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BOARD OF FORESTRY AND FIRE PROTECTION

Dr. J. Keith Gillless, Chairman and Members
California Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

RE: "RPF and LTO Responsibilities Amendments 2017"—SUPPORT

Dear Chairman Gillless and Board Members:

I am a former California Licensed Timber Operator, who dissolved my corporation in 2012 due to the increasing regulatory environment in California.

Before you, for your consideration and vote, after over three years of discussion and negotiation, is "RPF and LTO Responsibilities Amendments 2017" – a straightforward regulation proposal originated by Associated California Loggers (ACL), the association representing Licensed Timber Operators (LTOs), and now supported by the California Licensed Foresters Association (CLFA), the association representing Registered Professional Foresters (RPFs.)

Though the regulation would impose certain responsibilities on Registered Professional Foresters (RPFs), which have not been as stringent in the past, both the California Licensed Foresters Association and Associated California Loggers have come to an agreement that these responsibilities are fair and necessary to avoid the unjust penalization of LTOS by CALFIRE in those instances, in which an RPF directs an LTO to perform work, which was inadequate or inaccurate in the preparation by the RPF.

A key negotiated new provision of the proposed regulation is at Page 6 of 6, line 1:

"(1035.3 Licensed Timber Operator Responsibility) (e) An LTO shall not be held responsible for Forest Practice Rule violations that result from work required of an RPF, under Board rules, that is determined by the Director to be inaccurate or inadequate."

Associated California Loggers and, we understand, the California Licensed Foresters Association believe that this is a fair standard by which to judge LTO performance when CALFIRE inspectors are considering issuing a "Notice of Violation" against an LTO.

The regulation encourages greater cooperation and early coordination by LTOS and RPFs at pages 3 of 6 through 4 of 6, in which, under the existing regulation "1035.2 Interaction between RPF and LTO," the proposed regulation would expand existing requirements for early meetings to be held between RPFs and LTOs on a job so as "for the RPF to familiarize the LTO with the Plan, the Plan area, and specific applicable requirements of the Plan...".

BACKGROUND:

In 2013, Associated California Loggers (ACL) brought a small group of board members together to form an LTO priorities committee for the purpose of addressing issues pertaining to the Regulations that LTOs and their employees must operate under. One of the issues that has come out of this committee is the issue of Responsibility transfer from the RPF to the LTO by way of the LTO responsibility form.

ACL members have complained about getting violations for actions, which were a direct result of following the THP or directions given by the administering RPF. The current Violation process has no appeals or avenue for the LTO to address the situation, other than to accept a violation that is due to an error or omission on the part of the RPF or his designee.

LTOs have reported that they have been cited by state regulatory agencies with responsibility and liability for violations, errors, or other wrongful actions taken to comply with a Timber Harvest Plan or other timber management document, where the LTO was following the direction of a Registered Professional Forester (RPF) in taking the action.

To make this situation more perplexing, LTOs are seeing issues in approved plans and field work, which would lead to violations even after multiple agency review and approval. This leads some LTOs to believe that RPFs are leaning on the LTO responsibility form to transfer liability for actions that could be overcome by additional work, scrutiny, and review. These plans are being approved by the review agencies and LTOs are getting violations for what, we believe, is not our responsibility. We believe the RPF and the review agencies have the responsibility to prepare and review a THP, such that the THP is complete and can be operated on, without causing a violation to the LTO.

As a former LTO, I have an interest in seeing that these regulatory changes are made, but so should RPFs, and so should the State of California. Encouraging greater cooperation between RPFs and LTOs (and the landowners who employ them), will lead to better timber management and forest practices.

It is also important to note that LTOs take a "Notice of Violation" very seriously. These are not simply "warnings"; they are notices that can be used, if based on work, which is performed at the direction of an RPF, to build an unfair record against an LTO and impact his/her ability to be hired in the future, even if they do not carry the weight of a citation. One would hope that the proposed "RPF/LTO Responsibilities Regulation" will make "Notices of Violation" something that CALFIRE will issue less frequently.

Chairman Gillless, I respectfully urge you and all of your colleagues on the Board of Forestry and Fire Protection to vote "AYE" on "RPF AND LTO RESPONSIBILITIES AMENDMENTS, 2017".

Thank you for your time,



Laura MacGregor
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#A3943, issued Jan 11, 1973