

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

P.O. Box 944246

SACRAMENTO, CA 94244-2460

Website: www.bof.fire.ca.gov/licensing/licensing_main.html**Professional Foresters Examining Committee****OPEN SESSION MEETING MINUTES****Held: June 21st, 2016**

Resources Building, 1416 9th Street
15th Floor Large Conference Room, No. 1506-12
Sacramento, California

Members Present:

Otto van Emmerik – Chairman
Kim Rodrigues – Vice Chairman
Jason Poburko
Tom Osipowich
Jerry Jensen

Staff Participating:

Matt Dias, Actng Executive Officer
Shuhani Patel, Assistant to the Executive Officer

Members of the public:

George “YG” Gentry
Taiga Takahashi (online)

1. Approval of Open Session Minutes of February 18, 2016.

Minutes were not yet available to members of PFEC, approval was tabled until next meeting.

2. Reports from the Chairman and Executive Officer.

Executive Officer (EO) Report: Matt Dias updated committee on the status of the Board's certified CRM specialty resulting from the outcome of the *Rancho Guejito Corp. v. Board of Forestry & Fire Protection* case. Mr. Dias is trying to re-engage with the CRM Panel, and will serve as Board representative at the CRM Specialty meeting in Half Moon Bay, CA on June 22nd, 2016, with a list of questions for the CRM panel regarding for the long term viability of the specialty certificate.

Acting EO Dias mentioned that the Draft CRM Program Guidelines are still pending 45-Day Notice, as authorized by the Full Board, but publishing of that notice is going to be delayed until questions

surrounding the program can be answered. Member Dr. Kim Rodrigues cited the need to retain the CRM specialty, as topics of grazing, oak woodland, and rangeland management are becoming the forefront of vegetative management practices within California.

Member Poburko asked why there is no other recognized specialty by the Board, Mr. Dias replied that organizations or members of the regulated public must petition the Board to have a field become a recognized specialty. To date, no other organizations have attempted to become a certified specialty.

3. RPF/LTO Responsibilities

Acting EO Matt Dias updated the committee on RPF-LTO responsibilities. There has been a letter sent to the Department and Director Pimlott by the Board requesting better communication between the Department and operating RPF/LTO, higher level of reporting standards and more educational offerings by the Department specially tailored to RPF/LTO issues of concern. The Association of California Loggers (ACL) still seeks a rulemaking effort requiring delineating responsibilities of LTOs and RPFs. CAL FIRE does not support a rulemaking effort. The Department is offering more educational opportunities to the RPFs/LTOs. Member Rodrigues does not believe that regulatory action is needed. Member Gentry voiced his opinion on behalf of the California Licensed Forester's Association (CLFA) stating that responsibility for violations rests on the actual licensee, whether it be RPF or LTO, physically committing the violation, and disagrees with CAL FIRE, saying that the violation appeal process is limited and very convoluted to navigate. Member Rodrigues pointed out that research into the matter has shown to PFEC that a major apparent problem does not exist, but that a non-regulatory approach is key. George "YG" Gentry commented that everybody wants to ultimately avoid violations, Member Jensen commented that this is somewhat of a focused problem and not a statewide issue. YG Gentry stated that there is a level of tolerance for the majority of CAL FIRE inspectors, and a widespread policy of flexibility needs to be instituted by the CAL FIRE Forest Practice program regarding violations.

4. Review and Discussion of existing regulations as they pertain to PFEC (14 CCR § 1122)

Acting EO Dias stated that although the Board mainly promulgates regulation addressing the Forest Practice Rules (FPRs), they as a rulemaking body also have statutory authority to address other issues, such as land use, emergencies, etc. In 2011, AB 1414, a good governance bill repealed several items within the Forest Practice Act that were relic and no longer utilized. Upon researched some of these required regulatory revisions that may still be required, it was discovered that existing regulations that address PFEC committee structure (14 CCR § 1122) may not be up to contemporary standards. The PFEC has the option to recommend to the Board to revise, retain or remove rule text regarding the PFEC committee structure. EO Dias introduced a copy of the existing regulation for review. Committee members offered comments on the regulation that outline committee membership. YG Gentry stated that the existing regulations states that the committee membership "shall be at least 7" because at that time the legislature wanted to recognize a member on PFEC on potentially multiple certified specialties. He further added that an amendment of the regulation would be a simple change and very manageable, versus modifying the statute which would result in many implications resulting in a long and tedious process. Amending the regulation to be congruent with the statute (PRC § 763) would be the quickest and most expedient route, which Acting EO Dias agreed. The PFEC asked Acting EO Dias to produce

recommended pleading language for the committee to review at the August meeting which would focused on attaining congruity between PRC and 14 CCR § 1122.

5. Discussion of Substitution of Education for Experience (14 CCR § 1621.4)

PFEC discussion of substitution of education for experience. This discussion has been brought about by an applicant wishing to sit for the upcoming RPF examination. The applicant has earned a BS in Horticulture, a MS in Horticulture, and a Doctor of Philosophy in Forestry, concentrating in Urban Forestry. Acting EO Dias formulated an example to help the committee understand the situation: If an applicant were to apply for RPF licensure with a Degree in Natural Resources Interpretation, they would not get 4 years of credit applied to the 7 years of education and experience currently required, due to the regulations explicitly stating that 4 years of credit only will be given for a Bachelor's of Science degree in Forestry holding accreditation from the Society of American Foresters (SAF). Member Rodrigues raised the point that is it fair for the applicant to only get 1 year of credit for a Ph.D. in Forestry? YG Gentry stated that only 1 year should be given for a Ph.D., and only a total of 2 years of student in question; though everybody should get 2 years' experience with an A.S. or B.S. in a non-related field. So the education credit in question is between 1 year vs. 2 years vs. 4 years. YG defers his opinion to 14 CCR § 1624.1(a). Member Rodrigues has no problem giving applicant in question a full 4 years of credit. Disagreement from Members Poburko and Ospioiwich, stating that the applicant has shown only "forestry related" coursework in horticulture and urban forestry, without a majority of the required classes that are dealing with forest inventory, economics, measurements, etc. Chairman Otto van Emmerik asked the committee how do we move forward? Committee came to agreement that they like dealing with determining education/experience to sit for the RPF exam on a case-by-case basis. Acting EO Dias believes that case at hand deals with solely how educationally qualified they actually are, between 2-3 years or 3-4 years being given for their education. The RPF exam is the great equalizer of the applicants, and Mr. Dias reminded the committee to focus on 14 CCR § 1621.4(c)(1) to base their opinion on the education qualification of the applicant in question. The work experience of the applicant was assessed, with experience with the USFS definitely counting, but experience stated working for a private urban forestry company does not. Member Rodrigues believes the degrees earned by the applicant in horticulture counts for experience credit given for "forestry related" fields of study. Members Poburko and Ospioiwich strongly disagreed. Member Gentry considered what the applicants Bachelor's degree was in, but it is not known at this time. In the August 2016 meeting, the undergraduate coursework of the applicant in question will be looked at to determine how much credit will be given for coursework and experience completed thus far. Also, the committee members agreed that the coursework must be rigorous enough to be substituted for actual work experience, and so should not be taken lightly.

6. Discussion of PFEC Membership

Larry Forero has been appointed to be the CRM specialty representative to the PFEC. Member Rodrigues has migrated from Board seat to a public seat, since leaving the Board of Forestry and Fire Protection. Mr. Dias brought up that Board/CAL FIRE attorneys have declared that when a Board member is part of PFEC disciplinary matters, they must recuse themselves from voting during the full Board roll call. The scheduling of future PFEC meetings was discussed, with Member Jensen asking

for meetings to return to their normal Thursday schedule. Acting EO Dias cited that they will be keeping an online polling method for the August PFEC meeting, to help accommodate all of the PFEC member's schedule. Acting EO Dias reminded the committee that member attendance is essential, as they will not be able to approve anything without a quorum of 5, including test results, future exams, etc. This is especially important as certification of applications for the October 2016 test date will be held at the August 2016 meeting.

7. Discussion of the Current Condition of the Professional Foresters Fund

Acting Executive Officer Matt Dias briefed the committee members on the current balance of the Professional Forester's Fund for month 9 and 10 of fiscal year 2015-2016.

8. Public Forum

Public Forum:

Taiga Takahashi, Associate Attorney for Latham & Watkins, LLP, disagreed with the committee and Acting Executive Officer's view of the past court case of *Rancho Guejito Corp. v. Board of Forestry & Fire Protection*, saying that the litigation came about due to the extortion of Rancho Guejito Corp. by a licensed CRM. Mr. Takahashi stated that the dispute became so contentious that a three-year work place violence restraint was sought for the CRM in question. Rancho Guejito Corp. further pursued adjunctive relief for the licensed CRM, which resulted in litigation against the Board for failure to take action. Mr. Takahashi also added that the issue of 'underground' regulations promulgated and used by the PFEC could've resulted in additional litigation according to a San Diego County Judge. He also added that the Board and CRM committee needs to hold licensed professionals to high moral and business practice standards, and actually enforce disciplinary actions upon unruly licensees.

Chris Maranto, RPF, provided written correspondence to be admitted into the the PFEC Committee meeting. Members unanimously agreed to agendaize this item for the August 2016 PFEC Meeting in Sacramento.

9. Adjourn to Closed Session

The committee move to closed session.

10. Reconvene Open Session

Chair van Emmerik reconvened open session. Acting EO Dias reported out that items on the agenda were discussed in Closed Session and that PFEC action was taken on certification of the grading of the April 2016 RPF exams for Board consideration.

11. Meeting Adjourned

Chairman Otto van Emmerik adjourned the open session at 10:25 a.m.

