

1 **Forest Legacy Program Procedures, 2010**

2 **[45 Day Notice Published xx, xx 2010]**

3 **Title 14 California Code of Regulations**

4

5 **Adopt Chapter 9.9 Articles 1-9**

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1 Chapter 9.9 Forest Legacy Program

2 Article 1. Introduction

3 §1570. Purpose of Guidelines.

4 The purpose of this section is to define rules and regulation
5 necessary for implementation of the California's Forest Legacy
6 Program, herein after called the "Program." The Program is a
7 combination of the requirements of the California Forest Legacy
8 Program Act of 2007 and the Federal Forest Legacy Program (US Code
9 Title 16, Section 2103c) that provides funding and general guidelines
10 for projects purchased with federal funds.

11 The purpose of these Forest Legacy Program (FLP) Guidelines is:

12 (a) to implement the California Forest Legacy Program Act of 2007
13 Public Resources Code Sections 12210 through 12292;

14 (b) to provide guidance to landowners, local governments and
15 nonprofit organizations participating in the program regarding:
16 eligibility criteria, review of applications, requirements of
17 conservation easements and responsibilities assumed by a participants
18 receiving such grants;

19 (c) to provide guidance to the State Forest Stewardship Coordinating
20 Committee (SFSCC) and the Director in reviewing, evaluating and
21 ranking those proposed project applications (parcels) to be
22 recommended for inclusion in the program and the requirements
23 necessary for acquiring lands and interests in lands;

24 d. to inform interested members of the public of the procedures used
25 by the California Department of Forestry and Fire Protection (CAL
FIRE) in administering the program.

1 Due to the wide variety of forest types and the diverse needs of
2 communities throughout the state, these guidelines provide flexible
3 standards, which can apply to many situations. The standards are
4 designed to give the SFSCC and the Director flexibility to rank those
5 projects that meet the intentions of the Act, can be successfully
6 completed within a reasonable timeframe and funded with available
7 allocations.

8
9 Note: Authority cited: Section 12211, Public Resources Code.

10 Reference: Section 12249, Public Resources Code.

11
12 **Article 2. Definitions and Abbreviations**

13 **§1571. Definitions.**

14 Unless the context otherwise requires, the definitions in this
15 article govern the construction of this division.

16
17 "Act" means the California Forest Legacy Program Act of 2000.

18 "California's Assessment of Need" or "AON" means the California's
19 Assessment of Need of 1995 and the Amendment to the AON in 2000
20 and any subsequent amendments.

21
22 "Applicant" means a landowner who is proposing a Project for
23 inclusion in the program and is eligible for cost-sharing grants
24 pursuant to the federal Forest Legacy Program (16 U.S.C. Sec.
25 2103 et seq.) or who is eligible to participate in the California

1 Forest Legacy Program and the operation of the program, with
2 regard to that applicant, does not rely on federal funding.

3
4 "Baseline documentation" means a depiction or description of the
5 land on the day it becomes restricted by an easement.

6
7 "Biodiversity" means a component and measure of ecosystem health
8 and function. It is the number and genetic richness of different
9 individuals found within the population of a species, of
10 populations found within a species range, of different species
11 found within a natural community or ecosystem, and of different
12 communities and ecosystems found within a region.

13
14 "Board" means the State Board of Forestry and Fire Protection.

15
16 "Conservation easement" means as found in Chapter 4 (commencing
17 with Section 815) of Title 2 of Part 2 of Division 2 of the Civil
18 Code.

19
20 "Conversions" means a generic term for land use situations in
21 which forest lands become used for nonforest uses, particularly
22 those uses that alter the landscape in a relatively permanent
23 fashion.

24 "Department" or "CAL FIRE" means the Department of Forestry and
25 Fire Protection.

1 "Director" means the Director of Forestry and Fire Protection.

2
3 "Eligible Activities" means 1) purchases of land or interests in
4 land from willing sellers; 2) facilitation of donations of lands
5 or interests in lands to a qualified and willing grantee; and 3)
6 establishment and documentation of baseline conditions and
7 development of a Forest Stewardship Plan.

8
9 "Federal Appraisal Standards" means the appraisal standards
10 contained in the publication entitled "Uniform Appraisal
11 Standards for Federal Land Acquisitions: Interagency Land
12 Acquisition Conference, 1992".

13
14 "Federal Forest Legacy Program Implementation Guidelines" or
15 "FLP" means those guidelines that direct the program when federal
16 funds are utilized for eligible activities under the FLP.

17
18 "Forest Legacy Area" or "FLA" means areas designated in the AON
19 to be included in the Program.

20
21 "Forest land" is land that can support 10-percent native tree
22 cover of any species, including hardwoods, under natural
23 conditions, and that allows for management of one or more forest
24 resources, including timber, aesthetics, fish and wildlife,
25 biodiversity, water quality, recreation, and other public
benefits.

1 "Forest Management" means those forest activities, including
2 timber harvesting, consistent with the purposes of this section.

3
4 "Forest Stewardship Plan" means a multi-resource management plan
5 prepared for the purpose of achieving long-term stewardship of
6 forestland. Necessary components are landowner objectives and
7 actions that will protect and manage soil, water, range,
8 aesthetic quality, recreation, timber and fish and wildlife
9 resources.

10
11 "Fully Funded Project" means an application that has been
12 allocated, through a single or multiple grants, the full "asking"
13 price for the interest in the property.

14
15 "Heritage Tree" means a living tree in excess of 28 inches ddb
16 and alive before 1850.

17
18 "Lands or Interests in Lands" means either an outright fee simple
19 purchase or an interest in land such as a conservation easement.

20
21 "Landowner" means an individual, partnership, private, public, or
22 municipal corporation, Indian tribe, state agency, county, or
23 local government entity, educational institution, or association
24 of individuals of whatever nature that own private forest lands
25 or woodlands.

1 "Local government" means a city, county, district, or city and
2 county.

3
4 "Maximum Sustained Production of High Quality Timber Products" or
5 "MSP" means achieving the requirements of 14 CCR sections 913.11,
6 933.11 and 953.11 either (a) or (b) or (c) in a Timber Harvest
7 Plan, Sustained Yield Plan or Nonindustrial Timber Management
8 Plan, or as otherwise provided in, Article 6.8, Subchapter 7.

9
10 "Monitoring" means a visual inspection of the property, occurring
11 no less than once a year, documented by a written report to
12 explain the condition of the property at time of inspection.

13
14 "Nonfederal Match" means one of three main categories of
15 activities that meet this requirement: 1) the value of land, or
16 interests in land, dedicated to the FLP that is not paid for, or
17 donated to, the federal government; 2) non-federal costs
18 associated with program implementation; and 3) other non-federal
19 costs associated with a grant or other agreement which meets FLP
20 purposes.

21
22 "Nonforest Uses" means 1) those uses of the land inconsistent
23 with maintaining forest cover including, but not limited to,
24 activities that result in extensive surface disturbance such as
25 residential subdivisions, commercial development, and mining and
2) nonforest uses of the land that may be compatible with forest

1 uses as part of an undeveloped landscape, including cultivated
2 farmland, pasture, rangeland, open water and wetlands. The first
3 category is generally excluded from the FLP while the second
4 category should be less than 25% of the total easement area.

5
6 **"Nonprofit organization"** means any qualified land trust
7 organization, as defined in Section 170(h)(3) of Title 26 of the
8 United States Code, that is organized for one of the purposes of
9 Section 170(b)(1)(A)(vi) or 170(h)(3) of Title 26 of the United
10 States Code, and that has, among its purposes, the conservation
11 of forest lands.

12
13 **"Non-trust Allotment Lands"** means those privately owned fee
14 simple land owned by tribal members. If they are forested they
15 are eligible for FLP when located within a Forest Legacy Area
16 (FLA).

17
18 **"Project"** means a proposal(application)to the State for the
19 acquisition of lands or interests in lands that has been fully or
20 partially funded.

21
22 **"Program"** means the California Forest Legacy Program established
23 under this division.

1 "State Forest Stewardship Coordinating Committee" or "SFSCC" is a
2 committee, established as a requirement of the program, to make
3 recommendations to the U.S. Secretary of Agriculture concerning
4 those forest lands that should be given priority for inclusion in
5 the Forest Legacy Program. (Cooperative Forestry Assistance Act:
6 Title 16, USC 2113). Members consist of State Foresters, or
7 equivalent State officials; and representatives of the Forest
8 Service; Natural Resource Conservation Service; Farm Services
9 Agency; Cooperative State, Research, Education and Extension
10 Service; local government; consulting foresters, environmental
11 organizations; forest products industry; forest landowners;
12 tribal representatives; land trusts; conservation organizations;
13 the State Fish and Game and others determined appropriate by the
14 Secretary.

15
16 "Traditional Forest Uses" multiple use activities which provide
17 various public benefits including forest products, forage, clean
18 water, fish and wildlife habitat, rare and native plants, public
19 recreation access, cultural resources, and/or scenic enjoyment.

20
21 "WCB" means the Wildlife Conservation Board.

22
23 "Woodlands" are forest lands composed mostly of hardwood species
24 such as oak.

1 Note: Authority cited: Section 12249, Public Resources Code.
2 Reference: Section 700, 730, 730 (b), 4799, 12220-12292 Public
3 Resources Code; Section 1320 Fish and Game Code; Title 16 U.S.C.
4 Sec. 2103 et seq; Title 14, California Code of Regulations,
5 Chapter 4, sections 913.11, 933.11 and 953.11; Federal Forest
6 Legacy Program Implementation Guidelines; 1995 Assessment of
7 Need.

8
9
10 **Article 3. Eligibility.**

11 **§1572. Eligibility Criteria.**

12 (a) Every application shall provide sufficient information to enable
13 the Director to verify the parcel's eligibility for the program and to
14 understand the conservation objectives and the parcel's environmental
15 value or potential to protect forest and aquatic resources.

16 (b) Proposed Projects shall meet the eligibility criteria set forth
17 in this section prior to review pursuant to the ranking criteria set
18 forth in 14 CCR Section 1573.3. To be eligible for participation,
19 private forest land parcels proposed for inclusion under the program
20 shall comply with all of the following:

21 (1) Be threatened by potential conversion.

22 (2) Be owned by landowners who are willing and interested in selling
23 or donating lands or interests in lands.

24 (3) Be forested with at least 10-percent canopy cover by conifer or
25 hardwood species, or be capable of being so forested under natural
conditions.

1 (4) Possession of one or more environmental values of great concern
2 to the public and the state:

3 (A) Important fish and wildlife habitat.

4 (B) Areas that can help maintain habitat connectivity across
5 landscapes.

6 (C) Rare plants.

7 (D) Biodiversity.

8 (E) Riparian habitats.

9 (F) Oak woodlands.

10 (G) Ecological old growth forests.

11 (H) Other key forest types and seral stages that are poorly
12 represented across California.

13 (I) Lands that directly affect water quality and other
14 watershed values.

15 (5) Provision for continuity of one or more traditional forest uses,
16 such as timber harvesting and rangeland livestock production which is
17 utilized for economic purposes, or habitat maintenance and restoration
18 that addresses fire hazard, mortality from pests and disease, carbon
19 storage, restocking of underutilized forests, and reduction of non-
20 native invasive species.

21 (6) Possession of environmental values that can be protected and
22 managed effectively through conservation easements at reasonable
23 costs.

24 (7) Be at least partially within or adjacent to a Forest Legacy
25 Area.

1 (8) Be available for future timber harvesting, grazing or
2 recreation (e.g. hunting, fishing, hiking and other similar uses) and
3 not prohibited from these activities by any statute, previous
4 conservation easement, or other regulatory requirements.

5
6 Note: Authority cited: Section 12249, Public Resources Code.

7 Reference: Section 12250 and 12251, Public Resources Code.

8
9 **§1572.1 Eligible Costs.**

10 The following costs are eligible for reimbursement:

11 (a) the purchase price of the lands or interests in lands;

12 (b) the development of the conservation easement;

13 (c) development of the Forest Stewardship Plan;

14 (d) the title report;

15 (e) the survey work necessary for certificate of possession and
16 documentation of the presence or absence of hazardous material;

17 (f) baseline documentation; and

18 (g) the appraisal costs to the standard dictated by funds used.

19 If federal funds are used for the project the appraisal must meet
20 Federal Appraisal Standards. Federal funds can not be used for
21 appraisals of outright donations of easements. All Federal Forest
22 Legacy funds, regardless of the category to which they are allocated,
23 are subject to a 25% nonfederal match.

24
25 Note: Authority cited: Section 12249, Public Resources Code.

1 Reference: Section 12242 and 12250, Public Resources Code and Title 16
2 U.S.C. Sec. 2103 et seq.

3
4 **§1572.2. Ineligible Costs.**

5 The cost of the following activities shall not be financed by funds
6 from the Act:

- 7 (a) appraisals of outright donations of conservation easements; and
8 (b) monitoring costs.

9
10 Note: Authority cited: Section 12249, Public Resources Code.

11 Reference: Section 12260 (f) and 12276 Public Resources Code and Title
12 16 U.S.C. Sec. 2103 et seq.

13
14
15 **Article 4. Application Procedures**

16 **§1573. Applications and Content.**

17 Every Application shall provide sufficient information to enable the
18 Director to verify the parcel's eligibility for the program and to
19 understand the conservation objectives and the parcel's environmental
20 value or potential to protect forest and aquatic resources. Landowners
21 proposing parcels to be considered for inclusion to the Program shall
22 be required to submit an application, provided by the Director, **on**
23 **form** that includes, but is not necessarily limited to, the following
24 information:

- 25 (a) name and address of landowner;
(b) location, zoning, acreage, and uses of the property;

1 (c) how title is to be conveyed;

2 (d) landowner goals and objectives;

3 (e) an evaluation of the values of the parcel as they pertain to
4 riparian and hydrological areas, vegetation type, recreational
5 opportunities, scenic and cultural resources, forest productivity,
6 fish and wildlife habitat, threatened and endangered species,
7 ecological community and connectivity, conversion threats,
8 acquirability and manageability;

9 (f) financial information regarding estimated value of the property,
10 estimated value of the interest to be conveyed to the Program,
11 additional funding sources, liens and encumbrances;

12 (g) preliminary information on what rights are to be retained or
13 conveyed within the conservation easement; and

14 (h) the signature of the landowner or legal agent allowing
15 Department personnel, or their agents access to their property, at a
16 mutually agreeable time, for purposes of verifying eligibility and/or
17 determining ranking.

18
19 Note: Authority cited: Section 12249, Public Resources Code.

20 Reference: Section 12250, Public Resources Code.

21
22 **§1573.1. Applications Review.**

23 The Director shall determine whether the application proposed for
24 inclusion in the Program meets the eligibility criteria of 14 CCR §
25 1572. The Director shall determine eligibility of an application

1 within 180 days of the date of receipt, and shall notify the applicant
2 in writing of approval or disapproval of the application within 10
3 days of the decision of the Director. The written notice regarding a
4 disapproval decision shall state the reason for the disapproval of the
5 application and what changes, if any, can be made to warrant a re-
6 submittal.

7 Applications shall require a field review by representatives of CAL
8 FIRE and also may require a field review by representatives of the
9 Department, USDA Forest Service and/or members of the SFSCC and/or
10 representatives of the WCB and/or personnel from other agencies as may
11 be necessary to assess the eligibility and the environmental value of
12 the proposed parcel.

13
14 Note: Authority cited: 12249 and 12249.6, Public Resources Code.

15 Reference: Section 12250 and 12262, Public Resources Code.

16
17 **§1573.2. Disapproval of Application.**

18 The Director may disapprove an application in any of the following
19 circumstances:

20 (a) The application does not satisfy the eligibility criteria or
21 selection criteria.

22 (b) Clear title to the specified interest (i.e. conservation
23 easement or fee simple title) in the land cannot be conveyed.

24 (c) At the time funding was requested, other projects ranked higher.
25

1 (d) There is insufficient money allocated through the federal or
2 state process to carry out the acquisition.

3 (e) The applicant requires a government entity other than the
4 Department of Forestry and Fire Protection to hold title to the
5 easement, when the primary purpose of said easement would be
6 conservation of working forest lands (not applicable to lands
7 primarily conserved for wildlife or recreational purposes).

8 (f) Other relevant considerations established by the Director
9 including, but not limited to, the parcel cannot be effectively
10 managed or monitored.

11
12 Note: Authority cited: 12249, Public Resources Code. Reference:
13 Section 12264, Public Resources Code.

14
15 **§1573.3. Priority Ranking of Accepted Applications.**

16 The applications shall be ranked based upon the extent to which it
17 satisfies the following selection criteria:

18 (a) The nature of the environmental values proposed for protection,
19 and whether they can be managed and monitored efficiently and
20 effectively.

21 (b) Whether the parcels are likely to become isolated from other
22 areas maintained for key forest resources by development on adjacent
23 parcels.

24 (c) The parcels proximity to other protected lands.
25

1 (d) Whether the landowner's management goal for his or her parcel is
2 compatible with the resource protections he or she is proposing.

3 (e) Whether a nonprofit land trust organization, public agency, or
4 other suitable organization has expressed an interest in working with
5 the Department and the landowner to establish and/or monitor the
6 easement.

7 (f) Whether other sources of funding for easement acquisition,
8 closing costs, monitoring, and other costs, are available.

9 (g) Whether heritage trees, if present, are voluntarily protected.

10 (h) Preferential ranking shall be given to those applications with
11 one or more of the following selection criteria:

12 (1) Applications that have timber harvesting which is utilized for
13 economic purposes, delivered to mills or cogeneration biomass plants,
14 and generates revenue and employment.

15 (2) Applications with rangeland forage cover that is utilized for
16 commercial grazing operations.

17 (3) Applications that produce forest product yields on a
18 continuous/periodic basis, and have long-term harvesting plans.

19 (4) Applications that harvest and utilize forest products such
20 that actions reduce fire hazard, mortality from pests and disease,
21 increases total carbon storage, and provides biomass for purposes
22 offsetting fossil fuel use.

23 (5) Applications that have fewer limitations or exclusions to
24 commercial timber harvesting or rangeland forage grazing.
25

1 (6) Applications that include restocking of underutilized forests
2 and improve growth rates on the forest land.

3 (7) Applications with land zoned as Timber Production Zones.

4 (8) Applications which include improvement of livestock forage
5 conditions and reduction of non-native invasive species that adversely
6 affect forage conditions and other natural species habitats.

7 (9) Applications with high site productivity for production of
8 timber or livestock grazing forage.

9 (i) Other relevant considerations established by the Director.

10 (j) Where federal funding for an application is sought, ranking
11 shall be in accordance with the federal "Project Scoring Guidance"
12 criteria. These criteria may vary depending on fiscal year.

13 The Director may exercise discretion in establishing project
14 priorities for the awarding of funds and deviate from the procedure
15 outlined above. Such deviation may be made to accommodate variations
16 in regional pressures of conversion, variations in property values,
17 limitations in available funding, and other factors that prevent the
18 ranking procedures from achieving the purposes of the Act.

19
20
21 Note: Authority cited: Section 12249, Public Resources Code.

22 Reference: Section 12260, Public Resources Code.

1 **§1573.4. Availability of Federal Funds.**

2 Once a year, at the following written direction from the USDA Forest
3 Service (USFS), the Director will rank all accepted applications. The
4 list of ranked applications will be submitted to the USFS for
5 consideration for funding.

6
7 Note: Authority cited: Section 12249, Public Resources Code.

8 Reference: Section 12260, Public Resources Code.

9
10
11 **§1573.5. Availability of State Funds.**

12 Applicants may be funded with California Forest Legacy Program funds
13 or other State funding sources if sufficient funds are allocated for
14 that purpose.

15 The Director shall seek a resolution from the Board when necessary
16 to enter into agreements with other government agencies or boards to
17 fund FLP projects.

18
19 Note: Authority cited: Section 12249, Public Resources Code.

20 Reference: Section 12241, Public Resources Code.

21
22
23 **§1573.6. Non-funded Applications.**

24 Applicants that were listed but did not receive funding for their
25 project will be notified. Applications will automatically be

1 considered for the next cycle of funding unless the applicant wishes
2 to withdraw the application. Applications may be amended at this time
3 subject to 14 CCR § 1573.1.

4 Held-over applications and amended eligible applications will be
5 ranked each year with new applications according to §1573.3.

6
7 Note: Authority cited: Section 12249, Public Resources Code.

8 Reference: Section 12241, Public Resources Code.

9
10
11 **Article 5. Conservation Easements**

12 **§1574 Conservation Easement Criteria**

13 (a) Recreation projects that perpetually prohibit timber harvest
14 and or grazing are limited to not more than 15% of the timberland and
15 not more than 15% of the grazing land respectively.

16 (b) Perpetual protections that prohibit timber harvesting are
17 limited to not more than 15% of the property.

18 (c) Perpetual forest management prescriptions on all of the
19 timberland on the property except that timberland preserved pursuant
20 to (a) or (b) above, will provide for the long term optimization of
21 Maximum Sustained Production of High Quality Timber Products.

22 (d) Perpetual forest management prescriptions that provide for
23 the long term optimization of Maximum Sustained Production of High
24 Quality Timber Products, shall also contribute to the long term
25 protection and rehabilitation of watershed function, hydrologic

1 stability and wildlife habitat.

2 (e) Perpetual protections shall include the prohibition of the
3 building of structures and roads, in any capacity other than for the
4 potential purposes of:

5 (1) Owner and on-property management & labor housing.

6 (2) Open-space based commercial recreation.

7 (3) Production, processing or value added manufacturing of
8 forest or rangeland derived products produced on the property.

9 (4) The generation or capture of energy from wind, solar,
10 or hydroelectric.

11 (5) Placement of cell phone towers.

12 (6) The Director may place restrictions, such as to size
13 and location, for any or all of the (1) through (5) above and may
14 require the grantor to seek grantee's prior written approval. When
15 such written approval is required, grantee shall consider the
16 cumulative impact of all structures and improvements, and shall not
17 approve such structures or improvements that cumulatively violate the
18 conservation purpose, or materially impair the conservation values.

19 (f) Perpetual protections shall include the prohibition of the
20 severance of property rights on the property in any capacity other
21 than for the potential purposes of:

22 (1) Property line (lot line) adjustments with contiguous
23 owners of conservation easement property meeting these criteria
24 herein, and with the express approval of the Conservation Easement
25 trustees of both properties.

1 (2) Egress and regress right-of-way, may be granted to in-
2 holders or landlocked landowners, where the granting of such rights
3 will constitute a contribution to the conservation values of the
4 region.

5 (g) The Director may require the Department of Forestry and Fire
6 Protection to hold title (be named grantee) to those conservation
7 easements that are primarily for the purposes of conserving working
8 forest lands.

9
10
11 Note: Authority cited: Section 12249, Public Resources Code.

12 Reference: Section 12260, Public Resources Code.

13
14
15 **Article 6. Project Administration**

16 **§1575. Funded Applications (Projects).**

17 For those Projects, which have been fully or partially funded the
18 Director shall notify the applicant that he/she has been awarded
19 funding for the project.

20
21 Note: Authority cited: Section 12249, Public Resources Code.

22 Reference: Section 12262, Public Resources Code.

1 **§1575.1. Responsibilities of the Department.**

2 The Director shall send to applicant a Preliminary Purchase
3 Agreement outlining what, in general, is to be purchased, the tasks to
4 be completed and that the specific terms will not be known until the
5 appraisal is complete (if this is not a donated easement).

6 The purpose of the Preliminary Purchase Agreement is to define the
7 nature of the work to be done and who will do it. The Department shall
8 work with the landowner and/or their representative to obtain items
9 necessary to complete the project; these may include, but are not
10 limited to, the preliminary title report, survey for certificate of
11 possession, hazardous materials assessment, and, where applicable,
12 development of the conservation easement and appraisal.

13 Except in the case of a full and complete donation of land or
14 interest in land the following shall apply with regard to land or
15 interest in land subject to inclusion into the Program:

16 (a) the landowner must be informed of the fair market value of that
17 sale of the property and that the sale is strictly voluntary;

18 (b) the landowner must be informed that Federal and/or State
19 appraisal standards must be met;

20 (c) the landowner must be notified in writing that the property will
21 not be purchased if negotiations do not result in amicable agreement;
22 and

23 (d) the landowner must be informed that payment for lands or
24 interests in lands shall be no more than fair market value as
25 determined by the appraisal.

1
2 Note: Authority cited: Section 12249, Public Resources Code.

3 Reference: Section 12262, Public Resources Code.

4
5
6 **§1575.2. Landowner Responsibilities.**

7 Applicants, whose projects are fully funded (i.e. funds allocated to
8 the project sufficient to satisfy the landowners "asking" price, but
9 not in excess of the appraised value), must culminate their project
10 within two years of the state receiving grant funds for their project
11 and will be required to:

12 (a) Work with the state to obtain those items necessary to complete
13 the project; these may include, but are not limited to, the
14 preliminary title report, survey for certificate of possession,
15 hazardous materials assessment, and, where applicable, development of
16 the conservation easement and appraisal.

17 (b) Except in cases of a full and complete donation of land or
18 interest in land, select and retain an independent real estate
19 appraiser to determine the value of the lands or interests in lands
20 which shall be calculated by determining the difference between the
21 fair market value and the restricted value of the property. This
22 appraisal must be to State and/or Federal Appraisal Standards and will
23 be subject to review by a qualified review appraiser. CAL FIRE
24 approval of the appraiser and the agreement on the estate to be
25 appraised is required prior to commencement of appraisal.

1 (c) Convey interest in lands to achieve the land conservation
2 objectives of the Program.

3 (d) Convey those interests in perpetuity.

4 (e) Prepare and periodically update a management plan, equivalent
5 to, or better than, a Forest Stewardship Plan.

6 (f) Management and use shall be consistent with the purposes for
7 which the land was entered into the Program with no conversion to
8 other uses unless such uses are specifically allowed within the terms
9 of the conservation easement, furthermore hunting, fishing, hiking and
10 similar recreational uses shall be considered to be consistent with
11 the purposes of the program.

12 (g) Endow or secure funding for monitoring costs.

13
14 Note: Authority cited: Section 12249, Public Resources Code.

15 Reference: Section 12262, Public Resources Code.

16
17
18 **§1575.3. Disbursements of Funds.**

19 The Director shall not disburse any funds until the applicant agrees
20 to the following:

21 (a) That any conservation easement acquired shall be used by the
22 applicant only for the purposes for which the funds were requested.

23 (b) That the conservation easements contain the following minimum
24 standards:

1 (1) Restrictions to timber management shall be limited to
2 those that will continue to provide MSP.

3 (2) That the property-wide purpose of the easement is to
4 maintain the property's capacity for producing natural resources and
5 supporting a range of associated economic activities including
6 traditional uses such as agriculture, forestry, and recreation.

7 (c) The applicant agrees to restrict the use of the land in
8 perpetuity.

9 (d) That the Director shall find that any disposition of the
10 easement is consistent with, and in furtherance of, the purposes of
11 this division, that the recipient of the easement is qualified to
12 monitor and enforce the easement, and that the conservation provisions
13 of the easement remain in effect following the transfer.

14
15 Note: Authority cited: Section 12249, Public Resources Code.

16 Reference: Section 12245 and 12248, Public Resources Code

17
18
19 **Article 7. Easement Monitoring and Management**

20 **§1576. Responsibilities for Monitoring.**

21 The Department, or other government entity, or nonprofit land trust
22 organization acquiring an easement pursuant to this division shall
23 monitor, in perpetuity, that easement in order to assess the condition
24 of the resources being protected and to ensure that the terms of the
25 easement are being followed. Entities acquiring easements may also

1 delegate monitoring responsibilities to another qualified entity to
2 monitor the easement.

3 The Department shall ensure that any entity acquiring a conservation
4 easement acquired pursuant to this division has adequate funding for,
5 or otherwise adequately provides for, easement monitoring pursuant to
6 this division, and is able to enforce the easement if its provisions
7 are not satisfied.

8 Monitoring shall occur no less than once a year and include as a
9 minimum: evaluation of overall condition of the property compared to
10 the condition documented in the Baseline Conditions Report, a
11 comparison of observed conditions to both the baseline photos and the
12 aerial photos, observations of any violations to the conservation
13 easement, review of pertinent documentation, e.g. timber harvesting
14 documents, inspection reports, mill receipts, etc.

15 A written report with a qualitative assessment of compliance with
16 the terms of the conservation easement shall be sent by the monitoring
17 entity to the easement holder within 30 days of visual inspection; any
18 significant differences or improvements in baseline should be noted.
19 The easement holder should immediately address any violation of the
20 conservation easement with the landowner. The landowner should have an
21 opportunity to correct the breach. After a reasonable time period, if
22 the breach is not corrected, enforcement action may be taken,
23 including by not limited to legal means. The entity holding the
24 conservation easement has responsibility to enforce the conservation
25 easement.

1 Note: Note: Authority cited: Section 12249, Public Resources Code;
2 Title 16 U.S.C. Sec. 2103 et seq. Reference: US FLP Guidelines;
3 Sections 12242, 12275, and 12276, Public Resources Code.

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5 end

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