January 2018

In the year that just ended, California experienced the worst wildfire season in the history of the state. There are lessons to be learned and new approaches to be considered. California must take a new management approach for our forests and wildlands if we are to protect public health and public safety.

Most simply put our forests are overgrown. Historically, forests had approximately 40 trees per acre. Much of California’s forestlands are now in excess of 100 trees per acre. When there are too many trees, they compete for resources. Drought stresses these trees and many die or become vulnerable to insect attack. That is why there are over 129 million dead trees in our forests.

Overgrown forests and wildlands also have too much fuel, which serves as tinder in a fire. Dead trees and too much fuel are key ingredients for catastrophic fires.

Our forests were once less dense, but decades of fire suppression have created our current overgrowth. We need a new approach to forest management — one that thins our forests with mechanical techniques and prescribed fire.

A healthy forest with fewer trees on the landscape allows those trees that remain to sequester more carbon. Less competition for water between trees also means that our watersheds are more productive.

The California Forestry Association represents private landowners who manage their forestlands for multiple natural resource benefits. Based on the stewardship these landowners have exhibited, we have extensive knowledge of what works best to manage for a healthy forest. We have created this document to describe a comprehensive approach for a “Forest Health Initiative.” The document provides a summary of proposed actions and a detailed narrative with specific recommendations tied to that narrative.

There are major challenges to a new management approach for healthy forests, but as the fires of last year taught us, doing nothing will endanger more lives, threaten additional property, and compromise our environment. The California Forestry Association stands ready to partner with those who want to join an effort to make our forests healthy again.

Rich Gordon

President and CEO
Fuels Management and Biomass  PAGE 2
We must reduce the fuel load in our forests and wildlands. CalFire and the Board of Forestry need to complete the proposed Vegetation Treatment Program to provide greater assurance to landowners. The liability issues for the use of prescribed fire need to be addressed. Landowners with 5,000 or fewer acres often cannot afford timber harvest planning, so technical and financial assistance might be needed to engage these landowners.

The biomass material removed from the land should be used as a renewable fuel source. Currently, the economics work against biomass energy production so action needs to be taken to treat biomass like solar and wind power.

Efficiencies in the Regulating of Timber Harvesting  PAGE 7
In 2012, the Legislature called for “efficiencies” in the regulations of timber harvesting. The Natural Resources Agency needs to complete its work on synchronous permitting. Timelines for permit approval need to be honored and a landowners “Bill of Rights” should be considered.

Watershed Protection  PAGE 9
Planning at a watershed level can involve multiple landowners and agencies and will produce landscape level actions which can improve watershed utility.

Exemption Reform  PAGE 11
Over the past several years, the Legislature has approved numerous exemptions to the regular timber harvest review. These exemptions can be consolidated to achieve consistency of approach and prioritization of actions.

Endangered Species  PAGE 13
Consistency of approach to endangered species and clarification of rules related to “candidate” species would provide landowners with greater assurance regarding approved Timber Harvest Plans.

Active Forest Management  PAGE 15
Given the state’s finite financial resources, California should prioritize its conservation efforts in order to ensure that taxpayers receive a maximum return on the stewardship of our natural resources.

Mass Timber  PAGE 17
There are several innovative “new wood” products including cross-laminated timber. Some of these products utilize biomass material. California should actively explore use of mass timber through pilot construction projects and the updating of the building code.
Require Utilities to Procure a Certain Amount of Megawatts in Biomass

On October 30, 2015, Governor Brown issued an Emergency Proclamation regarding the unprecedented tree die-off facing the State of California. The Proclamation was designed to expedite the removal of drought-killed and beetle-infested trees and to identify high hazard zones for wildfire.

The Emergency Proclamation asked the CPUC to use its authority to extend contracts on existing forest bioenergy facilities receiving feedstock from high hazard zones. As a result, the CPUC required PG&E Southern California Edison, and San Diego Gas and Electric to procure a minimum of 50 megawatts of biomass. The Legislature added to this requirement, under SB 859 (2016), by requiring an additional procurement of 125 megawatts. This led to seven contracts (five years each) for a total of 175 megawatts.

Both of these requirements for utilities to procure biomass were critical to preventing existing biomass facilities from shuttering. In the 1980’s there were 63 bioenergy facilities — today there are 22. These plants receive their feedstock from a combination of forest thinnings, logging slash, sawmill byproducts, and agricultural waste. The continued operation of these plants is critical for the support of forest health projects that include the removal of dead trees and forest thinning/restoration.

In order to address the magnitude of the situation regarding tree mortality and forest density, we need to move biomass to additional bioenergy facilities with longer term guaranteed contracts.

**ACTION:**
Like SB 859 (2016), require the utilities to procure an increased amount of biomass to ensure the future of biomass.

Reform BioRAM 1 and 2

When the CPUC complied with the Governor’s Emergency Tree Mortality Proclamation they required (Resolution E-4770) PG&E, Southern California Edison, and San Diego Gas and Electric to procure a minimum of 50 megawatts combined of biomass energy (BioRAM 1) from facilities that use biofuel from high hazard zones to address public safety and to protect property from falling trees and wildfire. Minimum fuel requirements from high hazard zones were established. 40% of the fuel in 2016 must come from these high hazard zones, which increases to 50% by 2017, 60% by 2018 and 80% in 2019 and beyond.

In 2016, SB 859 (BioRAM 2) required an additional 125 megawatts to be procured by electrical corporations collectively with at least 60% of the feedstock coming from tree mortality high hazard zones. Most of the 125 megawatts are procured under the requirements of Resolution E-4770 and not SB 859. Procurement under Resolution E-4770 that is in excess of the requirement under resolution counts towards the electric corporation’s share pursuant to SB 859.

There are no shortage of forests and wildlands in the state that could benefit from forest health projects that thin overly dense tree stands and remove fuel and transport that material to a bioenergy facility. However, creating minimum fuel requirements that ratchet up each year has placed undue barriers and constraints on the facilities that received contracts under the CPUC’s resolution or SB 859. These fuel requirements should be reviewed in light of the increased fire severity and need to remove fuel from the forests and wildlands. The fires in Napa and Sonoma counties are a perfect example. None of these areas were considered Tier 1 or Tier 2 under tree mortality and yet there was a need to remove fuel material from these areas where communities interface with forest and wildlands.
ACTION:
Modify the requirements in both BioRAM 1 and BioRAM 2 to ensure that the facilities with contracts are able to meet the feedstock requirements.

Create a Public Goods Charge for Biomass

Since 1998 all ratepayers within an investor-owned utility’s service territory have paid a fee or charge to fund programs such as energy efficiency, renewable energy development, and invest in research and development. While this fee, better known as the public goods charge, technically expired on January 1, 2012, ratepayers continue to pay a surcharge to fund similar programs.

While the Legislature’s attempts to extend the public goods charge failed, the CPUC worked administratively to implement a similar surcharge. In September 2011, Governor Brown requested the CPUC take action to ensure the programs funded by the public goods charge continued with some modifications. In a series of decisions the CPUC created a new surcharge, the Electric Program Investment Charge (EPIC).

A public goods charge or an allocation from EPIC could offset the cost of biomass, making it competitive with other renewable energy sources. EPIC funds provide approximately $162 million annually with the money coming from rates charged to customers of PG&E, Southern California Edison and San Diego Gas and Electric. The EPIC program funds clean energy research, demonstration and deployment projects that support California’s energy policy goals and promote greater electricity reliability, lower costs, and increased safety. Offsetting the higher costs of biomass using EPIC funds seems appropriate given California’s goals of 50% renewable energy by 2030, the need to diversify California’s renewable portfolio to ensure grid reliability, the need to secure the biomass industry and the emergency situation California is facing with regards to the need to remove fuel from our forests.

There are costs to fight fires, there are costs to restore communities after a fire, and there are costs from additional greenhouse gas emissions. Offsetting these costs with dollars from EPIC or the Green House Gas Fund to support bioenergy (and biomass reduction) efforts would be cost-effective for California.

ACTION:
Create a public goods charge since all utility users benefit from a diversified and reliable renewable portfolio.

Feed-in Tariff

A report prepared for the California Energy Commission in 2008, “California Feed-in Tariff Design and Policy Option”, discusses how California can meet the renewable energy objectives of 20% renewable energy by 2010, 33% renewable energy by 2020; and since the report came out, the goal of 50% renewables by 2050. The report explores different approaches to the use of feed-in tariffs as a mechanism to aid in making California’s renewable generation objectives a reality.

Despite the perceived high cost of feed-in tariff policies, recent analyses from both Germany and Spain have concluded that the rapid expansion of renewable electricity has decreased wholesale spot market prices. In both cases, the estimated savings have been comparable or have exceeded the cost of the policy itself. Costs of the feed-in tariff should be shared equally amongst all ratepayers since RPS and emission goals are statewide.

One of the suggestions was limited to a single technology, biomass. Tariffs would be cost-based and differentiated by size and differentiated by biomass fuel feedstock. Unlike the solar-only option, the
biomass path would be available in every market rather than on a pilot scale in a single utility, and would not be capped. Finally, unlike all of the other policy paths that would incorporate long-term contracts or price guarantees, the contract term would be either short- or medium-term in acknowledgment of the fuel price risk that longer-term contracts would place on biomass developers and investors. As discussed below, this option could be established independently or in concert with another policy path.

The feed-in tariff would respond to Executive Order S-06-06 (which established targets to increase the production and use of bioenergy) and contribute to diversity goals.

**ACTION:**
Create a feed-in tariff for biomass in order to help California reach 50% renewable energy by 2050 and ensure grid reliability.

**Reduce GHG With Renewable, Baseload Power**

SB 100 (De Leon) establishes a goal of 100 percent of total retail sales of electricity to serve California end-use customers and electricity procured to serve all state agencies come from eligible renewable energy resources and zero-carbon resources by December 31, 2045. The bill also revises the California Renewables Portfolio Standard Program to achieve that 50% renewable resources target by December 31, 2026, and to achieve a 60% target by December 31, 2030. The two-year bill would require that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44% of retail sales by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030. Biomass is both renewable and carbon neutral. This bill presents an opportunity to have a certain percentage of this requirement come from biomass/baseload energy, thus providing the security needed to support the biomass industry.

AB 920 (Aguiar-Curry) would have required, for the compliance period ending December 31, 2024, and for each compliance period thereafter that not less than 20% of the electricity products procured by a retail seller through renewable energy resource contracts executed on or after June 1, 2010 be for renewable baseload generation. Currently, California is facing an “oversupply” of solar and wind energy during the daytime with a shortfall of baseload renewable energy to meet California’s full-time demand for power and our goals for reducing greenhouse gas emissions. Renewable Portfolio Standards (RPS) that provide direction to the utilities to procure a specified amount of baseload renewable resources from biomass would ensure grid reliability, would be cost-effectiveness and would reduce greenhouse gas emissions. Furthermore, assurance that biomass will be part of the RPS will create incentives to upgrade existing bioenergy facilities or invest in new facilities.

Biomass is a reliable, renewable, baseload electric power source that provides a steady flow of power regardless of external conditions. Biomass energy also helps ensure that we can meet our electricity demands with California produced power. Studies have shown that a diverse portfolio of renewables that includes biomass is more cost effective, and can more effectively reduce greenhouse gas emissions.

**ACTION:**
Increase Renewable Portfolio Standards that provide direction to the utilities to procure a specified amount of baseload renewable resources such as biomass to ensure grid reliability, cost-effectiveness and greenhouse gas emissions reductions.
Expand the Biomass-to-Energy Incentive Grant Program

This program would provide $50 million in grants as incentives to facilities that convert agricultural or forest biomass to energy. Traditionally, agricultural or woody biomass has been left to decompose in place or has been burned. Both of these options release carbon into the atmosphere. Burning this material in a controlled bioenergy facility releases significantly less carbon while producing energy with a renewable, no-fossil fuel material.

A similar program was put in place by the passage of SB 704 (Florez, 2003). The purpose of SB 704 was to reduce the air pollution within the region of the San Joaquin Valley Air Pollution Control District by offering incentives to biomass facilities to utilize more agricultural waste in the facility’s production of energy. By creating financial incentives for biomass facilities to use more agricultural waste, less of that waste would be burned in open-fields, giving a cleaner alternative than burning the waste on site. Less open-field burning improves local air quality and helps protect public health. The bill had strong support from the American Lung Association of California, California League of Conservation Voters, Coalition for Clean Air, Natural Resources Defense Council, Planning & Conservation League, and Sierra Club of California. Unfortunately, the bill included one-time general fund dollars that were eliminated during a period of recessionary budget cuts.

Transportation expenses are a significant cost driver when collecting, processing and transporting forest biomass. To achieve a projected break-even point for a biomass project, transport distance would need to average approximately 30 miles one way. Yet, we know that with over 129 million dead trees in the Sierras alone that we need to be removing fuel from the forests at greater distances than 30 miles. Otherwise, the fuel left in the forest could be burned during a wildfire event or left to decay — in both cases emitting carbon. Providing grants to offset the cost of the transportation of fuel to biomass facilities would make the economics of these projects more favorable and this funding is critical if we want to be serious about restoring forests to a fire resilient state.

In a case study sponsored by the Placer County Air Pollution District, they quantified the energy, air quality and GHG benefits, as well as economics of utilizing woody biomass as an alternative to the status quo of open pile burning. The article printed in 2015 titled Forest Biomass Diversion in the Sierra Nevada: Energy, Economics and Emissions, showed that transport was 2.5% of the biomass fuel, while based on measurements from a large pile burn, air emissions reductions were 98-99% for PM2.5 (particulate matter), CO (carbon monoxide), NMOC (non-methane organic compounds), CH4 (methane), BC (black carbon), and 20% for NOx (nitrogen oxide) and CO2-equivalent greenhouse gases. This study found that revenue generated from the monetization of the reductions in air emissions has the potential to make forest fuel reduction projects more economically viable.

**ACTION:**

This program would provide $50 million in grants as incentives to facilities that convert agricultural or forest biomass to energy.

- Providing grants to offset the cost of the transportation of fuel to biomass facilities would make the economics of these projects more favorable.

Focus on Exemptions that Could Expedite the Removal of Dead and Dying Trees Caused by Drought and Insect Infestation

Any package to address forest health should include measures to prioritize the removal of hazardous trees as a result of drought or insect infestation. In response to the Governor’s 2015 Emergency Proclamation the Board of Forestry and Fire Protection adopted a Drought Mortality Exemption [1038(k)]. This exempted timber operations removing dead or dying trees in response to drought related stress from THP requirements.
In 2016, 687 projects totaling 80,998 acres were treated and in 2017, 516 projects and 65,039 acres were treated.

This Drought Mortality Exemption allows the safe removal of dead or dying trees from the forest. The Board created the exemption as an emergency regulatory action, which became effective on July 13, 2015 and will expire on December 31, 2018.

The sunset date on Exemption 1038 (k) should be removed or extended given that the dead and dying trees emergency will continue for several years. The current exemption could also be improved by allowing temporary road construction. Currently road construction is not allowed under the exemption and this prevents access to treat areas with tree mortality. Allowing temporary roads that are constructed under strict guidelines and abandoned upon completion of operations would allow additional areas to be treated with minimal environmental impact. The road construction provision should be included for all emergency notices and exemptions related to dead, dying, drought, and insect infected trees as well as exemptions and emergency notices related to reduction of fuels.

**ACTION:**
Improving the 1038 (k) exemption
- Set to expire on December 31, 2018- remove sunset
- Allow minor temporary road construction on all exemptions

**Support Actions to Reduce Fuels**

In the wake of the catastrophic fires that occurred this past year in Northern California, there is a need for increased support for projects that can help reduce fuel loading and the attendant ember spread that contributed so much to this occurrence.

The Planning and Risk Analysis office of CalFire along with the Board of Forestry has initiated Safety Element Reviews for High and Very High Hazard Fire Severity Zones. This planning effort is detailed in the California Fire Plan, which provides an appropriate framework for approaching this problem.

Many forests are on family-owned properties. Because of the cost and timeframe of obtaining a timber harvesting permit in California, it may be not economically feasible for smaller landowners to actively manage their forests. This results in many of these properties being less resistant to drought, insects, and wildfire, making them a potential hazard to neighboring properties.

While Fire Safe Councils have been successful in some areas, broader approaches may be needed. Forest Health Districts could be established, possibly under the existing state law authorizing special district formation or specific state legislation to authorize property owners to create these districts. Resource Conservation Districts could be given additional funding to play this role. Alternatively, individual landowners could form cooperatives. These cooperatives could bring public, private, and NGO landowners and managers together to pursue forest health and resilience goals at larger scales. All parties would benefit from the economies of scale that come from planning forest management over larger spatial areas.

Prescribed burning is a tool to reduce forest fuel load. An MOU for the Purpose of Increasing the Use of Fire was signed by numerous parties to increase the use of prescribed fire. Among its goals are to “encourage minimizing barriers to implementing fire use by improving smoke management coordination and engaging in public education and outreach.” It also calls for “work to help increase capacity to use wildland fire through expanded training opportunities and resource sharing.” In order to help reduce fuels, pace and scale of managed fire must increase. Barriers to this include permitting and liability.
ACTION:
- Support the final adoption and implementation of the CalFire/Board of Forestry Vegetation Treatment Program EIR
- Support programs that provide financial and technical assistance to landowners for fuel reduction projects
- Address potential liability that attends the use of prescribed fire

FURTHERANCE OF AB 1492 OBJECTIVES

AB 1492 (Budget, Chapter 289, Statutes of 2012) states that one of the purposes of the bill “is to identify and implement efficiencies in the regulation of timber harvesting between state agencies.” It has been five years since the passage of AB 1492 and while the number of staff has certainly risen thanks to the dedicated source of funding, permittees have not seen the same rise in efficiencies.

Synchronized Permitting

Applicants should be able to submit the Waste Discharge Requirements (WDR), DFW Sec. 1600 information, and incidental take permit information in the THP and receive simultaneous approval upon signature of the THP.

With AB 1492, a stable and dedicated funding source was created to address agency concerns over staffing levels. This increase in staffing has allowed the reviewing agencies sufficient staff to ensure timely and comprehensive review of proposed timber harvesting documents. Although there has been some improvement in processing, it is often negated by responsible agencies taking additional time for subsequent permitting (WDRs, waivers, and general orders for Water Quality and Lake and Streambed Alteration Agreements or 1600 permits). CEQA contemplates that the lead agency (CalFire) completes its review (the THP) so that responsible agencies (DFW, Regional Water Boards, and Department of Conservation) may rely on the EIR equivalent document. However, the responsible agencies participate in the multi-agency review of the plan and make recommendations during that review. Subsequent permitting may take weeks after the Director has approved the THP. If these agencies are fully staffed and fully participating, then subsequent permitting should be complete virtually simultaneously with the Director’s approval. A requirement that, similar to the Plan itself, subsequent permitting will be complete within 5 days of the director’s approval unless an extension is granted by the plan preparer for additional review concerns seems reasonable.

ACTION:
Staffing increases from AB 1492 were made to allow the reviewing agencies sufficient resources to ensure timely and comprehensive review of proposed harvests. Although there has been some improvement in processing, it is often negated by responsible agencies taking additional time for subsequent permitting (WDRs, waivers, and general orders for Water Quality and Lake and Streambed Alteration Agreements or 1600 permits for DFW) by responsible agencies. Subsequent permitting may take weeks or months after the THP has been approved by the Director. Permitting should be complete virtually simultaneously with the Director’s approval.
- Subsequent permitting will be complete within 5 days of the director’s approval unless an extension is granted by the plan preparer where additional review concerns seem reasonable.
All Non-Class I Watercourses would have a 1600 Permit Built into THP

To help facilitate timely review of 1600s (mentioned above) and to allow DFW to focus on Threatened or Endangered Species review, watercourses that are non-fish bearing (Class II and III) should have that review integrated into the THP, and not require the issuance of a separate 1600. This could be done with concurrent approval of DFW upon the signature of the Director of CalFire. The majority of THPs do not involve a 1600 on fish bearing streams (Class I). This would greatly expedite review, and allow DFW to focus on higher priority crossings and Threatened or Endangered species.

ACTION:
To help facilitate timely review of 1600s and to allow DFW to focus on higher priority crossings and Threatened or Endangered Species review, watercourses that are non-fish bearing (Class II and III) should have their review integral to the THP, and not require the issuance of a separate 1600.

Water Quality Requirements

Delays in enrolling plans under a waiver, general order, or WDR are unnecessary since the staff of the respective Regional Board participate in plan review (see above) and the WDR relies on the THP review and approval process for the CEQA compliance.

Consequences for Departments that Miss Deadlines

The Redding Pilot Program was conducted using all harvest plans from March of 2012 to March of 2013. The study was intended to evaluate the effectiveness of the review process. The number of Pre Harvest Inspections (PHIs) performed under the Pilot Project was 41 and under the Previous Year Plans was 42. Section 1037 of the Forest Practice Rules mandates that the PHI is to be initiated within 10 calendar days from the date of the plan filing. However, both the Pilot Projects and Previous Year Plans had less than 50% of PHIs conducted within the 10 days. Of the 41 PHIs performed as part of the Pilot Project, there were a total of 21 departures from the timeline. Twelve were weather related and nine were scheduling conflicts. Of the 42 PHIs as part of the Previous Year Plans there were 25 departures. Eight were weather related, six were scheduling conflicts and eleven were unknown because the reason for the departure could not be determined from the plan. Since the Redding Pilot Project, the Agency no longer tracks this information nor requires the reason for the departure to be indicated. This information should be tracked to avoid unnecessary time delays.

In addition, the Director’s Determination is outlined in Section 1037.4 of the Forest Practice Rules. It states that after the initial review and public comment period has ended, the Director has up to 15 working days (or a longer period mutually agreed upon by the Director and the person submitting the plan) to review the public input, consider recommendations and mitigation measures, respond in writing to the issues raised, and determine if the plan is in conformance with the rules. Plans reviewed under the Pilot Project had a median value of 148 days, while the Previous Years had a median value of 94 days. The average time between the end of the PHI and the Director’s Determination was 162 days for the Pilot Project and 112 days for the Previous Year Plans. There has been recent improvement in review times, but the average time for THP review still exceeds, on average, the Forest Practice Rules requirements.

Because harvest plan review is increasingly complex, lengthening the review period could be considered but also adding consequences if review exceeds the allowed timeframe (operation of law).

Review may also be improved by the addition of a “Bill of Rights” for plan submitters. Cal EPA has such a program, along with an ombudsman office. One principle tenet of the EPA “Bill of Rights” states: “Permit
applicants have the right to work with a single lead agency where multiple environmental approvals are needed. For multiple permits, all agency actions can be consolidated under a lead agency.”

As mentioned above, requiring the Natural Resources Agency to track these delays in required time frames for the annual AB 1492 report (as well as the reason for deviation) would help illuminate problems and provide accountability.

As an alternative, we could also implement a different timeline during the times of the year when stereotypically the departments and agencies receive more THPs. If weather is the number one reason for delay or there is a specific time of the year when there are too many THPs to review, lengthening the timeframe due to reasons beyond an agency’s control would ensure that review is still timely.

AB 1492 (Budget, Chapter 289, Statutes of 2012) states that one of the purposes of the bill “is to identify and implement efficiencies in the regulation of timber harvesting between state agencies.”

**ACTION:**
The Redding Pilot Program was conducted using all harvest plans from March of 2012 to March of 2013. The study was intended to evaluate the effectiveness of the review process. The Agency no longer tracks this information nor requires the reason for the departure to be indicated. Information included PHI scheduling, first review completion, second review completion, and approval. It did not include subsequent permitting approval.

- This project should be reinitiated and THP information should be tracked and reported to review process bottlenecks.
- Because harvest plan review is increasingly complex, lengthening the review period could be considered, but also adding consequences if review exceeds the allowed timeframe (effective by operation of law).
- Consider a “Bill of Rights” that emulates the existing version for Cal EPA.

**WATERSHED PROTECTION**

Watershed Protection is better achieved by long-term planning documents. Landowners do not only voice this perspective, reviewers and the public echo it, since such documents provide a broader and more stable review platform.

From the landowner’s perspective SYPs (Sustained Yield Plan), NTMPs (Nonindustrial Timber Management Plan), PTEIRs and other long-term timber management plans are not functioning as intended in terms of time savings and economic benefit to landowners. Under both SYPs and PTEIRs timber harvesting plans are still required to implement harvesting projects. A common complaint is that it takes the same amount of time and effort for the approval of a THP that is tiered to a SYP or PTEIR as a standard THP. Much of the inefficiency may be due to high turnover within review agencies and the time and resources it takes for new staff to become familiar with these ownership-wide plans.
Reform Master Agreement for Timber Operations (MATO), Safe Harbor Agreement (SHA), Program Timberland Environmental Impact Report (PTEIR), Habitat Conservation Plan (HCP), Working Forest Management Plan (WFMP)

While these documents are very different, they all operate as long-term, property-wide agreements, which if achieved, eases the burden significantly down the road. However, even though many California Forestry Association member companies have obtained or are seeking one or more of these agreements, they take a significant amount of resources and time. Small landowners may never be able to get one of these agreements because of the cost and time commitment. Given that the point of these agreements is to make sure landowners are managing their lands in a responsible and sustainable way, the state and all forest landowners should be interested in increasing the number of these property-wide agreements. The state should recognize and reward landowners that have invested and made long term commitments to habitat conservation by providing a harvest program of expedited review that acts in a ministerial manner. A landowner with commitments to long term planning should be able to submit a “checklist” confirming their compliance and receive a ministerial review. This would encourage more long term agreements.

ACTION:
These operate as long-term, property-wide agreements, which if achieved, eases the burden of project review for agencies and provide for a stable planning platform for landowners. They take a significant amount of resources and time.

- After approval of such documents, recognize the long term commitment and provide ministerial checklists to facilitate project implementation.
- Initiating such agreements and seeking approval may take years and be cost prohibitive. Such a review should not exceed a year.
- Agency staff dedicated to such review should be experienced individuals to improve efficiency.

Long Term Plan Review

Although NTMPs, SYPs, and PTEIRs are lauded and extolled by reviewing agencies, the time and expense of initiating one and seeking approval may take years and be prohibitively costly. Such a review should not exceed a year. Agency staff dedicated to such review would facilitate review since experienced individuals would be more efficient. Time frames for review should be stated in law or regulation.

Reform NTMP and WFMP to Make Long Term Plans Accessible

The Legislature adopted PRC 4597 et. seq., NTMP to allow owners with less than 2,500 acres of timberland to implement long term plans. These plans allow for conservative management and a more streamlined process. This option has existed since 1990. CalFire has routinely allowed separate landowners to file plans jointly, as long the aggregate acres do not exceed 2,500 acres. In addition, CalFire has always allowed multiple landowners to jointly file regular Timber Harvest Plans (THPs). The departments and agencies indicate that since they only have one chance at these documents they tend to look even more closely at these NTMPs, which is not what the intent was, but rather to create an incentive for small landowners to have good forest management.

AB 904 (Signed by the Governor October 08, 2013, PRC 4597 et. seq.) was passed to provide a Working Forest Management Plan (WFMP) for larger non-industrial landowners (2,500-15,000 acres) to have a similar process. Some provisions differ, but it was envisioned by the author (Chesbro) to mirror the requirements of the NTMP.

The Board of Forestry adopted regulations this past year that are similar to the NTMP regulations.
This acknowledges the Legislature’s intent in statute that the plans are fundamentally similar.

The WFMP regulations also contemplate the potential for joint filing of WFMPs by separate landowners. In the promulgation of the regulations, comment was received from the public questioning if this was the legislative intent. The Board discussed this issue with the author’s staff and was assured that it was the intent of the legislation to allow joint plans.

The BOF is now under threat of litigation for this issue by various groups.

**ACTION:**

In order to clarify the original intent of the legislation, it is recommended that amending PRC 4597 et. seq. would be useful in negating this litigation.

Any intent language should specifically state that legislation is meant to clarify the original intent.

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**EXEMPTION REFORM**

**Consolidate the Type of Exemptions While Making Them Easier to Use**

There are numerous exemptions and emergency notices all designed to accomplish the same goal. There is 1038 (b) Dead, dying or diseased trees, 1038 (c) Structure Protection Exemption, 1038 (d) Substantially damaged timberlands, 1038 (g) Woody Debris and Slash for Energy Production, 1038 (i) Forest Fire Prevention, 1038 (j) Forest Fire Prevention Pilot Project, 1038 (k) Drought mortality, 1052 (a) Insects, 1052 (b) Wind, snow, drought, fire, flood, and 1052 (e) Fuel Hazard Reduction Emergency. These exemptions and emergency notices should be consolidated to remove trees that are dead and dying from weather or insect related reasons or to be able to remove trees and slash to reduce wildfires or other disasters. Because these exemption and emergency notices are first designed to address an emergency and secondly designed to prevent emergencies in the future, these exemptions and emergency notices should have less constraints and more flexibility in order to get the work done.

Currently, there are more than a dozen exemptions for various purposes. Environmental organizations, committee consultants and departments have become increasingly concerned about the increase in the types of exemptions as well as the increase in the number of exemptions done each year. In addition, many people lump emergency notices in with exemptions to make the point that more projects are being done without a THP and without department input. The statistics show that using volume as a measurement, THPs are still by far the number one way to remove trees. Emergency notices are second and exemptions are third. There is interest in consolidating and/or eliminating exemptions and emergency notices.

Last year AB 1958 (Wood) and AB 2029 (Dahle) contained language which required CalFire and the Board of Forestry and Fire Protection to submit a report on or before December 31, 2017, to the Legislature on the trends in the use of, compliance with, and effectiveness of, the exemptions and emergency notice provisions described in Sections 4584 and 4592 of the Public Resources Code and Sections 1038 and 1052 of Title 14 of the California Code of Regulations. The report is also to include recommendations to improve the use of those exemptions and emergency notice provisions. This report was delayed by the passage of SB 92 (Budget and Fiscal Review) that changed the due date to December 31, 2018. Additional language was added to read “The report shall include an analysis of exemption use, whether the exemptions are having
the intended effect, any barriers for small forest owners presented by the exemptions, and measures that might be taken to make exemptions more accessible to small forest owners.”

Given the timing of the report, consideration should be given to consolidating the number of exemptions and at the same time making the use of an exemption easier, keeping in mind the Legislature’s desire to help small landowners as well. If the number of exemptions and emergency notices can be reduced it may also be possible to expand some of the provisions within a set of exemptions including: diameter, road construction, acreage size, and stocking standards.

Exemptions:

<table>
<thead>
<tr>
<th>Exemption</th>
<th>Description</th>
<th>Number</th>
<th>Acres</th>
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<tbody>
<tr>
<td>1038 (a)</td>
<td>Harvesting Christmas trees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1038 (b)</td>
<td>Dead, dying or diseased trees</td>
<td>414</td>
<td>2,176,269</td>
</tr>
<tr>
<td>1038 (c)</td>
<td>Structure Protection Exemption (150 feet)</td>
<td>208</td>
<td>354</td>
</tr>
<tr>
<td>1038 (c) (6)</td>
<td>Structure Protection Exemption (150 and 300 feet)</td>
<td>3</td>
<td>47</td>
</tr>
<tr>
<td>1038 (c) (6)</td>
<td>Structure Protection Exemption (300 feet)</td>
<td>20</td>
<td>78</td>
</tr>
<tr>
<td>1039 (d)</td>
<td>Substantially damaged timberlands</td>
<td>3</td>
<td>1,500</td>
</tr>
<tr>
<td>1038 (g)</td>
<td>Woody Debris and Slash for Energy Production</td>
<td>4</td>
<td>486</td>
</tr>
<tr>
<td>1038 (i)</td>
<td>Forest Fire Prevention</td>
<td>7</td>
<td>542</td>
</tr>
<tr>
<td>1038 (j)</td>
<td>Forest Fire Prevention Pilot Project</td>
<td>11</td>
<td>1,430</td>
</tr>
<tr>
<td>1038 (k)</td>
<td>Drought mortality</td>
<td>588</td>
<td>69,335</td>
</tr>
<tr>
<td>1038 (l)</td>
<td>Oak woodland</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1104.1 (a)</td>
<td>Less than 3 acre conversion</td>
<td>189</td>
<td>420</td>
</tr>
<tr>
<td>1104.1 (b)</td>
<td>Public agency right of way</td>
<td>236</td>
<td>311,126</td>
</tr>
<tr>
<td>1104.1 (c)</td>
<td>Utility right of way</td>
<td>(note: both a and b combined above)</td>
<td></td>
</tr>
</tbody>
</table>

Emergency Notices:

<table>
<thead>
<tr>
<th>Exemption</th>
<th>Description</th>
<th>Number</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1052 (a)</td>
<td>Insects</td>
<td>4</td>
<td>426</td>
</tr>
<tr>
<td>1052 (b)</td>
<td>Wind, snow, drought, fire, flood</td>
<td>43</td>
<td>6,640</td>
</tr>
<tr>
<td>1052 (c)</td>
<td>Air and water pollution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1052 (d)</td>
<td>Emergency road repair</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1052 (e)</td>
<td>Fuel Hazard Reduction Emergency</td>
<td>2</td>
<td>53</td>
</tr>
<tr>
<td>1052 (f)</td>
<td>Sudden Oak Death Emergency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total for c, d, f</td>
<td></td>
<td>6</td>
<td>88</td>
</tr>
<tr>
<td>1051</td>
<td>Modified THP</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ACTION:**

These exemptions and emergency notices should be consolidated and improved to provide ease of regulatory review and flexibility.

- Consolidate the number of exemptions and emergency notices.
- Expand some of the provisions within a set of exemptions including: diameter, road construction, acreage size, and stocking standards.
Increase the Scientific Requirements for Candidate Species Listing

Threatened or endangered species are protected in California. Often the first step in achieving this protection status occurs with a petition for a “candidate” species, in other words species that might be at risk. Once the Department of Fish and Wildlife accepts a candidate petition, that species is treated as if it were threatened or endangered and receives full protection.

Currently, the minimum requirements for a petition include sufficient scientific information that a petitioned action may be warranted. The information required includes population trend, range, distribution, abundance, life history of the species, factors affecting the ability of the population to survive and reproduce, the degree and immediacy of the threat, the impact of existing management efforts, and suggestions for future management. The petition must also include the sources for the information provided.

There are rigorous standards for a species to be listed as threatened or endangered. If candidate species are to be given the same protections, there should also be rigorous standards for a petition for candidate species. Information in petitions should be required to be peer reviewed or to be based on the “best available scientific information” (as is required by the Department when considering a listing). Alternatively, if the bar for submitting candidate petitions continues to be low; the protections should not be at the same high standard for listed/endangered species. To require protections for a species that may or may not be warranted places an unfair burden on landowners. The Fish and Game Commission could always raise the standards if the candidate petition has sufficient detail to indicate immediate threat.

Concurrent Incidental Take with Candidacy
Require Status Review to Rank the Threats
Follow Statutory Timeline for Review of Candidate Species

CESA requires that once a petition is accepted for consideration the department is required to begin review of the status of the species concerned in the petition. Within 12 months of the date of publication of a notice of acceptance of a petition for consideration the department is required to produce and make publicly available a final written peer reviewed report, based upon the best scientific information available to the department, which indicates whether the petitioned action is warranted, which includes a preliminary identification of the habitat that may be essential to the continued existence of the species, and which recommends management activities and other recommendations for recovery of the species. Prior to releasing the final written report, the department shall have a draft status review report prepared and independently peer reviewed, and upon receiving the peer reviewers’ input, shall evaluate and respond in writing to the independent peer review and shall amend the draft status review report as appropriate. The commission may grant an extension of up to six months if the director determines an extension is necessary to complete independent peer review of the report.

However, there are many instances of the department taking well over a year to review a species status. If the report hasn’t been done in the 12 months required and no recommendation with a six-month extension, the species should no longer be considered a candidate species. Currently, there is no incentive or disincentive for the process to abide by the timeline. In addition, take avoidance of a candidate species should not be required until the review is conducted to show that the evidence supports it and that recommendations are included for the recovery of the species and for mitigation. Finally, there should be acknowledgment of threats to the species being considered by ranking and characterizing the threat.
The current review does not provide context or prioritize recovery actions based on threats.

**ACTION:**
Once a species is accepted as a candidate species by the F&G Commission, it acquires the full protections of a threatened or endangered species and management activities must avoid take. To require protections for over a year for a species that may or may not be listed as threatened or endangered is an unfair burden.

- Information in listing petitions should be required to be peer reviewed, or at a minimum, require the information to be “based upon the best available scientific information.” This would also be consistent with the requirements of the DFW status review. This would assist DFW in complying with statutory timelines for review of the species.
- Take avoidance should not be required until the listing status is determined by the Commission. This would be consistent with the federal EAS. It should be noted that if the Commission deems that extirpation is an imminent threat, that protections can be implemented on an emergency basis immediately.
- Threats to species that warrant listing should be ranked in the Commission’s findings in order to prioritize actions.

**Merge Fully Protected Species with CESA Endangered Listing**

Fully protected species status was created in the 1960s before the Federal Endangered Species Act and before the California Endangered Species Act as way to provide protections to species that faced possible extinction. However, even after the Federal Endangered Species Act and the California Endangered Species Act were adopted the California Legislature never deleted fully protected as a status even though there is a threatened and endangered listing which is also consistent with federal law. Most fully protected species have also been given protection under CESA and FESA. Fully protected species may not be taken or possessed at any time and no provision is to be construed to authorize the issuance of permits or licenses to take any fully protected species, although take may be authorized for necessary scientific research and in very specific instances for experimental populations. The presence of a fully protected animal in an area such as a construction zone can literally bring the entire project to a halt. In contrast, FESA carries stronger penalties, but has provisions built in for mitigation options in the event of unavoidable take. There is debate as to the modern-day applicability of the fully protected designation due to its inflexibility, the fact that new conservation laws have been enacted, and the fact that some fully protected species have undergone moderate population recovery while many other species that may deserve additional protection have not been designated. Fully protected species should be reviewed and relisted as recovered, threatened, or endangered.

**ACTION:**
Fully protected species were created legislatively in the 1960s before the Federal Endangered Species Act and before the California Endangered Species Act as way to provide protections to species that faced possible extirpation or extinction. After the ESA and CESA were adopted the California Legislature never deleted fully protected as a status.

- Fully protected species should be reviewed and relisted as either threatened or endangered.

**Plans Submitted and Accepted Should Not Be Impacted by Candidate Species that are Accepted After the Plan Has Been Submitted**

Under the Redding Pilot Project, the study looked at the length of time it took for the Director’s Determination for each plan. While the Forest Practice Rules provide 15 days to complete the final review of the plan, the average time between the end of the PHI and Director’s Determination was 162 days, not 15.
In addition, the study also looked at the factors for delay. Twenty of the 41 plans submitted were required to be recirculated when the Pacific Fisher’s status changed from unlisted under CESA to candidate for potential listing. There were delays associated with determining what mitigations were needed to be included in the plans in order to comply with the listing. Then letters needed to be sent out by the Review Team Chair to the registered professional foresters (RPFs) with plans in review, notifying them of the need to include mitigations to avoid take of the Pacific Fisher. The RPFs had to respond to the Review Team Chair with the changes to the plan to address take avoidance, then the plans had to be recirculated for an additional 30 days. Compared to the Pilot Project in the Previous Year only 3 plans were required to be recirculated. If a plan once submitted was not impacted by candidate species considerable amount of time could be saved. If the Commission determines that immediate protections are necessary to avoid extirpation, such findings should be adopted, and then plans would need to be revised accordingly.

**ACTION:**

Under the Redding Pilot Project, 20 plans out of the 41 plan submitted were required to be recirculated due to plans having to include information regarding the Pacific Fisher’s status change from unlisted under CESA to candidate for potential listing. If the Commission determines that immediate protections are necessary to avoid extirpation, such findings should be adopted, and plans revised accordingly.

**Consistency Determinations**

When a species is dually listed (both under the Federal ESA and State ESA), and where the landowner has received coverage of their activities under a Federal ESA Habitat Conservation Plan and associated 10(a)(1)(B) permit, coverage should be automatic for the State ESA. Federal Take standards are far more stringent than the State’s, so DFW should automatically issue a consistency determination for the affected species.

**ACTION:**

Make State consistency determinations for dually listed species automatic if landowner has reached an agreement with Federal Agencies.

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**ACTIVE FOREST MANAGEMENT**

**Conservations Easements and Working Forests**

The Department of Conservation defines conservation as the “environmental health, economic vitality, informed land-use decisions, and sound management of our state’s natural resources.” Although most of California’s forestland is in public ownership, approximately 40% of our forests are in private ownership, with a substantial share on small properties of 50 acres or less. For this reason, the forestry sector’s contributions are integral to conservation.

California should prioritize its conservation efforts given the state’s finite financial resources in order to ensure that taxpayers receive a maximum return on the stewardship of our natural resources. California has a long history of active conservation and distinguishes itself by incorporating this conservation ethic into the regulations governing forest management.
Given this, conservation investments should focus on tangible efforts aimed at restoring unhealthy forests. The highest conservation priority should be the protection of California forests from insects, disease, and fire through active management and restoration efforts. Conservation easements are a recognized tool used by willing sellers and buyers to maintain forestlands when there is a demonstrated risk of conversion.

Achieving and maintaining long-term healthy and resilient forests requires managing forests consistent with natural processes and developing a diverse forest environment. Actions taken to achieve resilient conditions include:

- Restoring a more natural stand forest structure, including appropriate density, diversity, complexity, and capacity to support a full range of ages, species and habitat types;
- Discourage land use conversion or forest fragmentation, in order to maintain large, contiguous, functioning forest ecosystems;
- Facilitate the role of fire as a natural ecological process;
- Maintain the trend of increased restoration over time; and
- Meet the goals and objectives of the forest landowner.

Encouraging and assisting California forest landowners to support conservation measures is the most productive way to continue and ensure healthy forests for future generations.

**ACTION:**
The Legislature has set aside money for the Wildlife Conservation Board for the purposes of acquiring new conservation easements. Funding should place priority on:
- Working forests, to protect local economies and avoid conversion and to protect against fragmented timberlands. This allows for the management, rather than development of timberland.
- Forest restoration — restore forests to a healthy condition
Pilot Project

SB 859 (Budget and Fiscal Review, Chapter 368, Statutes of 2016), among other things, created a working group to expand wood product markets to include biochar, cross-laminated timber, and veneer products, especially when these products come from biomass that is removed from high hazard zones. The working group paid for a study to analyze and rank a variety of wood products that would best assist efforts to use tree mortality material. “Recommendations to Expand Wood Products Markets in California” is the resulting report. It recommends: 1) Remove barriers to market and create pathways for success, 2) Promote innovation, and 3) Invest in human capital.

Building on the SB 859 report there is a unique possibility for a pilot project using mass timber. One option would be to have an affordable housing project utilize mass timber. One difficulty lies in the fact that there is no mass timber manufacturing in California yet. If grant money (from Go-Biz, Greenhouse Gas Reduction Fund, etc.) was available to support a mass timber project in California or if there were financial incentives to bring a company to California or reconfigure an existing sawmill, the viability of mass timber for the California market could be demonstrated.

**ACTION:**

SB 859 (Budget and Fiscal Review, Chapter 368, Statutes of 2016), among other things, created a working group to expand wood product markets, especially for biomass that is removed from high hazard zones, including: biochar, cross-laminated timber, and veneer products. There is no mass timber manufacturing in California yet. A grant to have a mass timber project in California might demonstrate the viability of cross-laminated timber market in California.

Build Upon Legislative Successes

There were two bills in the 2017 legislative session that could help the mass timber market. AB 262 (Bonta) created the Buy Clean California Act that require DGS to publish a State Contracting Manual containing a maximum acceptable global warming potential for each category of eligible material. The bill requires contracts under the State Contract Act, and contracts with the University of California and the California State University be awarded based upon a successful bidder submitting an environmental product declaration. Eligible materials include: carbon steel rebar, flat glass, mineral wool board insulation, and structural steel. The type of materials under this bill could be expanded to include mass timber or even as broad as including all wood products. In addition to AB 262, AB 1088 (Eggman) would have required the Energy Commission to establish nonbinding statewide targets that are cost effective and feasible for reducing energy consumption and emissions of greenhouse gases from multifamily residential properties by January 1, 2030. This bill was tagged with a cost of over $3.5 million and held on Suspense in the Senate Appropriations Committee. AB 1088 could be refined to promote the benefits of wood in housing construction, given wood’s environmental benefits and reduced costs, especially for multifamily housing.

**ACTION:**

AB 262 (Bonta) created the Buy Clean California Act. Eligible materials include: carbon steel rebar, flat glass, mineral wool board insulation, and structural steel.
- Include cross-laminated timber

AB 1088 (Eggman) would have required the Energy Commission to establish nonbinding statewide targets that are cost effective and feasible for reducing energy consumption and emissions of
greenhouse gases from multifamily residential properties by January 1, 2030.

- Work with Assembly Member Eggman to refine the bill and promote the benefits of wood in housing construction.

**Update Building Codes**

The International Code Council (ICC) is supposed to adopt and update the building codes in 2018. California would then adopt the codes the following year in 2019. Government agencies from the various states register and vote on the code changes. While California should be one of the largest contingencies of voters, not every agency or department that is eligible to vote, actually registers and votes. One of the changes that is being considered is increasing the height of a building that could be constructed using mass timber. If the codes increasing the height of a structure are adopted, the signal to the mass timber companies and manufacturing companies would be a very positive one.

**ACTION:**

Ensure that California state agencies eligible to vote in the 2018 IBC code update do to ensure that CLT projects can compete with steel and concrete and become a viable market.