved in Licensing issues; soliciting questions, proctoring exams, assisting in investigations, and tutoring potential candidates for Licenses. He served as an Exam grader up until 2002.

Ed was elected as a Fellow in SAF for his many years of service including being Chair of both the Southern and Northern California Sections. He was also elected as an Honorary Life Member of the UC Alumni Forester's Association for his years of service, including as Chair in 1975. He served on the Davis City Traffic Safety Commission, and became an avid member of the Davis Bike Club and managed to complete the arduous "Death Ride", and many other long distance rides.

Ed, who was 78 is survived by his wife of over 50 years Ruth and 3 daughters and a son. Ruth has requested that remembrances can be made to the University of California Meadow Valley Camp Improvement Fund.

*~THE FOLLOWING OBITUARY IS REPRINTED BY PERMISSION OF THE FOREST LANDOWNERS OF CALIFORNIA~*

ROY HUGO RICHARDS, RPF 280

1932 - 2006

The Forest Landowners of California have lost a long time associate and friend - Roy Hugo Richards, Jr, 74, of Cottonwood. Roy died suddenly, Friday, November 17, 2006 at Saint Elizabeth Community Hospital in Red Bluff.

Roy was born April 23, 1932, in South Weymouth, Massachusetts.

Survivors include wife Linda; sons Michael of Redmond, Washington, and Roy of Bella Vista; daughters Amy Clark of Happy Valley and Cora of Redding; stepsons Mike Penick of Ferndale and David Penick of Cottonwood; 16 grandchildren; and four great-grand children.

*Roy Richards, Jr. Continued...*

While attending college Roy worked as a seasonal Forester with the United States Forest Service and the Shasta Forest Company. He received a degree in Forestry from the University of Massachusetts in 1960 and then worked as a Timber Cruiser and Log Scaler for Shasta Forest Company. In 1961 he took a Forester's job with Paul Bunyan Lumber Company in Anderson eventually becoming their Chief Forester and Manager for Walker Forest. When the Company sold in the mid - 1980's Roy entered the consulting forester business.

In the 1970's Roy was involved in writing the California Professional Foresters Law. He was a past member of the Board of Forestry's Professional Foresters Examining Committee (PFEC). Roy became a founding member of the California Licensed Forester Association and he served that organization as a Director. He also sat as a Director of the Cottonwood Creek Watershed Group. As a member of the Timber Advisory Committee (TAC) of the State Board of Equalization he worked to improve the methods for calculating the Yield Tax on harvested timber

Finally, Roy championed the family forest landowner and was a member from the early days of Forest Landowners of California. He worked tirelessly on the Board of Directors for years and was active on the Legislative Committee. He served as Director for years and was working with the Transition Committee at the time of his sudden demise.

One of his FLC co-board members stated, "I came to appreciate Roy very much for his self-confident independence and regarded him as very important to FLC policy direction".

Family, friends and associates will sorely miss Roy H. Richards.

## **2007 Golden Trowel Award**

On a happier note, Mr. Craig Compton, RPF No. 2663 was presented with the Golden Trowel Award for 2007 in recognition of his superior work in locating and recording archaeological sites. Craig received this award from Board Chairman, Stan Dixon at the February 8, 2007 Board of Forestry and Fire Protection meeting. CDF Archaeologist, Rich Jenkins and CDF Forester, Cary Japp made the presentation emphasizing the quality of Craig's work and his conscientious approach to cultural resource stewardship. Craig works for Green Diamond Resource Company and represents our profession very well. Congratulations, Craig!

## **Professional Foresters Examining Committee Update**

### **DISCIPLINARY ACTIONS**

At present, the PFEC is close to resolution of three cases with a fourth in the investigation phase. The two case summaries that follow demonstrate that a license to practice forestry in this state is more than a ticket to a livelihood. It is a demonstration of your willingness to accept responsibility for your actions, and personal accountability to the public and your fellow registrants. If you learn only one thing about me while I remain licensing officer, it should be that I firmly believe that.

**Case Number:**

**304**

### **Allegation:**

The complaint alleged that the Respondent RPF stole and subsequently utilized the work product of a former employer in submission of a Timber Harvest Plan (THP). It was further alleged that the RPF violated provisions of an employee agreement with the former employer through theft of proprietary materials and contracting with the former employer's client.

### **Discipline:**

The PFEC's investigation concluded that the Respondent RPF did in fact plagiarize the work product of his former employer through the use of that employer's computer files following termination of his employment. The RPF likewise did contract with a client of his former employer despite having signed an employee agreement specifying that he would not attempt to contract with his former employer's clients for a period of five-years.

Though the actions of the Respondent RPF clearly indicate failures of responsibility with elements of fraud, deceit and/or misrepresentation, the PFEC could not sustain disciplinary action pursuant to PRC §778. Nevertheless, the PFEC expressed strong concerns relative to the Respondent RPF's demonstration of unethical practices and the potential impacts of this RPF's actions, particularly upon the consuming public.

Therefore, the PFEC recommended with the Board of Forestry and Fire Protection's subsequent concurrence, that the Respondent RPF receive a **Confidential Letter of Concern**. The **Letter** directed that the Respondent RPF immediately return or otherwise destroy all proprietary materials yet in possession and further stated that this individual's actions in this instance were not adequately reflective of ethical considerations. The Respondent RPF was reminded that the evidence in this case may be used within the statute of limitations to establish a pattern of lesser professional failures in support of further disciplinary action should similar behavior become the basis of future complaints. Lastly, the PFEC suggested that this individual dedicate time to the study of professional ethics and offered several sources of educational information to that end.

Case Number:

307

**Allegation:**

The complaint alleged misrepresentation and negligence in the preparation of a Timber Harvest Plan (THP). Specifically, it was alleged that the Respondent RPF made statements in the subject THP and in private meetings regarding protection and maintenance of a portion of road used for residential access that were not carried out during the operational phase of the project.

**Discipline:**

Though the PFEC did not sustain an *Accusation* of professional failures under the Professional Foresters Law (PRC §750, *et seq.*), the Committee was compelled to express their concerns relative to the respondent RPF's actions in this matter. The inconsistency of the RPF's words and actions as well as the RPF's failure to accept some level of responsibility for protection and restoration of the road pursuant to statements in the THP while not unlawful, was found to be questionable. For this reason, the PFEC directed that the RPF receive a **PFEC Confidential Letter of Concern**.

The Letter of Concern highlighted the importance of maintaining positive relationships with the general public and reminded the RPF that the primary purpose of the license is to protect the public interest. The Letter further emphasized the critical responsibility for keeping promises and the absolute necessity for words and actions to remain consistent.

**REAUTHORIZATION OF BOARD'S POLICIES FOR PROFESSIONAL FORESTERS REGISTRATION**

The Board's policies for Professional Foresters Registration expired in 2004 thereby prompting the PFEC to review, revise if necessary, and recommend reauthorization by the Board. The PFEC undertook the review and with a few minor edits made the recommendation for reauthorization at the January 2007 Board meeting. The following policies do not have the force or effect of law or regulation, but they are an accurate reflection of how the Board expects the licensing office to operate. If you have a question as to the office's procedures or how the examination and disciplinary process function, please consult these policies. As with most every other item produced by the PFEC, the policies are also posted on the licensing website.

**PROFESSIONAL FORESTERS REGISTRATION PROGRAM POLICIES OF THE BOARD**

The following policies have been readopted by the State Board of Forestry and Fire Protection at an open meeting held on January 10, 2007 upon the recommendation of the Professional Foresters Examining Committee (PFEC). The policies are provided as guidance to registrants and other interested parties and do not supersede existing law or regulation. These policies will remain in effect until such time as the Board with notice to the public and in consultation with the PFEC determines otherwise.

## **POLICY NUMBER 1: REVIEW OF APPLICATIONS FOR REGISTRATION AS A PROFESSIONAL FORESTER**

All applications are reviewed first by the Executive Officer of Foresters Registration who determines what further action to be taken based upon Public Resources Code (PRC), Sections 750 *et seq.*, and Title 14, California Code of Regulation (14 CCR), Sections 1600, *et seq.* as follows:

- (a) Applications which are incomplete will be returned to the applicant for completion, or retained pending submission of supporting documents. The burden of proof rests with the applicant and, therefore, so does the responsibility for any such delays beyond the time frames and deadlines established by codes.
- (b) The applicants whose applications are complete and verified as meeting the experience requirements, will have their names forwarded to the Professional Foresters Examining Committee with recommendation of authorization to take the examination.
- (c) If an applicant's qualifications are unclear or in doubt, the application is reviewed by the Professional Foresters Examining Committee and appropriate action may be taken. The Committee may request clarifying information and/or delegate to the Executive Officer the option of authorizing the applicant to take the exam immediately prior to the examination offering. Such authorization may only be granted if the applicant agrees to waive the thirty (30) day examination authorization notice, and provides the requested clarifying information.

## **POLICY NUMBER 2: RPF EXAMINATION SCORING**

Examinations are scored by two Registered Professional Foresters in good standing retained as Expert Examiners. The Examiners independently grade each question for each applicant working off of copies of the original examination responses completed by applicants. The name of every applicant is kept confidential, as the applicant's number is the only identification provided on examination responses.

Applicant responses are graded utilizing an answer key developed concurrent with the drafting of the examination, as well as forestry texts, reference materials, and professional expertise. The Examiners may also encounter other appropriate responses by applicants that are not found in the answer key and these will be counted in an applicant's favor.

The Examiners then meet with the Executive Officer of Foresters Registration to report their scores for each applicant response and compare them for variation. When there are instances in which the Examiners' scoring of a response varies considerably, the Examiners' discuss their respective reasons for the score and make adjustments where necessary and appropriate. The Examiners' scores for each response are summed and averaged to determine the composite score for each response. The Examiners' composite scores for each of an applicant's responses are then summed and averaged to determine the overall examination score.

### **POLICY NUMBER 3: MAINTENANCE AND ACCESSIBILITY OF APPLICANT/REGISTRANT RECORDS**

The following provides the basis by which applicant and registrant records are maintained by the Office of Professional Foresters Registration and the manner in which they may be accessed:

- (a) Files pertaining to an individual applicant or registrant shall be made available only to that person or their designee in writing. Professional Foresters Registration staff or designated persons acting in an official capacity regarding registration may also be granted access to this information. Applicant files will be retained two (2) years from the year of receipt.
- (b) The names of persons denied qualification for the examination or registration will not be released, and information about those denied will not be supplied to anyone except the applicant or other person designated in writing, and those acting in an official capacity regarding Professional Foresters Registration.
- (c) Applicant examinations will be retained at least 45 days after mailing of the examination results to each individual applicant. An applicant's original examination responses absent the Expert Examiners' grading marks will be provided upon request by that applicant or their designee. Applicant examination scores will only be released to the individual applicant and will not otherwise be released in summary form correlating to applicant numbers, names or license numbers under any circumstance. Computerized data regarding exam results and education substitution for qualifying experience will be retained by applicant number. This data retention commenced in 1986.
- (d) The registrant's file and the corresponding computerized data will be maintained while the RPF or Certified Specialist such as a Certified Rangeland Manager (CRM) is currently registered. Upon approval of withdrawal, computerized data regarding the status of the license will be retained; the original data will be restored upon approval of request for reinstatement. Files will be retained during withdrawal status. Persons whose license is revoked through a disciplinary action will be treated in this same manner.
- (e) A confidential list showing all RPFs and Certified Specialists (CRMs), and preferred mailing addresses will be maintained indefinitely starting 1984. A list by registration number, name and license status is available to the public.
- (f) RPFs and Certified Specialists (CRMs) whose registration is voluntarily relinquished, revoked for non-renewal, or who have passed away, will have their files held for two years from the year of occurrence.
- (g) Access to investigation files and records is governed by various California Codes. When disciplinary actions by the Board involving suspension or revocation occur, the public has the right to know those items specified in 14 CCR §1612.2. Unless the Board's decision is overturned by a reviewing court order, the circumstances or conditions imposed are available only in the form presented in the Licensing News and news release.

#### **POLICY NUMBER 4: NOTIFICATION OF DISCIPLINARY ACTION**

*This Policy became redundant prior to readoption of licensing policies on October 4, 2000 with the Board's adoption of 14 CCR §1612.2 (Notification of Disciplinary Action).*

#### **POLICY NUMBER 5: COMPILATION AND DISTRIBUTION OF REGISTRANT LISTS**

The following describes the three (3) kinds of registrant lists that are generated by the Office of Professional Foresters Registration. All lists are available to the public upon request. A duplication fee may be charged at the discretion of the Executive Officer of Foresters Registration.

**Statewide Consumer List** - All RPFs and Certified Specialists (CRMs) are listed by registration number, name, and status of license. This list is expected to become accessible through the Board's Professional Foresters Registration website in 2007.

**Public List** - A directory of all RPFs and Certified Specialists (CRMs) who wish to include contact information for use by the general public is compiled each year after renewals are finalized. The mailing addresses and phone numbers listed are identified as "preferred" on the information form submitted upon initial licensing and renewal.

**Consultant Lists** - A directory of consulting RPFs and Certified Specialists (CRMs) is compiled by county of residence. The service is provided as supplemental to the records kept by Professional Foresters Registration, and there is no intent to develop or maintain a business directory. A consultant may request on their initial licensing or renewal form to be listed in this directory.

At a minimum, lists will be revised annually after the renewal process is complete.

A statement will be included on the consultant list stating that most consultants provide forestry services statewide, and that the Association of Consulting Foresters (ACF) maintains a separate list of their members, and provide the address to request same.

All listed information will come directly from the renewal information form as submitted by the RPF/Certified Specialist (CRM), and will include:

- (a) Name - The registrant's first and last name with registration number is the first line printed.
- (b) Address - Consultants will have their business name, address and phone listed as noted on the renewal information form.

**POLICY NUMBER 6: RESPONSE TO COMPLAINTS OF UNLICENSED PRACTICE OF FORESTRY OR A CERTIFIED SPECIALTY**

Complaints involving non-licensed persons using the title of, or acting in the capacity of a “Professional Forester” or “Certified Specialist” (such as Certified Rangeland Manager) without being registered, or otherwise exempted, are acting illegally (Public Resources Code Section 766) and are handled in a manner consistent with Policy 8. The Executive Officer may hire expert witnesses to review investigation results and establish prudent standards of conduct.

If the investigation, expert witness, or Executive Officer’s evaluation show sufficient cause, the appropriate District Attorney General’s office may be asked to prosecute the case. Such prosecution may be based upon unfair or unlawful business practices, or false and misleading advertising. Action against a non-licensed person may include the Civil Code of Procedure, Section 1029.8 which governs cost recovery and punitive awards in the case of damages caused by an unlicensed person.

**POLICY NUMBER 7: SUMMARY OF CASE LAW FOR PURPOSE OF CLARIFYING GROUNDS FOR RPF/CERTIFIED SPECIALIST DISCIPLINARY ACTION UNDER RESOURCES CODE, SECTION 778(b)**

The failures of responsibility which subject a RPF or Certified Specialist (CRM) to “Disciplinary Action” (Pursuant to PRC, 778) are summarized as below, to provide general reference and guidance only. CURRENT APPLICABLE CODES AND CASE LAW TAKE PRECEDENCE.

1. Deceit is either:
  - (a) The suggestion, as a fact, of that which is not true, by one who does not believe it be true; or,
  - (b) The assertion, as a fact, of that which is not true, by one who has no reasonable grounds for believing it to be true; or,
  - (c) The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,
  - (d) A promise, made without any intention of performing it. Civil Code, Section 1710.

Fraudulent Deceit: “One who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damages which he thereby suffers.” Civil Code, Section 1709.

Deceit Upon the Public: “One who practices a deceit with intent to defraud the public, or a particular class of persons, is deemed to have intended to defraud every individual in that class, who is actually misled by the deceit.” Civil Code, Section 1711.

2. Fraud is a bad faith, dishonest or overreaching act done with intent to deprive another of his right, or in some manner to do a person an injury. It includes all surprise, trick, cunning, dissembling and unfair ways by which another is cheated. As distinguished from gross negligence, it is always intentional.

Actual Fraud. See Deceit above with addition of:

- (e) Any other act fitted to deceive.  
Civil code, Section 1572.
- 3. Incompetence is a demonstrated lack of ability, skill, or knowledge to perform professional functions. Such lack may be demonstrated by a single and specific incident or by a series of lesser failures in performance. This is not to say that a single honest failing in performing his/her duties constitutes incompetence in a RPF or Certified Specialist's (CRM) practice. Because of the difficulty in defining incompetence, performance standards are established by expert witnesses and relate to specific instances, time and place.
- 4. Material Misstatement of Fact is a misstatement that would be likely to affect the decision of the administrative agency or reasonable person in the transaction in question. In contracts, material facts are those which constitute substantially the consideration of the contract, or without which it would not have been made. For purposes of the Forest Practice Act and Code Section 4583.5 in particular, a material misstatement in a Timber Harvesting Plan or a report submitted to the Department would thus include any misstatements which would be likely to affect the Department's decision with respect to the Timber Harvesting Plan or report.

"A 'misrepresentation' is 'material' if it would be likely to affect the conduct of a reasonable man with reference to the transaction in question." Costello v. Roer (1946) 77 Cal.App.2d 174, 175 Pp.2d 65.

- 5. Misrepresentation is a conduct or a representation contrary to fact made by a RPF or Certified Specialist (CRM), under circumstances in which a reasonable RPF or Certified Specialist (CRM) would not have made the representation. There need not be actual or constructive intent to deceive. Misrepresentation can occur when a RPF or Certified Specialist (CRM) holds himself/herself out to be specially qualified, when in fact the RPF/Certified Specialist (CRM) is not; it may also occur when a RPF or Certified Specialist (CRM) knowingly acts on an insufficient basis of readily available information commonly accepted by a reasonable and prudent by the RPF/Certified Specialist (CRM) community in making a representation.

Negligent Misrepresentation:

- (a) The respondent must have made a representation as to a past existing material fact;
- (b) The representation must have been untrue;
- (c) Regardless of respondent's actual belief, the representation must have been made without any reasonable ground for believing it to be true;
- (d) The representation must have been with the intent to induce plaintiff to rely upon it;
- (e) The plaintiff must have been unaware of the falsity of the representation; he must have acted in reliance upon the truth of the representation and he must have been justified in relying upon the representation.

- (f) And, finally as a result of his reliance upon the truth of the representation, the plaintiff must have sustained damage. Book of Approved Jury Instructions (BAJI), 12.45.

6. Gross Negligence is an extreme departure from the prudent standards of conduct or performance, which may be established by expert witnesses. It is the exercise of so little care that it justifies the belief that the person was indifferent to the interests and welfare of other people or natural resources. Gross negligence does not require actual or constructive intent.

“The intentional, conscious failure to do a thing that is incumbent upon one to do, or the doing of a thing intentionally that one ought not to do.” Pilot Industries v. Southern Bell Tel. & Tel. Co., D.C.S.C., F.Supp. 356, 362.

“The exercise of so slight a degree of care as to raise a presumption of conscious indifference to the consequences. A finding a gross negligence is made by applying an objective test: If a reasonable person in the defendant’s position would have been aware of the risk involved, then the defendant is presumed to have had such an awareness.” People v. Soledad (1987, 5<sup>th</sup> Dist) 190 Cal.App.3d 74, 235. Cal.Rptr. 208.

Gross – great; absolute; exists in its own right, and not as an appendage of another thing of all measure; beyond allowance; not to be excused; flagrant; gross carelessness.

Negligence – “Negligence is the doing of something which a reasonably prudent person would not do, or the failure to do something which a reasonably prudent would do, under circumstances similar to those shown by the evidence. It is the failure to use ordinary or reasonable care. Ordinary or reasonable care is that care which persons of ordinary prudence would use in order to avoid injury to themselves or others under circumstances similar to those shown by the evidence. [You will note that the person whose conduct we set up as a standard is not the extraordinary cautious individual, not the exceptional skillful one, but a person of reasonable and ordinary prudence.]” BAJI 3.10.

Actionable Negligence: “[A] legal duty to use due care, breach of that duty, and a proximate or legal casual connection between the breach and plaintiff’s injuries.” E.F. Hutton & Co. v. City National Bank (1983, 2<sup>nd</sup> Dist) 149 Cal. App. 3d 60, 196 Cal. Rptr. 614).

- 7. CODE SECTIONS NOTED IN FELONY CRITERIA, 14 CCR §1613 that may be substantially related to the duties of a RPF or Certified Specialist (CRM):

- (a) Public Contract Code  
Section 10422 Corrupt performance of official act. “Any officer or employee of the department who corruptly performs any official act under this chapter to the injury of the state...”

Section 10423 Corruptly permitting violation of contract; felony. “Any person contracting with the state by contract who corruptly permits the violation of any contract made under this chapter...”

(b) Business and Professions Code

Division 7 – Part 2 – Preservation and Regulation of Competition

(c) Health and Safety Code

Division IX, Part I, Explosives

8. Failure of Fiduciary Responsibility may be tied to Grounds for Disciplinary Action.

Fiduciary Responsibility – A relation subsisting two persons in regard to a business, contract, or piece of property, or in regard to the general business or estate of one of them, of such a character that each must repose trust and confidence. It may involve an agreement where a person delivers a thing to another on the condition he will restore it to him. Violation of fiduciary responsibility may arise from recklessness (inadequate records, etc.). It differs from fraud which is willful.

(Fiduciary Responsibility – Duty)

“In performing professional services for a client, a [forester/certified specialist] has the duty to have that degree of learning and skill ordinarily possessed by reputable [foresters/certified specialists], practicing in the same or a similar locality and under similar circumstances.” It is the [forester’s/certified specialist’s] “duty to use the care and skill ordinarily used in like cases by reputable members of his or her profession practicing in the same or a similar locality under similar circumstances, and to use reasonable diligence and his or her best judgment in application of his or her learning, in a effort to accomplish the purpose for which he or she was employed. A failure to fulfill such duty is negligence: BAJI 6.37.

Note: A felony conviction could occur when a contractor received payment and does not pay for materials or labor rendered – the word “fraudulent” is not mentioned in this statute. Federal or out-of-state codes may also not refer to fraud in some situations.

### **POLICY NUMBER 8: PROCESSING OF A COMPLAINT AGAINST A RPF OR CERTIFIED SPECIALIST (DISCIPLINARY REVIEW PROCESS)**

Note: The disciplinary process is governed by the Public Resources Code (PRC); Title 14 California Code of Regulation (14 CCR), Evidence Code (EC), Code of Civil Procedure (CCP), and Government Code (GC). For the benefit of interested persons, the following provides a narrative of the typical sequence followed in implementing these Codes. The attached flow charts are a visual presentation of this process.

#### **The Complaint**

A complaint can be filed by a person, in writing, with Professional Foresters Registration, or the Board of Forestry and Fire Protection (Board) can proceed upon its own (PRC, Section 775). The RPF’s/Certified Specialist’s (CRM’s) vested property right of the license is protected under “due process”. The Executive Officer must verify that the complaint is legally subject to possible disciplinary action (i.e., fraud, deceit, misrepresentation, gross negligence, etc; PRC, Section 778). If the matter is, or becomes, a criminal court action, the Administrative action will likely be delayed until a judicial determination is rendered.

## **Confidentiality**

A complaint is a CONFIDENTIAL matter (GC §6254(f), and §11183). The identity of the person filing the complaint remains confidential throughout the investigation (EC §1041). This may become public information if Hearing testimony from the complainant is required or if the person's identity is otherwise pertinent to the case. If the complaint does not come under the grounds for discipline, the RPF/Certified Specialist (CRM) will still be notified that a complaint was received and of their subsequent exoneration. Confidentiality will likely limit the amount of information that can be provided.

## **Processing a Complaint**

The Executive Officer may take the matter to the Professional Foresters Examining Committee (PFEC) at any stage of processing.

If the failures of RPF/Certified Specialist (CRM) responsibility are well-documented (e.g. violations, citations, court records, or other documents), the RPF/Certified Specialist (CRM) is given an opportunity to provide his or her side of the story in response to the issues of concern (allegations). The RPF/Certified Specialist (CRM) is advised that the reply may be used against him or her in the process, and may choose not to respond. If needed, expert witnesses may be involved to establish RPF/Certified Specialist (CRM) prudent standards of conduct given the same set of circumstances. If the RPF/Certified Specialist (CRM) is willing to admit to any failures of responsibility, the Executive Officer may suggest the RPF/Certified Specialist (CRM) sign a Stipulated Agreement implementing specified discipline (i.e., suspension--some portion of which may be "stayed" thereby triggering probation; or revocation).

When the issues are not well-documented, the Executive Officer initiates an investigation. This may involve professional investigators from the Department of Consumer Affairs, which is the agency most involved with California licensing boards. The investigator gathers the evidence of what occurred, and is subject to the Evidence Code. Professional investigator direction and advice is provided by the Executive Officer, and in some cases, independent RPFs/Certified Specialists (CRMs). The investigator interviews witnesses while stressing the confidential nature of the matter, and gathers leads as appropriate.

As soon as all information necessary for professional investigation is obtained, the RPF/Certified Specialist (CRM) is notified by the Executive Officer who will explain that Professional Foresters Registration is coordinating an investigation on complaint allegations. The Executive Officer may enumerate the allegations to the RPF/Certified Specialist (CRM) under investigation or the investigator may make the allegations known when presenting questions. When the RPF/Certified Specialist (CRM) is personally contacted by the investigator, the RPF/Certified Specialist (CRM) will be asked if he/she is willing to be interviewed to discuss facts important to the case. The RPF/Certified Specialist (CRM) is also allowed to make a written statement. The RPF/Certified Specialist (CRM) may refuse to be interviewed. The investigator may ask the RPF/Certified Specialist (CRM) details about occurrences important to the case. Information gathered may be used against the RPF/Certified Specialist (CRM).

These stages in the process are sensitive because many RPFs/Certified Specialists (CRMs) feel they should be able to face his/her accuser at this point. Because no Accusation has been filed, there is no accuser. Many RPFs/Certified Specialists (CRMs) feel they should have an attorney present when talking with the investigator, but it is not required. Only facts are being gathered for consideration by the PFEC to recommend appropriate action. At any time evidence warrants criminal action, however, the investigator may read the RPF the Miranda rights prior to gathering statements. A Criminal Complaint may be independently requested by Consumer Affairs, Division of Investigation, or a District Attorney if the evidence warrants such action.

### **Peer Review**

The Executive Officer reviews the RPF's/Certified Specialist's (CRM's) response to the allegations, stipulated Agreement, or investigation report with the PFEC. Statements made and evidence presented in the review, however, could be used in an Accusation.

When incriminating evidence is sufficient at any time in the process, one or more RPFs/Certified Specialists (CRMs) serving as "Expert Witnesses" may examine the situations regarding the complaint. "Standards" of performance are established using the "prudent forester concept" where the evaluation by independent RPFs/Certified Specialists (CRMs) of similar qualifications and experience, is used to establish proper and prudent actions in any specific situation.

### **Disciplinary Recommendations**

The possible action recommended by the PFEC to the Executive Officer at this point can include: 1) **Exoneration**; no further action warranted, 2) **Confidential Letter** stating the Committee's concerns, 3) **Private Reprimand** issued by the Board, 4) Board approval of **Stipulated Agreement**, or 5) filing of an **Accusation**. Cases are considered 'closed' upon Exoneration, PFEC issuance of a Confidential Letter, or Board issuance of a Private Reprimand. Cases are not considered 'closed' upon Stipulated Agreement or the filing of an Accusation.

### **The Accusation**

If disciplinary action without a Stipulated Agreement is anticipated, the Executive Officer, in coordination with counsel from the Attorney General's Office, prepares a Statement of Issues and the formal Accusation(s) is included. Filing the Accusation with the Office of Administrative Hearings makes the matter public, and the Accusation is available upon request. Sent with the Accusation, the Statement to Respondent notifies the RPF/Certified Specialist (CRM) that a Notice of Defense may be filed requesting a hearing. At this point, the RPF/Certified Specialist (CRM) is advised he/she may want seek representation by legal counsel. The RPF/Certified Specialist (CRM) cannot access the investigation working notes or attorney work product. The evidence which will be submitted at the hearing, including reports of any witnesses, can be obtained so he/she may prepare a defense. This is called "discovery." (GC §11507.6) If the RPF/Certified Specialist (CRM) finds the evidence to be submitted at the hearing is true and complete, he/she may choose to accept, on the merits of the Accusation, possible Board disciplinary action. This is done by signing a Stipulated Agreement which imposes license suspension or revocation with conditions satisfactory to the Board as appropriate discipline.

### **Hearing**

In the absence of a Stipulated Agreement, an Administrative Law Judge (ALJ) weighs the investigation evidence and the standards of prudent conduct established by the expert witnesses against the evidence provided by the accused RPF/Certified Specialist (CRM). The cost of each party's counsel is borne by the respective party. The accused RPF/Certified Specialist (CRM) can provide self representation (no counsel). The burden of proof is "clear and convincing evidence of reasonable certainty." The ALJ prepares a recommendation for Board action. The ALJ is encouraged to utilize the Disciplinary Guidelines in 14 CCR §1612.1 and Criteria for Rehabilitation in 14 CCR §1614.

### **Board Actions from Hearings Findings**

A second counsel from the Attorney General's Office represents the Board in considering the decision of the ALJ. In considering the decision of the ALJ, the Board may adopt, modify the recommendations, send the entire matter back to the same ALJ, or reject the proposed decision and review the case on the record and arrive at a decision (GC §11517). The proposed decision of the ALJ is not binding, unless the Board fails to act within a specified time period. Acting within the specified time period, the Board shall render the final decision relative to suspension or revocation. The Board's final options are: 1) exoneration, 2) suspension, or 3) revocation of license.

The Board may allow the RPF/Certified Specialist (CRM) to complete existing contracts if action is taken. In a suspension, part can be “stayed” which creates probation; the existing employer or clients must be notified of the discipline per 14 CCR §1612.2. The Board may specify possible conditions for rehabilitation for consideration when the RPF/Certified Specialist (CRM) later requests license reinstatement. The Government Code, Section 11522, requires that a minimum of one year pass before the Board can consider a petition for reinstatement. The applicant may submit evidence of rehabilitation.

**POLICY NUMBER 9: PROCEDURE FOR FILING OF A COMPLAINT WITH THE OFFICE OF PROFESSIONAL FORESTERS REGISTRATION**

If a person wishes to file a complaint of professional misconduct against a Registered Professional Forester or Certified Specialist (CRM), the complaint must be submitted in writing, and mailed to Professional Foresters Registration, P.O. Box 94426, Sacramento, CA 94244-2460, (916) 653-8031.

For purpose of providing direction to the Executive Officer of Foresters Licensing, the Board of Forestry and Fire Protection (Board) suggests that all complaints be filed in a consistent format and include the following information:

1. The identity of the person who is the subject of the complaint, including his or her license number if known;
2. A short description of the transaction or circumstances involved;
3. The date and place (city or county) where the events occurred;
4. The identity and addresses or telephone number of any other person(s) who have knowledge of the events described;
5. A description of the loss, damage or other adverse consequences of the licensee’s conduct;
6. Copies of pertinent portions of any plans, reports, letters, business records or other documents which support the complaint.

**All complaints should contain the following verification:**

**VERIFICATION**

**I CERTIFY UNDER PENALTY OF PERJURY OF THE LAWS OF CALIFORNIA THAT THE FACTS STATED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEGE AND BELIEF.**

**DATE:**

**CITY OR PLACE:**

**SIGNATURE:**

**NOTE TO COMPLAINANTS:** The complainant will receive a letter from Professional Foresters Registration acknowledging receipt of the complaint approximately 3 weeks after submittal. The complaint will then go through an initial review by the Executive Officer. You may be contacted by the Board to provide clarification or additional information. If a complaint you file results in prosecution, you must be willing to testify in the case. You will be notified by the Board if this is necessary. You will also be notified of the final action taken on the case.

## **POLICY NUMBER 10: REVIEW OF PROBATIONARY WORK PRODUCTS**

As part of some stipulated agreements between the Board of Forestry and Fire Protection (Board) and disciplined RPFs to resolve licensing cases, independent review is required of written timber harvest plans and other related documents done by the RPF while on probation before they are submitted to the California Department of Forestry and Fire Protection (Department) for review and possible approval. It is the responsibility of the RPF being disciplined to arrange for the independent review of his/her work product while on probation. It is the intent of the Board that this type of review will increase the thoroughness and completeness of the work that goes into professional documents prepared by the RPF. To help guide those involved in this review and reporting, the Board suggests that the following standards may be useful to achieve the rehabilitation objective:

### **Products to be reviewed**

All current forms of specified documents should be reviewed prior to the original submission to the Department. This includes, but is not limited to standard timber harvesting plans, emergency timber harvesting plans, modified timber harvesting plans, and any other type(s) of plans involving timber harvest or major amendments to any of these documents the Board may create in the future. Depending on the nature of the case, this review may also apply to Confidential Archaeological Addenda, stocking reports and other THP related documents.

### **RPF Reviewer**

Must be a Registered Professional Forester or other appropriate professional who is involved in the timber harvest plan process, either in reviewing or writing THPs, and who has a working knowledge of current timber harvest plan regulations. The RPF must have a valid license to practice forestry, not be subject to any open disciplinary case concerning their RPF license, and must not have any conflict of interest in the performance of professional review. Those RPFs directly involved in the regulatory review of the specific plan (either in an office or on the ground) after submission to the Department shall not be involved in this prior review of the plan.

### **Review**

A Stipulated Agreement may specify that review of probationary work products include an office check of the completeness of information that went into the specified document(s), and the presentation of that information in the document(s). When an office check is specified in the stipulation, the RPF under probation is not prevented from getting the reviewer to evaluate the document, or portions of the document in the field. Field evaluation of professional practice may also be specified as part of a Stipulated Agreement particularly where professional failures by the respondent RPF in the course of fieldwork have been specifically identified.

The review of the document should include what sources were used to obtain information, the documentation the RPF has of those sources, and how it is presented. For example, where the list of adjacent landowner names and addresses for Public Notice was obtained, where it is documented, and how is it presented in the plan. It is not expected of the reviewer to check whether the names are spelled correctly or that the addresses are accurate. A guide for the reviewer is the THP checklist originally developed by California Licensed Foresters Association, or other appropriate documents. Completing the checklist would provide an adequate review of the plan, combined with assessment of adequacy of source information.

Should reviewer find deficiencies in the document being reviewed, suggestions should be made to the RPF to correct problem(s) before submitting the document to the Department. It is not the responsibility of the reviewer to make sure that those corrections are made, but rather it is up to the RPF. A second review of document before submission is up to the RPF, and is not mandatory.

Where other resource professionals are required to provide specific input on any document, as specified in a Stipulated Agreement, the RPF Reviewer shall ensure that this input was received and the input appropriately utilized.

### **Certification of Review**

The reviewer shall document and certify in writing to the PFEC that a review of a specific document has occurred. A letter to the PFEC shall be sent within 7 days of the review, stating what was reviewed, what the results of that review were, and if reviewer believes the document met generally acceptable professional standards for timber harvest plans documents submitted to the Department.

### **Costs**

The respondent RPF shall be solely responsible for the cost of independent review of his/her probationary work product.

### **Other Work Products**

Other work plans or documents reporting work done by or under the supervision of the RPF may require independent RPF review of those work products during probation. If so, that review shall be specifically addressed on a case by case basis in the stipulated agreement.

## **BOARD AUTHORIZATION OF POLICY NUMBER 11: GUIDANCE ON THE PRACTICE OF FORESTRY AS IT RELATES TO OTHER PROFESSIONS**

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*The Legislative Counsel, Mr. George H. Murphy, has ruled, on a request from Assemblyman Leroy F. Green, That Environmental Impact Reports prepared in violation of the Professional Engineers Act or the Geologist and Geophysicists Act could provide grounds to attack, review, set aside, void, or annul a public agency's decision to certify completion of the environmental impact report. What the exact implications are for licensed foresters is unclear, but many licensed professions would appear to be in the same situation as the engineers and geologists.*

*-Ed Martin, Licensing News No. II, December 30, 1974*

When I read that passage from what was only the second edition of the *News* produced by our first licensing officer, the late Ed Martin, two thoughts immediately come to mind. The first and most obvious is that the issue of unlicensed practice in the CEQA context is not new. The second is that the role of the RPF in arenas not considered traditional forestry was an afterthought that followed inception of the Professional Foresters Law.

Though the Z'berg-Nejedly Forest Practice Act explicitly defines where an RPF is necessary, CEQA does not so dictate the absolute necessity of a particular profession. Rather, it provides a lead agency with the discretion to determine what disciplines are necessary in the analysis for a particular project. RPF's are among many disciplines that have a role in certain aspects of CEQA project analysis. However, not every tree inventory or map generated constitutes the unlicensed practice of forestry.

Bearing that in mind, the PFEC has been engaged in an effort to better define the bounds of forestry as it relates to other professions. This work was initially fueled by complaints alleging unlicensed practice of forestry in the preparation of CEQA related documents. It has since become a matter of establishing positive relations between professions with common interests. Representatives of the Association of Environmental Professionals (AEP), Western Chapter of the International Society of Arboriculture (WCISA), American Society of Consulting Arborists (ASCA), California Licensed Foresters Association (CLFA), Southern California Society of American Foresters, and the University of California Cooperative Extension Service have all contributed to the policy statement that follows. This statement entitled, *Policy Number 11, Guidance on the Practice of Forestry as it Relates to Other Professions* was adopted by the Board on February 7, 2007.

While this policy has no force or effect of law or regulation, it and the discussions that led to its authorization have affirmed that RPFs have much to offer in a variety of land use settings. The affirmation continues with new registrants and exam applications coming from environmental consultancies working outside of the state's forest practice program.

**BOARD OF FORESTRY AND FIRE PROTECTION POLICY NUMBER 11  
FOR PROFESSIONAL FORESTERS REGISTRATION**

**Guidance on the Practice of Forestry as it Relates to Other Professions**

*~Authorized by the Board on February 7, 2007 for guidance purposes only~*

**Introduction**

The Professional Foresters Law, Public Resources Code §750, *et seq.* provides that a Registered Professional Forester (RPF) must be involved in projects that require the application of forestry principles and techniques for managing forested landscapes. Forested landscapes are those upon which are growing or naturally capable of growing in perpetuity significant stands of native conifer and/or hardwood trees and their associated vegetation types. These landscapes are typically tree dominated and not devoted to non-forestry commercial, urban or farming uses (Public Resources Code §754).

The Professional Foresters Law provides that a professional forester may only perform forestry services in those areas of expertise for which the person has achieved competency through training or experience. When a professional forester's expertise is exceeded in a particular activity, the forester is compelled to utilize the services of other qualified experts including but not limited to arborists, archaeologists, botanists, civil engineers, ecologists, fisheries biologists, geologists, hydrologists, land surveyors, landscape architects, range scientists, soil scientists, or wildlife biologists. The Professional Foresters Law does not preclude these other environmental professionals from the application of their knowledge and expertise outside of the practice of forestry.

**Statement I:** The Board recognizes consistent with the Professional Foresters Law, Public Resources Code §752(b), that there are other environmental professionals capable of supplying technical information relative to particular features of a forested landscape setting by virtue of education, training and experience.

The Board endorses an interdisciplinary approach in the management and treatment of natural landscapes. Just as the Professional Foresters Law requires that an RPF interact with other qualified experts when the RPF's expertise is exceeded in the context of a particular activity, the Board finds that other qualified experts should likewise interact with RPF's as appropriate to the environmental setting.

**Statement II:** The Board recognizes that forested landscapes may be identified using a variety of vegetation classification systems including but not limited to –the California Wildlife Habitat Relationship System (see the California Department of Fish and Game website link to the CWHR System at <http://www.dfg.ca.gov/whdab/html/cwhr.html> and the California Department of Forestry and Fire Protection-Fire and Resources Assessment Program link to CWHR map layers at <http://frap.cdf.ca.gov/data/frapgismaps/select.asp>); A Manual of California Vegetation by Sawyer and Keeler-Wolf; CDFG's Vegetation Classification and Mapping Program (VegCAMP); various California Native Plant Society (CNPS) publications; and Preliminary Descriptions of the Terrestrial Natural Communities of California by R.F. Holland (updated 1996).

**Statement III:** The Professional Foresters Law provides that the practice of forestry and rangeland management on forested landscapes includes among other things actions directed toward fuels management, forest protection, grazing on forested rangelands, timber growing and utilization, forest inventory, forest economics, forest valuation and finance, and the evaluation and mitigation of impacts from forestry activities on watershed and scenic values. Tasks associated with the practice of forestry and rangeland management include but are not limited to the following:

- Development of fuel hazard reduction prescriptions. Participation in the interdisciplinary development of technical aspects of wildfire protection plans.
- Evaluation of fire hazard, pest conditions (insects and disease), and the effects of damaging agents on the overall health of forests and woodlands. Development of treatments for the prevention and control of damage to forests and woodlands.
- Management planning and prescription development in support of wood product utilization.
- The determination of diameter, height, form, weight, growth rate, volume, or age of individual or groups of trees; or interpretation of such determinations to support forest management actions or the treatment of forest cover in general.
- The determination of economic value of a particular forest or woodland.
- The evaluation of forest/woodland conditions in response to past management actions and the development of mitigation measures for remediation or control of potentially deleterious effects.
- Recommendations regarding prescriptive grazing on forested rangelands.

**Statement III (Continued):** The Board recognizes that performance of the following tasks does not constitute the practice of forestry or rangeland management unless the tasks are exclusively directed toward the management and treatment of forests and woodlands:

- Providing retention or removal recommendations for trees associated with specific development improvements.
- Classification of vegetative or habitat types as indicated in item II above.
- Collection of tree species data (i.e. number of trees per acre, tree diameters, heights, etc.)
- Characterization of individual tree condition (i.e. pathology, injury assessment, health and vigor rating, etc.)
- Valuation or appraisal of individual tree(s) value, or loss as landscape elements, for trees associated with development.
- Preparation of tree protection plans pursuant to jurisdictional requirements if it is concluded by the Lead Agency that individual or groups of trees shall be retained on site in proximity to construction activities.
- Mapping, acreage/canopy cover determination or other site evaluations through photogrammetry, Geographical Information Systems (GIS), and/or surveyed location of individual or stands of trees.
- Mitigating or recommending mitigation of impacts from previous or proposed land use activities by other environmental experts within their field of expertise.
- Determinations of significance under CEQA.

**Statement IV:** The Board acknowledges that pursuant to 14 CCR §15149(b) a CEQA document such as an EIR is not a technical document that must be prepared solely by state registered professionals. CEQA documents are intended to disclose for public benefit and agency review the potential adverse effects of a proposed project on the environment and to identify ways to reduce or mitigate such potential adverse effects. The extent to which full and accurate disclosure of potential adverse effects and mitigations necessitates the preparation of technical studies by state licensed professionals is at the discretion of the lead agency.

## **Board of Forestry and Fire Protection Update**

*The board shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands, and shall determine, establish, and maintain an adequate forest policy. General policies for guidance of the department shall be determined by the board. (Public Resources Code §740)*

### **BOARD OF FORESTRY AND FIRE PROTECTION MEMBERSHIP**

|                          |                        |
|--------------------------|------------------------|
| Mr. Stan L. Dixon, Chair | Public Member          |
| Ms. Pam Giacomini        | Range/Livestock Member |
| Mr. Bruce Saito          | Public Member          |
| Mr. James Ostrowski      | Forest Products Member |
| Mr. Gary Nakamura        | Public Member          |

### **BOARD STAFF**

|   |  |
|---|--|
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| Ms. Carol Horn<br>Executive Assistant<br>916-653-8007<br><a href="mailto:carol.horn@fire.ca.gov">carol.horn@fire.ca.gov</a>                                       | Ms. Terra Perkins<br>Office Technician<br>916-653-8031<br><a href="mailto:terra.perkins@fire.ca.gov">terra.perkins@fire.ca.gov</a>                                 |

### **MAILING ADDRESS AND FAX NUMBER**

In addition to the phone numbers and email addresses listed above, correspondence may be faxed or mailed to the Board as follows:

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Sacramento, California 94244-2460  
FAX #916-653-0989

## **RECENT BOARD REGULATORY ACTIONS**

Adopted and proposed Board rule language and policy related materials can be viewed at: [http://www.bof.fire.ca.gov/board/board\\_proposed\\_rule\\_packages.aspx](http://www.bof.fire.ca.gov/board/board_proposed_rule_packages.aspx) or [http://www.bof.fire.ca.gov/board/board\\_current\\_docs.aspx](http://www.bof.fire.ca.gov/board/board_current_docs.aspx)

*The Board has taken recent action to adopt the following rule packages:*

### **Utility Major Woody Stem Exemption, 2006**

The Board adopted this rules proposal at its February 8, 2007 Meeting in Sacramento. The adopted language amends 14 CCR § 1257, Exempt Minimum Clearance Provisions. The rule waives power line clearing requirements near healthy, mature trees that are closer to power lines than the regulations normally allow, but sufficiently rigid that they do not present a risk to public safety. These trees are commonly referred to as Major Woody Stems, or MWS. The adopted regulations represent a new exception to the requirements of Public Resources Code (PRC) 4293 for MWS.

### **Watercourse Rules Streamlining, 2006**

The Board adopted this rules proposal at the October 4, 2006 Meeting in Sacramento. This adopted language amends 14 CCR § 916.5(e) [936.5(e), 956.5(e)] Procedure for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures [All Districts] and 14 CCR § 916.9 [936.9, 956.9] Protection and Restoration in Watersheds with Threatened or Impaired Values [All Districts]. The purpose of the regulation is to modify WLPZ and T/I regulations to reduce the economic impact to landowners while retaining a high level of environmental protection.

### **Aspen Restoration, 2006**

The Board adopted this rules proposal at the September 14, 2006 Meeting in Redding. This adopted language amends 14 CCR § 939.15 Protection of Wildlife Habitat [Northern], and § 959.15 Protection of Wildlife Habitat [Southern]. The purpose of the regulation is to add aspen stands to the list of areas that can have conifer tree removal and be exempt from typical restocking standards of the Forest Practice Rules.

### **Watersheds with Threatened or Impaired Values Extension, 2006**

The Board adopted this rules proposal at the July 6, 2006 Meeting in Sacramento. The adopted language extends until December 31, 2007 the following *existing Forest Practice Rules*: 14 CCR § 895.1 Definitions; § 898 Feasibility Alternatives; § 914.8 [934.8, 954.8] Tractor Road Watercourse Crossing; § 916 [936, 956] Intent of Watercourse and Lake Protection; § 916.2 [936.2, 956.2] Protection of the beneficial Uses of Water and Riparian Functions; § 916.9 [936.9, 956.9] Protection and Restoration in Watersheds with Threatened or Impaired Values; § 916.11 [936.11, 956.11] Effectiveness and Implementation Monitoring; § 916.12 [936.12, 956.12] Section 303(d) Listed Watersheds; § 923.3 [943.3, 963.3] Watercourse Crossings; § 923.9 [943.9, 963.9].

### **Lake Tahoe Exemption, 2006**

The Board adopted on July 13, 2006, a regulation to amend Forest Practice Rules Section 1038, Exemptions. This amendment exempted (from Timber Harvesting Plan filing requirements of the Forest Practice Act) the harvesting of live trees in a watercourse and lake protection zone in the Lake Tahoe region for purposes of reducing fire hazards. Exemptions conducted under this amendment would require obtaining and accordance with a Tree Removal Permit issued by the Tahoe Regional Planning Agency and certified by the Lahontan Regional Water Quality Board.

### **Amador Plan, 2006**

The Board adopted this rules proposal at the June 8, 2006 Meeting in Pasadena. The adopted language amends 14 CCR §1261 Standards for Personnel Assignment and Cost Apportionment. The purpose of this regulation is to implement a legislative amendment to Public Resource Code (PRC) §4143 and §4144 authorized under Senate Bill (SB) 1356 of 2004, and to update the regulation based on Board and California Department of Forestry and Fire Protection (CDF) policy changes.

### **SRA Classification Guide, 2006**

The Board adopted this rule proposal at the March 8, 2006 Meeting in Sacramento. The adopted language updates a procedural publication which is used to classify State Responsibility Areas (SRA). SRA, pursuant to Public Resources Code §4125-4128, are all lands in the state where the financial responsibility of preventing and suppressing wildfire is primarily the responsibility of the State. The procedural publication is titled *State Responsibility Area Classification System*. This publication provides instructions for evaluating and documenting periodic changes to the official SRA maps.

### **Defensible Space, 2005**

The Board adopted this rule proposal at the February 8, 2006 Meeting in Sacramento. The adopted language implements a legislative amendment to Public Resource Code (PRC) §4291(b) authorized under Senate Bill (SB) 1369 of 2004. The regulation provides guidelines for maintaining around and adjacent to a building or structure additional fire protection or a firebreak by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line.

## **PROPOSED BOARD REGULATORY ACTIONS**

*The Board is currently considering the following proposed rule packages:*

### **Road Management Plan**

The purpose of the proposed regulation is to create a voluntary, landscape level road management planning document that could be appended to a THP or NTMP. The current draft version of the proposed regulation can be found on the Board's website at: <http://www.bof.fire.ca.gov/pdfs/RMPplead020507.pdf>

## **Incidental Take Regulations for Coho Salmon (pursuant to Fish and Game Code §2112)**

The purpose of the proposed regulation is to provide incidental take authorization pursuant to Fish and Game Code Section 2112 through the Board's rulemaking process. The current draft version of the proposed regulation can be found at: <http://www.bof.fire.ca.gov/pdfs/2112Coho022807v6.pdf>

## **Threatened or Impaired Watersheds, 2006**

As noted above, the interim Forest Practice Rules for Watersheds with Threatened or Impaired Values were extended until December 31, 2007 and the Board is examining draft regulations for incidental take of coho salmon. Concurrent with the adoption of the *Threatened or Impaired* regulations extension, the Board committed to a review of the relevant research in order that it would be well informed on the subject matter prior to future rulemaking decisions. To that end, the Board has appointed a Technical Advisory Committee (TAC) to oversee a scientific literature review on anadromy and forest management and assist the Board in obtaining an effective summary of relevant scientific information.

The TAC presented to the Board on March 8, 2007 a scope of work for the literature review to be conducted by an outside contractor. Upon Board approval of the scope of work, a Request For Proposal and solicitation of bids will be published. Further information on the work of the TAC can be found on the Board's website at: [http://www.bof.fire.ca.gov/board/board\\_proposed\\_rule\\_packages.aspx](http://www.bof.fire.ca.gov/board/board_proposed_rule_packages.aspx)

## **PROPOSED BOARD FOREST AND RANGELAND POLICY STATEMENT AUTHORIZATION**

*The Board is currently considering the following proposed policy item:*

### ***The Changing California: the 2007 Policy Statement and Program of the Board of Forestry and Fire Protection***

The Board is charged with the creation and maintenance of Forest and Rangeland Policy for the State of California. A policy statement is required by statute following a comprehensive assessment by the California Department of Forestry and Fire Protection's (CDF) Fire and Range Assessment Program (FRAP). The assessment was completed at the end of 2003. The purpose of the policy statement is to identify and communicate the Board's strategic direction and goals, to provide the foundation for future planning, and to establish the framework for the State's forest policies. The current draft of this policy statement is posted on the Board's website as follows:

[http://www.bof.fire.ca.gov/pdfs/PolicyProgram\\_10-15-06.pdf](http://www.bof.fire.ca.gov/pdfs/PolicyProgram_10-15-06.pdf)

## **BOARD FIRE PROTECTION POLICIES AND INITIATIVES**

*The Board is currently considering the following Fire Protection items:*

### **Update to the California Fire Plan**

The Board is continuing to review the 1996 Fire Plan (Plan) and prepare an Assessment Report on whether each recommendation contained in the Plan was achieved, and if not, whether the recommendation was based on current and accurate facts - and should be included in the Fire Plan Update for 2007-08 (Update). Initial efforts in 2005 provided context for the Resource Protection Committee regarding accomplishments of the 1996 Plan and Issues for the Update. Concurrently, the Board, with assistance from CDF Fire Protection Executive Staff, is beginning its internal discussion for determining the role of the Update to the California Fire Plan relative to CDF strategic plans and other national and organizational fire plans. Discussions on content for the plan Update, including strategic goals, action items, and performance measures, will involve stakeholders and will continue throughout 2007.

### **General Plan Fire Safety Elements**

The Board reviews fire safety element of general plans in accordance with Government Code §65302.5. This code requires the BOF to review the fire safety elements of general plans of local governments with State Responsibility Area (SRA) and Very High Fire Hazard Severity Zones (VHFHSZ). Currently, eight different general plans are being reviewed from San Bernardino County to Alpine County to the City of Petaluma. The Board's review is valuable for providing consistent pre-disaster planning and aims to ensure contemporary fire protection standards are being applied in hazardous wildfire areas under state or local government jurisdictions.

### **Vegetation Treatment Program Review**

The Board has assembled a CDF review team to better understand the goals, objectives, and accomplishment of the many CDF's vegetation treatment programs. The workgroup, which includes periodic stakeholder input, is conducting a review of the accomplishments of CDF vegetation treatment programs, identifying barriers to achievement of the goals of the programs; and identifying actions that contribute to achieving accomplishment of Board, CDF, and legislative goals for CDF's vegetative treatment programs. The Board believes that review of all CDF programs related to vegetation treatment goals and objectives is necessary to ensure comprehensive solutions are made that optimize resource allocation and maximum achievement of CDF, Board and legislative intents for the Department's vegetation treatment program.

## BOARD MEMORANDUMS AND GUIDANCE DOCUMENTS

*The Board recently authorized the following memorandum:*

### **An Explanation of the Forest Practice Rules for Program EIRs and THPs (Title 14, Article 6.8, California Code of Regulations)**

The Board authorized distribution of a memorandum regarding regulations for the Program Timberland Environmental Impact Report (PTEIR) and associated Program Timber Harvesting Plan (PTHP) at its meeting of February 8, 2007. The memo has since been circulated to Resources Agency Secretary, Mike Chrisman, the Directors of Resources Agency Departments, Regional Water Quality Control Boards, and other interested parties. This memo can be found on the Board's website at:

<http://www.bof.fire.ca.gov/pdfs/PTEIRmemo020807Approved.pdf>

The Management Committee is now working on a companion guidance document for PTEIRs and PTHPs that will provide both regulator and regulated more in-depth discussion of PTEIR/PTHP construction and requirements. It is anticipated that drafts of this proposed guidance document will be under review by the Management Committee in the coming months.

## **Board Advisory / Monitoring Committee Update**

### **RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)**

*RMAC Chairman, Mr. Ken Zimmerman delivered this annual report in a presentation to the Board on March 8, 2007.*

### **2006 Range Management Advisory Committee (RMAC) Report to the Board of Forestry and Fire Protection**

RMAC has a full slate of members as described in the Public Resources Code (PRC) except for one California Wool Growers Association (CWGA) representative. The CWGA has submitted a nomination for the Board's consideration.

2006 was another busy year for RMAC as we responded to the State Water Resources Control Board inquiry for the implementation of a program to require Non Point Source Pollution Non Irrigated Ag. Discharge waivers. In response to the Water Board's inquiry RMAC worked closely with the California Farm Bureau (CFB), California Cattlemen's Association (CCA), CWGA, and the Board. RMAC continues to monitor the Water Board's activities regarding this issue and remains available to provide information that represents stakeholder interests.

The questions surrounding a Certified Rangeland Manager (CRM) license has and will continue to be an item that RMAC will pursue as the California Section of the Society of Range Management (SRM) certification committee responds to applicants, certification holders, and the Professional Foresters Examining Committee (PFEC).

*RMAC Report Continued...*

The intent of the CRM license is to provide the consumer a validation of competency when contracting with a rangeland manager, practitioner, or consultant providing a service on California rangelands. The primary issue before RMAC is the conditions under which a CRM is required to perform professional range land services as defined by the PRC and California Code of Regulations.

RMAC continues to work closely with the California Department of Food and Agriculture on issues of environmental compliance for noxious weed and vegetation management, the Vegetation Treatment Program Environmental Impact Report (VTP-EIR), and the California Noxious and Invasive Weed Action Plan.

The Natural Resources Conservation Service (NRCS) has been a valuable resource for RMAC as we track development of the VTP-EIR specifically with their presentation of WIN-PST, a risk analysis program for evaluating planned herbicide applications and the potential for movement of the product off site and risk to biological resources.

The 2<sup>nd</sup> annual summit of California Rangeland Coalition (CRC) was held in Sacramento on January 9<sup>th</sup>. Two RMAC members and staff from CAL FIRE attended this summit and witnessed often-opposing interests working together in a cohesive fashion.

The California Rangeland Resolution, a product of the Coalition's efforts, is endorsed by organizations such as Defenders of Wildlife, California Oak Foundation, The Nature Conservancy, US Fish & Wildlife Service, NRCS, and the Department of Fish & Game. Other associations representing private landowners also endorse the Resolution, such as the CCA, CWGA, and CFB. The goal of the resolution is to "keep common species common on private working landscapes". The position of CCA Director of Rangeland Conservation, currently held by Tracy Schohr, is partially funded by the USFWS demonstrating their support for a cooperative approach to dealing with the maintenance of working landscapes that support wildlife.

RMAC has been developing a paper on Integrating Natural Resource Management with Resource Investments and crafting a letter that invites comment and participation in our efforts to complete this paper for the Board's consideration. We hope to have the draft letter completed at our next meeting, March 20 & 21. Tracy Schohr has offered the CRC mailing list for distribution of the letter. Dave Titus from CAL FIRE has provided information on the State Bond Initiative Process. This information has been very valuable to RMAC's understanding of the bond process, which is key to promoting funding that allows for the maintenance and management of publicly acquired lands.

RMAC continues to receive regular updates from Federal and State departments and agencies as well as presentations from the Sunflower CRMP on Safe Harbor Agreements. Safe Harbor offers private landowners the opportunity to form agreements with federal agencies that service the needs of the landowner while developing mitigations for the protection of listed species.

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

*CDF Forest Hydrologist, Mr. Pete Cafferata provided this updated report on MSG activities.*

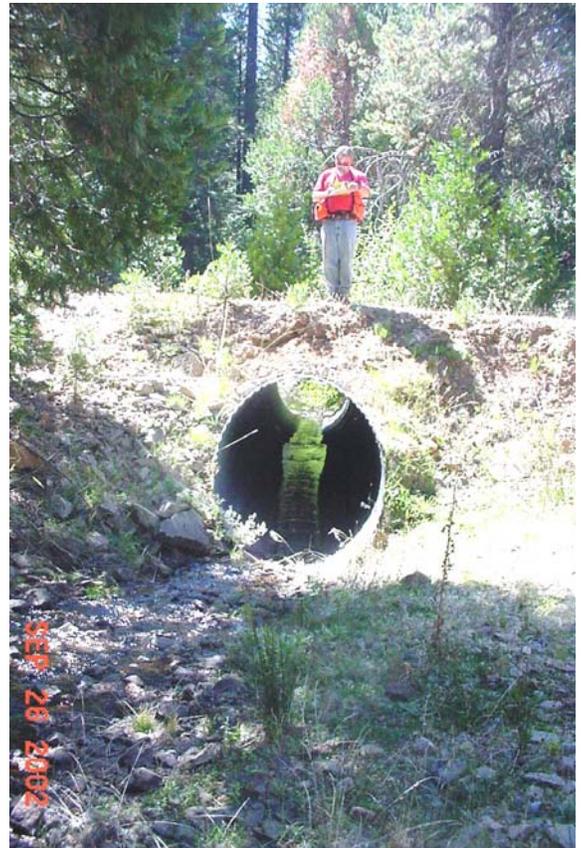
### **Updated Information Regarding the Board's Monitoring Study Group**

The Monitoring Study Group (MSG) is a Standing Committee of the Board of Forestry and Fire Protection and meets approximately every two to three months, usually in Willits or Redding. Mr. George Gentry, Board Executive Officer is acting chair of the MSG and the committee is staffed by CDF. The group continues to provide guidance and oversight to develop monitoring programs testing the effectiveness of California's Forest Practice Rules in protecting water quality. The MSG is made up of members of the public, state and federal resource agencies, and the timber industry. Each agency and organization is responsible for determining the appropriate person to serve as a representative on the MSG. All relevant organizations and members of the public are invited to attend the meetings. In addition to providing guidance and oversight on monitoring program development, these gatherings serve as a public forum to discuss monitoring results—both the monitoring CDF is conducting, and the monitoring activities that other agencies and companies are completing. Meeting announcements and minutes, as well as monitoring reports, selected MSG meeting PowerPoints, MSG cooperative instream monitoring project study plans, and other items are posted on the MSG's website at:

[http://www.bof.fire.ca.gov/board/msg\\_geninfo.asp](http://www.bof.fire.ca.gov/board/msg_geninfo.asp).  
A brief description and update of recent MSG activities is provided below.

### **Modified Completion Report Monitoring**

Clay Brandow of CDF presented the Modified Completion Report (MCR) Final Report to the Board of Forestry and Fire Protection in August ([http://www.bof.fire.ca.gov/pdfs/MCRFinal\\_Report\\_2006\\_07\\_7B.pdf](http://www.bof.fire.ca.gov/pdfs/MCRFinal_Report_2006_07_7B.pdf)). This report summarizes the findings from the first phase of the MCR work that was completed from 2001 to 2004. MCR monitoring was developed as a more cost-effective approach than the earlier Hillslope Monitoring Program (HMP), utilizing CDF Forest Practice Inspectors rather than contractors to collect onsite monitoring data as part of required Work Completion Reports. A random draw of 12.5% of all completed THPs were evaluated (281 THPs), and high risk and highly sensitive parts of THPs were sampled (roads, crossings, and WLPZs), based on the HMP results. Evaluations were completed at road and crossing sites once after logging was completed; and for some plans, a second time after one to two over-wintering periods. Post-harvest canopy measured with a sighting tube was found to be high (approximately 80% and 70% for watercourses in the coastal and interior parts of the state, respectively).



*MSG Report Continued...*

These results are very similar to those reported as part of the HMP. Nearly all the road rule implementation departures were related to drainage-related requirements, and rule departures were much more likely to result in erosion, sediment transport, and transport to channels than properly implemented measures. Crossing effectiveness ratings were generally similar to HMP results and showed that diversion potential, culvert plugging, and drainage structure function near crossings remain as problem areas.

CDF Forest Practice Watershed Staff are preparing to start Phase II of the MCR monitoring program next spring using a randomly selected 10% sample of completed plans. Field forms will be slightly modified to incorporate what was learned from the first phase of the project. CDF Sacramento watershed staff will provide field training to CDF Forest Practice Inspectors and Review Team agency staff interested in participating. CDF Monitoring Coordinators in Redding, Santa Rosa, and Sacramento will oversee the monitoring work by Forest Practice Inspectors and ensure that a complete random sample is collected. This work will complement the non-random Interagency Mitigation Monitoring Program work now underway.

Interagency Mitigation Monitoring Program

The Interagency Mitigation Monitoring Program (IMMP) has been developed by an MSG IMMP Subcommittee composed of 20 individuals from the resource agencies, timber industry, and the public. Subcommittee meetings have been held since spring of 2005. The main goals of the IMMP are to: (1) collect water quality-related monitoring data primarily on higher risk watercourse crossing sites within THPs and NTMPs, and (2) more broadly, to develop a process to reach agreement with an interagency team that can be applied to other forestry-related topics. A pilot IMMP project is being used to test the proposed methodology and make needed refinements prior to implementing the full scale program. The pilot is focusing on watercourse crossings and the road segments that drain to crossings, since past monitoring work has shown that these are particularly high risk sites for sediment delivery to stream channels. The pilot project work is being conducted by two IMMP teams, with one team in the Coast Forest Practice District headquartered in Santa Rosa (shown in the photo below) and the other in the Northern Forest Practice District, working out of Redding.

The IMMP teams are composed of one representative from each of the following state agencies: CDF, DFG, CGS, and RWQCBs. The team approach is being used to provide a balance of interests for all the Review Team agencies and greater public confidence in the monitoring results. Primary objectives of the IMMP pilot are to: (1) provide feedback to the BOF, RPFs, LTOs, CDF Forest Practice Inspectors, other state and federal agencies, landowners, and the public regarding forestry-related practices at high risk crossing sites designed to protect water quality, and (2) provide a forum that allows interagency team members to cooperate and promote information sharing.



*MSG Report Continued...*

The IMMP pilot project began in July 2006 and will extend into 2007. Plans for the pilot project are being selected based on screening criteria that includes the types of practices used for watercourse crossing construction, identified beneficial uses of water present, slope, soil types, geologic considerations, or additional mitigation measures applied. IMMP work is focusing on the effectiveness of practices currently being utilized on plans, and not on legal/enforcement actions. A detailed description of the IMMP is available from CDF upon request.

Field work is emphasizing performance-based effectiveness evaluations for forestry practices applied at or near pre-determined watercourse crossing sites within a plan that are thought to pose a particularly high risk to water quality. Lower risk crossings within the sampled plan are also evaluated as time permits. Monitoring protocols include a mixture of qualitative and simple quantitative methods, including a BMP monitoring protocol developed in the eastern part of the United States by the USFS.

These methods are being tested on a non-random sample of watercourse crossings located on THPs and NTMPs that have mostly been through at least one winter period following installation/upgrading/abandonment of watercourse crossings and installation of road drainage structures, but are still within the Erosion Control Maintenance Period (ECMP). To put the results of the IMMP in proper context, the IMMP teams are documenting the number and performance of pre-determined high risk sites relative to all of the sites evaluated in the program. In addition, the second phase of CDF's MCR monitoring program will use a random sample of THPs to provide context for the non-random IMMP.

To date, the Coast Team has collected field data from nine plans in Sonoma, Mendocino, and Humboldt Counties in July, August and September. A total of 29 crossings have been evaluated, including culverts, bridges, fords and abandoned crossings. Approximately 27 of the 29 crossings were pre-identified high risk crossings. All the major timberland owners were represented (CTM, MRC, PALCO, GDRCO). The work was completed over nine days. Field protocols commonly took approximately two hours per crossing to complete. The Coast Team pilot work to date includes crossings on Class I, II, and III watercourses, as well as one NTMP and one conversion.

The Inland Team has collected data on eight THPs from three different geographical areas—the Sacramento River Canyon, eastern Shasta and Tehama Counties, and the eastern slopes of the Coast Range in western Tehama County (see photo on the next page). Field data was collected over nine days in July, August and September. A total of 18 crossings were evaluated with the IMMP protocols on both small non-industrial timberland owners (2 plans) and large industrial landowners (6 plans). An additional 11 crossings have been evaluated rapidly without the use of the IMMP protocols. Two to three crossings were evaluated per day. All the crossings were denoted as high risk due to either steep slopes or large, complex crossing installations.

*MSG Report Continued...*

Both the Coast and Inland Teams have reached similar conclusions so far: (1) the USFS BMP Protocol has deficiencies for use in California that need to be corrected prior to further use, and (2) improper installation of crossings and drainage structures near crossings is usually the major cause of documented problems (a result noted earlier in both the HMP and MCR reports). Preliminary conclusions from the pilot work completed to date are that improved implementation of practices can be accomplished with: (1) improved LTO education, and (2) improved active and post-active multi-agency crossing inspections. Additionally, both teams



have stated that the IMMP pilot has served as an excellent tool for interagency relationship and consensus building.<sup>1</sup> Good discussions have been held at the crossing sites and team members have been able to reach consensus about the extent and cause of observed problems by working through the pilot protocols. Both the Coast and Inland Team members stated that IMMP participation by other agency representatives would be an outstanding training tool to help field personnel learn what is critical to observe on post-harvest ECMP inspections. Following completion of the pilot project, a final report will be prepared to document findings and recommend procedures for the long-term IMMP.

Revised MSG Strategic Plan

At MSG meetings held in 2005 and 2006, it was determined by the Acting MSG chair, BOF Executive Officer George Gentry, that it was appropriate to revise and update the first MSG Strategic Plan adopted by the BOF in January 2000. Input on goals and objectives for the revised plan were discussed and agreement was reached on revised goals for the group. Additionally, there was considerable discussion during these meetings about whether the MSG should become a structured committee with appointed members to provide advice to the BOF on technical aspects of proposed rule changes related to water quality, soil erosion, and watershed conditions, or remain an unstructured group without appointed members. Discussions at the recent MSG meetings led acting chair George Gentry to conclude that members enjoy the current informal, unstructured MSG configuration that leads to sharing of information, and that the group should remain without formally appointed members. This option will allow agencies and organizations to continue to place the amount of attention and commitment to the MSG that they believe is appropriate, based on existing personnel commitments.

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<sup>1</sup> In addition to the IMMP pilot work for improving interagency relationships and consensus building, a cadre from the four Review Team agencies has developed and presented two workshops for Review Team agency personnel on watercourse crossings. The two-day workshops were held in Eureka and Santa Cruz in November of 2006. The field sites for the scheduled training session in Redding were snowed out, but this session, as well as additional sessions, will be rescheduled in the spring.

### *MSG Report Continued...*

It will also allow the open, informal nature of the meetings to continue and permit the commitment of the people who have worked for many years on the committee to continue in a collaborative manner.

Additional discussions have occurred during the past year in BOF Forest Policy Committee meetings about creating a new structure to elevate the MSG's profile and increase its involvement with BOF issues. The preferred alternative for doing this, while retaining the open, unstructured nature of the MSG, is to have the MSG report to a BOF-appointed science review team (SRT). Efforts will be made in 2007 to establish a long-term SRT for this state. The final draft of the revised MSG Strategic Plan will be presented to the BOF in January for adoption. The plan is posted at: [http://www.bof.fire.ca.gov/PDFS/MSGStrategicPlan\\_11\\_06.pdf](http://www.bof.fire.ca.gov/PDFS/MSGStrategicPlan_11_06.pdf).

### Cooperative Monitoring Projects

In addition to the MCR and IMMP monitoring projects, cooperative instream monitoring projects remain an important component of MSG work. The revised MSG Strategic Plan states that the MSG will coordinate support for existing and new cooperative instream watershed monitoring projects located in non-federal forested watersheds throughout California. Examples of watersheds with cooperative instream monitoring projects include: (1) Caspar Creek (CDF and USFS-PSW), (2) Garcia River (CDF, MCRCD and NCRWQCB), (3) South Fork Wages Creek (CDF and Campbell Timberland



Management [photo above]), (4) Judd Creek (CDF and Sierra Pacific Industries), and (5) Little Creek (CDF and Cal Poly—San Luis Obispo). These projects provide linkages between onsite monitoring and in-channel conditions, and will complement hillslope (i.e., MCR and IMMP) monitoring efforts. Detailed study plans for the South Fork Wages Creek and Judd Creek projects are posted on the MSG website (see: [http://www.bof.fire.ca.gov/board/msg\\_archives.asp](http://www.bof.fire.ca.gov/board/msg_archives.asp)). Caspar Creek papers are available at: <http://www.fs.fed.us/psw/topics/water/caspar/caspubs.shtml>. A report documenting Garcia River watershed results is available at: [http://www.bof.fire.ca.gov/pdfs/GarciaCDF2006FinalREPORTCDF2\\_.pdf](http://www.bof.fire.ca.gov/pdfs/GarciaCDF2006FinalREPORTCDF2_.pdf).

### Selected Monitoring Projects Answering Key Questions

Several monitoring-related projects have been supported in the past, including: Testing Indices of Cold Water Fish Habitat (Knopp 1993); Erosion Potential in Private Forested Watersheds of Northern California: A GIS Model (McKittrick and Spittler 1994), Methods for Inventory and Risk Assessment of Road Drainage Crossings (Flanagan and others 1998), and V-Star Measurements and Relationships to Basin Geology and Sediment Yield (Lisle and Hilton 1999). Final reports for these projects are posted at: [http://www.bof.fire.ca.gov/board/msg\\_supportedreports.asp](http://www.bof.fire.ca.gov/board/msg_supportedreports.asp).

### *MSG Report Continued...*

Additionally, final reports are being developed for more recently funded projects. These include: (1) "Sediment Composition as an Indicator of Stream Health" (Dr. Mary Ann Madej, Dr. Peggy Wilzbach, Dr. Ken Cummins, and Samantha Hadden), documenting the relative importance of inorganic vs. organic components of suspended load in influencing stream health, as reflected in growth of juvenile salmonids and their invertebrate food base (photo to the right), (2) "Comparisons of Turbidity Data Collected with Different Instruments" (Jack Lewis, Randy Klein, and Rand Eads), documenting differences in turbidity values recorded with YSI Environmental Sondes, FTS DTS-12's, and D&A Instruments OBS-3 units, and (3) "Cooperative Instream Monitoring Project for Three Tributaries in the Elk River Watershed (Dr. George Robison), reporting the results from three winter sampling periods for three tributary basins with three different management histories.



### Reference Watersheds Database

An MSG Subcommittee consisting of representatives from CDF, CFA, UCB, CGS, NCRWQCB, DPR, NMFS, and DFG developed a draft Watershed Reference Catalog in 2001. The Subcommittee relied on existing literature, information from knowledgeable individuals, and the work that other agencies are conducting to identify watersheds with no or very minor disturbance. Examples of North Coast watersheds with very minor amounts of disturbance include Upper Prairie Creek, Little Lost Man Creek, and Elder Creek. The draft MSG-developed watershed spreadsheet for very minimally disturbed (i.e., "reference") watersheds has been used by Chris Keithley, CDF-FRAP, to develop a GIS geodatabase for delineating the boundaries of the basins. The GIS layer and associated database are intended to support community-based watershed groups and government agencies conducting watershed assessments. The draft product is posted at: <http://frap.cdf.ca.gov/watersheds/referencewatershed.html>.

### Additional Information

For additional information on Monitoring Study Group activities, contact Pete Cafferata, MSG Lead Staff person, at (916) 653-9455 or [pete\\_cafferata@fire.ca.gov](mailto:pete_cafferata@fire.ca.gov).

### Photo Credits

Photos were provided by Shane Cunningham, CDF; Kevin Faucher, Campbell Timberland Management; and Samantha Hadden, HSU.

## **CALIFORNIA OAK MORTALITY TASK FORCE (COMTF)**

*The following training announcement was provided by Ms. Janice Alexander, COMTF Sudden Oak Death Outreach Coordinator.*

### **Sudden Oak Death/*Phytophthora ramorum* Wildland Trainings**

**4/24/07-** Pt. Reyes National Seashore, Red Barn Classroom  
(1 Bear Valley Road, Pt. Reyes Station, CA 94956)

**5/01/07-** Presentation Center  
(19480 Bear Creek Road, Los Gatos, CA 95033)

Sudden Oak Death remains an important forestry issue, and new information on treatments and management is now available to foresters. Each training session is a full-day event, with the morning session indoors and the afternoon session out in the field. Topics will include current disease status, symptom recognition and diagnosis, treatment updates, and management options for California's forests. Sessions are free of charge and are open to everyone. Credits from SAF, ISA and DPR will be available. See [http://nature.berkeley.edu/comtf/html/comtf\\_training.html](http://nature.berkeley.edu/comtf/html/comtf_training.html) to view the agendas and to register for a class. Contact Janice Alexander ([jalexander@ucdavis.edu](mailto:jalexander@ucdavis.edu); 415-499-3041) for more information.

## **Technical Features**

*The following is a brief excerpt from Cal Poly SLO/OSU PhD Candidate, Mr. Michael C. Gaedeke's Master's Thesis, as summarized by CDF Forest Hydrologist, Pete Cafferata. Mr. Gaedeke is splitting time between OSU and the Cal Poly Swanton-Pacific Ranch in a unique joint PhD program that will allow his work in Little Creek to continue. If you'd like to see the complete thesis, check out the Archived Documents section of the Monitoring Study Group website at: [http://www.bof.fire.ca.gov/board/msg\\_archives.asp](http://www.bof.fire.ca.gov/board/msg_archives.asp).*

### **PRE-HARVEST CALIBRATION OF THE LITTLE CREEK WATERSHED** **A PAIRED AND NESTED WATERSHED ANALYSIS**

A Thesis by Michael Conrad Gaedeke, M.S. Forestry Sciences, Cal Poly SLO

The Little Creek watershed is an experimental watershed in the Santa Cruz Mountains of central California. It is located near Davenport and the lower half lies within Swanton Pacific Ranch, Cal Poly San Luis Obispo's forest and agricultural research property. The Little Creek watershed study is a long-term study designed to evaluate water quality and channel conditions before, during, and following single tree and small group selection harvests of second-growth redwood and Douglas-fir.

*Gaedeke Thesis Continued...*

The basin covers 1,300 acres and flows into Scotts Creek, which has anadromous fish present. The project will evaluate the effectiveness of the Forest Practice Rules and special rules for Santa Cruz County in maintaining water quality during and after timber harvests.

Stream monitoring stations in the Little Creek watershed were located to enable a paired and nested watershed analysis of a timber harvest scheduled for summer 2007. Five years of water quality data that include flow, turbidity and suspended sediment were collected and analyzed for the thesis as part of a six-year calibration period (water years 2002-2007). Watershed data will continue to be collected for at least four years after timber operations are completed. Data from the North Fork (NF), South Fork (SF), and Upper North Fork (UNF) stations were utilized for the analyses included in the thesis. Streamflow at the stations is measured with rated-section flumes that have natural stream beds. Water quality samples are taken with automated ISCO pumping samplers that are manually started, with samples drawn at one-hour intervals. Water quality samples are processed at Swanton Pacific Ranch to determine turbidity values and suspended sediment concentrations.

Individual storm events were analyzed to determine suspended sediment transport at each monitoring station. A dataset of storm event loads was built to enable a regression analysis of the existing conditions in the watershed. Theoretical increases at the treatment station were compared to existing conditions via regression analysis to determine the detectable magnitude of change in suspended sediment export. The results show that a smaller magnitude of change in suspended sediment export will be detectable using the nested design, since high correlations ( $r^2 = 0.96$ ) have been found when plotting log values of sediment yields for individual storms for the NF vs. the UNF stations. Lower regression correlations ( $r^2 = 0.59$ ) have been found for the paired component of the study (NF vs. SF). Based on the regression analysis, changes in storm event suspended sediment loads approximately 30% above background levels may be detected for the nested watershed design, while changes of approximately 90% may be needed to detect change in the paired watershed design. In other words, sediment increases on the North Fork will only be detectable with the nested comparison if there is an increase of at least 30%, and with the paired comparison if there is an increase of at least 90% (i.e., the background variability is much greater within the paired component of the study than the nested component).

Water quality sampling revealed that lower amounts of sediment were exported in the South Fork as compared to the North Fork. The difference in observed sediment export may be attributed to soils, topography, geology, and prior management involving road construction. The lower response is important because it highlights the difficulty of making assumptions about side-by-side watersheds with similar features.

## **Department Postings**

### **CDF ARCHAEOLOGY PROGRAM UPDATE**

As most of you are no doubt aware, former CDF Archaeology Program Manager, Dan Foster has resigned his position and is now working in the CDF Environmental Protection Unit. At the Board Meeting on February 8, 2007, Dan was presented with a resolution by Board Chairman, Stan Dixon honoring Dan's 25-years of service as the Archaeology Program Manager. Congratulations, Dan!

In light of Dan's departure and other concerns, the Department is in the midst of a review of the Archaeology Program. The review includes consultations with affected parties and program staff with a goal of determining how best to utilize limited resources in the delivery of program service. Stay tuned for further developments.

### **CDF FOREST PRACTICE PROGRAM**

*CDF Staff Chief, Mr. Dennis Hall requested that the following CDF Memorandum originally distributed in 2004 be published in this edition of the News for the benefit of those who may not have received the original circulation. The format has been modified slightly from the original for the purposes of this publication.*

*Please note that all Department Publications and Memorandums can be found on the CDF website at: [http://www.fire.ca.gov/rsrc-mgt\\_forestpractice\\_pubsmemos.php](http://www.fire.ca.gov/rsrc-mgt_forestpractice_pubsmemos.php). Of particular interest to those among us who write Timber Harvesting Plans is a relatively recent publication on the subject of avoiding Plan returns. This document can be found at:*

*[http://www.fire.ca.gov/rsrc-mgt\\_content/downloads/AssistancetoRPFstoAvoidPlanReturns012607.pdf](http://www.fire.ca.gov/rsrc-mgt_content/downloads/AssistancetoRPFstoAvoidPlanReturns012607.pdf)*

### **Supplemental Instructions for Completing the Timber Harvesting Plan (THP) Form**

- (1) rationale for cumulative impacts assessment areas;
- (2) identification of reasonably foreseeable probable future timber harvests on land controlled by timber harvesting plan submitter.

These supplemental instructions for Section IV ("Cumulative Impacts Assessment") of the Timber Harvesting Plan (THP) form are being provided to Registered Professional Foresters (RPF) and other interested parties. If you have any questions about these instructions, please contact Dennis Hall at (916) 653-5305.

An important part of every THP is Section IV, entitled "Cumulative Impacts Assessment." The cumulative impacts assessment assists the California Department of Forestry and Fire Protection (CDF) and other agencies to determine whether the project will have significant cumulative impacts and, if so, whether there are feasible mitigation measures to address these impacts. The cumulative impacts assessment also serves the public information goals of California Environmental Quality Act (CEQA).

### *Supplemental Instructions Continued...*

Instructions for completing THPs, including the cumulative impacts assessment, are available on CDF's website at

[http://www.fire.ca.gov/rsrc-mgt\\_forestpractice\\_pubsmemos\\_memos.php](http://www.fire.ca.gov/rsrc-mgt_forestpractice_pubsmemos_memos.php)

This document supplements the instructions to address, in greater detail, two topics related to the cumulative impacts assessment: (1) the obligation to provide a rationale for each cumulative impacts assessment area; and (2) the obligation to identify future timber harvests on land controlled by the timber harvesting plan submitter ("plan submitter"), as part of the larger obligation to disclose all reasonably foreseeable probable future projects. These instructions are limited to these specific topics and are not intended to be an exhaustive discussion of all requirements relating to disclosure and analysis of cumulative impacts.

### **Obligation to Provide Rationale for Cumulative Impacts Assessment Areas**

Issue:

The regulations require RPFs to explain in the THP the rationale for all cumulative impacts assessment areas employed in the cumulative impacts assessment. RPFs often adopt the single CalWater planning watershed in which the proposed THP is located as the appropriate cumulative impact assessment area for one or more potential impacts. RPFs do not, however, always adequately explain why the CalWater planning watershed is the appropriate assessment area for the relevant cumulative impacts. While the rationale for the cumulative impacts assessment area may be apparent to the RPF and to CDF, it is important that the RPF briefly explain the rationale in the THP.

### **Supplemental Instructions:**

"Cumulative impacts" refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (14 CCR § 15355(a); *see* 14 CCR § 895.1 (definition of "effects"); 14 CCR § 15358.) "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (14 CCR § 15355(b); *see also* 14 CCR § 898.)

Pursuant to the Appendix to 14 CCR §§ 912.9, 932.9 and 952.9, entitled "Technical Rule Addendum #2," in evaluating a THP's cumulative impacts, the RPF must consider: watershed resources; soil productivity; biological resources; recreational resources; visual resources; and vehicular traffic. Technical Rule Addendum #2 provides specific guidance for determining the appropriate cumulative assessment area for impacts to recreational and visual resources, but for all other potential impacts, the RPF must evaluate what cumulative assessment area is appropriate under the particular circumstances of the THP.

*Supplemental Instructions Continued...*

The justification and explanation for the size and boundaries of each cumulative impacts assessment area is its "rationale." As stated in Technical Rule Addendum #2:

**The RPF shall establish and briefly describe the geographic assessment area within or surrounding the plan for each resource subject to be assessed and shall briefly explain the rationale for establishing the resource area. (*Id.* (emphasis added).)**

Accordingly, the RPF must in the THP explain the rationale for the cumulative assessment area for each category of potential impact. (*Id.*; see also 14 CCR § 897(b)(3) (re duty to "provide the Director with information about the plan and the resource areas and the nature and purpose of the operations proposed which is sufficiently clear and detailed to permit the Director to exercise the discretion and make the determinations required. . .").)

In determining the appropriate cumulative assessment areas for impacts to the relevant resources, the RPF must consult the sources of information and consider the factors set forth in Technical Rule Addendum #2. The rationale for each cumulative impacts assessment area should address why the selected area is reasonable, based on the project's potential incremental effects and their potential to combine with the effects of other closely related past, present and reasonably foreseeable probable future projects. The ultimate decision whether a cumulative impact assessment area is the appropriate assessment area for a given potential impact will be made by CDF based on the available evidence.

In the specific context of cumulative impacts to watershed resources, plan submitters generally must use "planning watersheds." (*see* 14 CCR § 895.1 (definition of "planning watershed").) One source of planning watershed information is CalWater, a spatial dataset of California watersheds developed by the Interagency Watershed Mapping Committee. (*see* [www.ca.nrcs.usda.gov/features/calwater](http://www.ca.nrcs.usda.gov/features/calwater).) CDF recognizes that, as a practical matter, the CalWater planning watershed in which the THP is located will often be the most appropriate cumulative impacts assessment area for impacts to watershed resources. Notwithstanding this fact, the RPF must in every case explain the rationale for the chosen cumulative watershed impacts assessment area. The rationale should address why the selected cumulative watershed assessment area is reasonable, based on the THP's potential incremental watershed-related effects and their potential to combine with the watershed-related effects of other closely related past, present and reasonably foreseeable probable future projects. (*see* 14 CCR § 898.)

The ultimate decision whether a CalWater planning watershed, a different planning watershed, or a subdivision of a planning watershed is the appropriate assessment area for cumulative watershed impacts will be made by CDF based on the available evidence. Where the plan submitter or RPF believes that the CalWater planning watershed may not be the appropriate assessment area for cumulative watershed impacts, for reasons of efficiency, the plan submitter or RPF is encouraged to discuss the matter with CDF in advance of submitting the THP.

## **Obligation to Identify All Reasonably Foreseeable probable Future Projects**

Issue:

As part of the required cumulative impacts assessment, CEQA and the Forest Practice Rules require disclosure of relevant past, present and reasonably foreseeable probable future projects. As part of this obligation, THPs must disclose relevant past, present and reasonably foreseeable probable future timber harvests on land that is "controlled" by the plan submitter. While THPs submitted to CDF generally include a comprehensive list of relevant past and present timber harvests, often there is no disclosure of relevant future timber harvests, or the disclosure is very general. It is important that THPs submitted to CDF disclose all relevant timber harvests that are reasonably foreseeable at the time the THP is submitted, even if the details of the future timber harvests are not fully known and even if the future timber harvests might never actually take place.

### **Supplemental Instructions:**

As part of the cumulative impacts analysis, THPs must "[i]dentify and briefly describe the location of past and reasonably foreseeable probable future projects as defined in 14 CCR § 895.1 within described resource assessment areas." (Technical Rule Addendum #2.) Under 14 CCR § 895.1, "reasonably foreseeable probable future projects" are "projects with activities that may add or lessen impact(s) of the proposed THP[.]"

Reasonably foreseeable probable future projects include, but are not limited to, any future "THP on land which is controlled by the THP submitter" if at the time the THP at issue is submitted, the future THP "is currently expected to commence within, but not limited to, 5 years. . . ." (14 CCR § 895.1 (definition of "reasonably foreseeable probable future projects"); *see also id.* (definition of "project").)

As set forth in Technical Rule Addendum #2, a RPF "shall conduct an assessment" of cumulative impacts "based on information that is reasonably available before the submission of the THP." Where the plan submitter "controls" land, reasonably available information concerning future timber harvests includes, but is not limited to, internal planning documents and Geographic Information Systems (GIS) data. As reflected in the language of the regulations, CDF expects that, in general, such reasonably available information will allow plan submitters that control land to predict their future timber harvesting for at least the next five years. (*see* 14 CCR § 895.1 (definition of "reasonably foreseeable probable future projects").) The five-year period noted in 14 CCR § 895.1 does not, however, limit a plan submitter's obligation to disclose reasonably foreseeable probable future timber harvests where planning has been done for a longer period. If at the time a THP is submitted, future timber harvesting is "expected to commence," and the future timber harvesting "may add to or lessen impact(s) of the proposed THP[.]" it must be disclosed in the THP, even if it is not expected to commence within five years.

*Supplemental Instructions Continued...*

Future timber harvesting may be "expected to commence" at the time a THP is submitted to CDF, even though a THP for the future timber harvesting has not yet been submitted to CDF, even though many of the details of the future timber harvesting are not yet known, and even though the future timber harvesting may never occur due to the failure of contingencies or unexpected events.

The plan submitter and RPF must disclose future timber harvests to the level of detail known at the time of THP submission. In disclosing information about future timber harvesting that currently is "expected to commence," the plan submitter and RPF should be guided by standards of practicality and reasonableness. (14 CCR § 898; *see also* Technical Rule Addendum #2.) The disclosure's level of detail should reflect the level of planning and fieldwork that has taken place for the future timber harvest. Future timber harvesting that will in the near future be submitted to CDF in the form of a THP must be specifically disclosed. Future harvesting that may take place further in the future and that has been subjected to less planning and analysis by the plan submitter may be disclosed in more general terms. Future timber harvesting that may take place beyond the plan submitter's planning horizon and is merely contemplated may be too speculative to disclose.

## ***This Just In...***

*The Fire Safe Council of Nevada County (FSCNC) is soliciting bids for completion of a Community Wildfire Protection Plan (CWPP). Sealed bids will be received until 3:00 PM on April 9, 2007. More information and copies of bid materials may be obtained by contacting the FSCNC at (530)-272-1122 or by email to [fscnc@sbcglobal.net](mailto:fscnc@sbcglobal.net). The following "Scope of Work" is excerpted from the bid materials.*

### **SCOPE OF WORK**

**Description of Work:** This contract requires creating a countywide Community Wildfire Protection Plan (CWPP) as defined in the Health Forests Restoration Act (HFRA) for Nevada County. To guide in the development of a CWPP, the Society of American Foresters, the National Association of State Foresters, Communities Committee, Western Governors' Association, and the National Association of Counties prepared a straight forward guide on how to create and implement CWPP's. This document is: "Preparing a Community Wildfire Protection Plan: A Handbook for Wildland-Urban Interface Communities" dated March 2004 can be downloaded on the internet at: <http://www.safnet.org/policyandpress/cwpphandbook.pdf>. The main emphasis of this project is identifying the wildfire hazardous areas, identify resources to protect and prioritize areas for treatment in the county, including the cities of Grass Valley, Nevada City and the Town of Truckee. Limited grant funds are available for postage, supplies and travel.

## **Mark Your CALENDAR**

- March 19-25, 2007**      **Forest Conservation Days, Saratoga, CA.** To volunteer, contact Heather Morrison, Nor-Cal SAF at 1-800-738-8733 or [ncsaf@mcn.org](mailto:ncsaf@mcn.org) or Thomas Catchpole at 559-855-2194 or [trecookies@psnw.com](mailto:trecookies@psnw.com)
- March 26-30, 2007**      **2<sup>nd</sup> Fire Behavior and Fuels Conference: The Fire Environment—Innovations, Management, and Policy**  
Sandestin Golf and Beach Resort, Destin, Florida  
<http://emmps.wsu.edu/fire.behavior/>
- March 26, 2007**      **State Board of Forestry and Fire Protection Workshop: Harmonization of Forest Practice Rules with Coho Salmon Incidental Take Authorization Pursuant to Fish and Game Code §2112**  
1<sup>st</sup> Floor Auditorium, Resources Building, Sacramento  
[http://www.bof.fire.ca.gov/pdfs/specialagenda3\\_13\\_07.doc](http://www.bof.fire.ca.gov/pdfs/specialagenda3_13_07.doc)
- April 3, 4, 5, 2007**      **State Board of Forestry and Fire Protection Meeting**  
Mission Inn, Riverside, California  
[http://www.bof.fire.ca.gov/board/board\\_main.asp](http://www.bof.fire.ca.gov/board/board_main.asp)
- April 10, 2007**      **Monitoring Study Group (MSG) Meeting**  
CDF Mendocino Unit--Howard Forest Training Center  
[http://www.fire.ca.gov/CDFBOFDB/board/msg\\_geninfo.html](http://www.fire.ca.gov/CDFBOFDB/board/msg_geninfo.html).
- April 13, 2007**      **RPF Examination (Riverside, Rocklin, Redding, Arcata)**
- April 24, 2007**      **COMTF Sudden Oak Death Wildland Training**  
Pt. Reyes National Seashore, Red Barn Classroom  
(1 Bear Valley Road, Pt. Reyes Station, CA 94956)  
[http://nature.berkeley.edu/comtf/html/comtf\\_training.html](http://nature.berkeley.edu/comtf/html/comtf_training.html)
- May 1, 2007**      **COMTF Sudden Oak Death Wildland Training**  
Presentation Center  
(19480 Bear Creek Road, Los Gatos, CA 95033)  
[http://nature.berkeley.edu/comtf/html/comtf\\_training.html](http://nature.berkeley.edu/comtf/html/comtf_training.html)