

**BOARD OF FORESTRY AND FIRE PROTECTION**

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**MINUTES  
BOARD OF FORESTRY AND FIRE PROTECTION  
MEETING  
APRIL 6, 2006  
ALPINE**

**BOARD OF FORESTRY MEMBERS PRESENT:**

Stan Dixon, Chairman  
Pam Giacomini  
Ronald Nehring  
Jim Ostrowski  
Bruce Saito  
David Nawi

**BOARD OF FORESTRY MEMBERS ABSENT:**

Kirk Marckwald  
Gary Rynearson  
Mark Bosetti

**BOARD STAFF:**

George Gentry, Executive Officer  
Chris Zimny, Regulations Coordinator  
Carol Horn, Executive Assistant

**DEPARTMENTAL STAFF:**

Giny Chandler, Chief Counsel  
Jeff Calvert, Resource Management

**CALL TO ORDER**

Chairman Dixon called the April 2006 meeting of the Board of Forestry and Fire Protection to order, and then adjourned for closed session.

**APPROVAL OF MINUTES**

Chairman Dixon asked for Board approval of the February and March minutes.

**04-06-02: Member Giacomini moved to approve the February and March minutes. Member Saito seconded the motion. All were in favor. Member Nawi had minor clerical corrections.**

**CONSENT CALENDAR**

There was nothing to report.

## **REPORT OF THE CHAIRMAN**

Chairman Dixon reported that CLFA presented an excellent workshop on Climate Change. Chairman Dixon and Member Ryneason were reappointed to the Board by the Governor. Member Ryneason was sworn-in on Monday in Sacramento. Six members have been appointed by administration, and are pending confirmation.

## **REPORT OF THE DIRECTOR**

Chief Maner, Unit Chief of the San Diego Unit, reported that the San Diego Unit is comprised of the County of San Diego and portions of the County of Imperial. The Unit is responsible for protecting 1.4 million acres of land which include SRA, and federal land that is CDF DPA. The Unit is comprised of 18 CDF fire stations with 26 staffed engines, 7 local government fire stations, 19 hand crews at 4 conservation camps, 1 air attack base with 2 S-2Ts and 1 air attack ship, 3 bull dozers, and 1 mobile communication center. The Unit also has a contract with the San Diego Sheriff's Department to pilot 1 of the 2 firefighting helicopters that the Sheriff operates. During 2005, the Unit responded to 11,333 incidents of which 466 were SRA wildland fires. Beginning June 1, 2006, CDF will begin a new Schedule A contract with San Diego Rural Fire Protection District. CDF will staff two fire stations under the contract.

A group of agencies formed the San Diego Forest Area Safety Task Force (FAST). The FAST group is the clearinghouse for plans and information-sharing as agencies mobilize and clear vegetation and trees to mitigate the hazard to the public. As of December 2005, the FAST group removed a total of 240,294 trees. A large majority of the trees are removed under County contracts using Federal Grant monies.

Working with the County Office of Emergency Services, the Unit developed a protocol to allow for notification to keep the duty officer informed so that the Board of Supervisors are kept up to date. In 2002, the County Department of Planning and Land Use implemented an inspection program to enforce the County Fire Code requiring 100 feet of clearance. In an effort to reduce confusion with the private landowners, the San Diego Unit began to enforce the County Fire Code instead of the PRC. Working with the County Code Enforcement, the CDF engine companies would perform the first inspection and leave a compliance order if the property was not in compliance. If the property was not to code at the second inspection, the information was passed to the County Code Enforcement for follow-up. This program started in the SRA where there was no Fire Protection District, since then many of the Fire Protection Districts have joined the program.

While there are still individuals in the County who want to blame CDF for the destruction caused by the Cedar and Paradise Fire, Chief Maner believes the general feeling is positive.

Chairman Dixon thanked Chief Maner for the field trip yesterday. Chairman Dixon said Chief Porter did a good job putting the field trip together.

## **REPORT OF THE ADVISORY COMMITTEES**

### **CALIFORNIA FOREST PEST COUNCIL**

Mr. Mike Bohne, USFS, presented a summary of the 2005 California Forest Pest Conditions report, which is an annual publication. The CD containing the report was available to Board members and is an attachment to the minutes.

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

Executive Officer Gentry did not have a formal report from RMAC. Executive Officer Gentry participated in part of the Range Management Advisory Committee, where he discussed the policy program. Executive Officer Gentry was anticipating a response to the RMAC request that the Board send a letter to the State Water Board asking the status of the voluntary program, he has not received that response, but feels it is forthcoming.

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

Executive Officer Gentry attended the MSG meeting at Swanton Pacific Ranch in Davenport. Topics of discussion were: (1) MSG Strategic Plan Revision, Interagency Mitigation Monitoring Program (IMMP) Update, (2) Reference Watershed Project GIS Database, and (3) Swanton Pacific Ranch and Little Creek Watershed Study Overviews. The Board will tour the Swanton Pacific Ranch in August. The next MSG meeting has not been set, but it is anticipated to occur in May. Minutes from the last MSG meeting are included in the Board binder under tab 6.

## **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

The PFEC will hold an exam this Friday, April 7. There are 35 applicants, and the test will be administered in Riverside, Rocklin, Redding and Arcada. The next meeting of the PFEC will be May 11 in Sacramento.

Executive Officer Gentry noted the passing of the following RPFs:

RPF #1847 Susan Wheatley  
RPF #1853 Loyd Forrest  
RPF #1711 Bob Willhite

Executive Officer Gentry presented one new RPF candidate to the Board and asked for Board approval for RPF #2821 Ben Cahoon

**04-05-06: Member Ostrowski moved to approve the appointment of RPF #2821, Ben Cahoon. Member Nawi seconded the motion. All Board members were in favor, and the motion was carried unanimously.**

## **REPORT BY THE USFS ON FOREST PLANNING PROCESS FOR ROADLESS AREAS (IRAs)**

### **History of 2001 Rule**

Ms. Chris Nota, representing the U. S. Forest Service, gave a report on Forest Planning Process for Roadless Areas. Ms. Nota said Roadless Areas are a controversial and fascinating topic. The Forest Service has been on the Roadless journey for 25 years trying to get the right answer. Rare 1 and Rare 2 refer to inventories taken by the Forest Service in 1972 and 1979. Rare 1 and Rare 2 looked at acres of national forest lands did not have roads 5,000 acres or bigger. California has approximately 4.4 million unroaded acres in national forest land. California has 20 million acres of national forest land. This number does not include wilderness. Nationally it is about 58 million acres. In 1982, the USFS had a planning rule that told them they had to do land management plans for each national forest. During the planning process, the USFS was to look at the 4.4 million unroaded acres and make decisions if they should be proposed wilderness or should they be open for multiple use management. The Forest Service recommended that about half the acres would be for potential wilderness and half should be open for multiple use management. In the late-90s there was a lot of dissatisfaction that it was not good enough protection. At that time, the Clinton Administration thought the Forest Service should do a better job protecting unroaded acres. Mr. Clinton wrote a letter the Secretary of Agriculture telling the Forest Service to develop and propose a rule for public comment that had new regulations for appropriate long-term protection. The Forest Service completed an environmental impact statement, and had 1.6 million responses from the public. Ms. Nota said the public cares deeply about unroaded acres. The preferred alternative and subsequent rule, called

the "Clinton Rule" was to prohibit timber harvesting except for stewardship reasons, and to prohibit road building except for a very narrow list of exceptions. The final rule was December of 2000, which was quickly followed with nine lawsuits. In July 2001, the Department of Agriculture published advance notice that they were going to enter into new rule-making and re-examine the issue. Idaho sued on the Clinton Rule, saying it was not appropriate or legal. Idaho got a permanent injunction on the rule, and then the 9<sup>th</sup> circuit reversed it. Wyoming sued on the same issue and they got a permanent injunction, then the 10<sup>th</sup> circuit upheld it. There is still a permanent injunction against the Clinton Rule.

### **Interim Directive**

In July 2004, the USFS embarked on new rule-making. At that time, the Chief of the Forest Service put interim direction into place, which was a conservative, protective direction until they could get through the rule-making. In that interim direction, which is in place today, it had some limited reasons why a road could be built in roadless. All of those reasons were under the Regional Forester's or Chief's authority. It raised the decision-making level. The Regional Forester could approve roads for non-discretionary things such as private parcel access, or if major clean-up was required for health and safety and resource damage or resource protection issues. Any other roads, such as roads for timber harvesting or recreation, had to go through the Chief of the Forest Service. Under the interim, roads have not been built in roadless. In July of 2004, the USFS proposed a new rule, where the State would play a key role in helping the USFS track the long-term management of roadless areas. The proposal in the new rule is that states are best situated to come up with their own state-specific rule. The states have been invited to petition the Secretary of Agriculture what they believe is the solution is for their state. If the states choose not to come up with a specific rule, the USFS will go back to their land management plans. That went out as a proposed rule, and there were 122 days of comment period and approximately 1.8 million comments.

### **New Rule: The State Petition**

The National Federal Advisory Committee will give a national perspective, and state and local government will give their perspective on the petition to achieve a balance. State's that are going through the petition process may come up with a solution for the state with key elements the state needs to bring forth, such as management requirements, collaboration, and how this is different from current management. The State has 18 months from when the rule was final to turn in their petition, which will be November of this year. The state, if they so desire, will petition the Secretary of Agriculture, who may determine that additional information is needed. Once the Secretary of Agriculture has accepted the petition, then he has 180 days to determine if the petition is complete and is going to go to rule making. During that time, the Secretary of Ag will hand the petition to the National Federal Advisory Committee to receive advice about the petition, whether it looks complete, and if it is ready to go to the Forest Service for rule making. The USFS published the federal rule in May of 05. One thing that was added to the rule was a National Federal Advisory Committee.

### **Letter Exchange**

There has been an exchange of letters between the Forest Service and Secretary Chrisman. The letters are a request from the state that we have good, solid protection during the period of time that the petition is working its way through the process. Over a year ago, the first set of letters went back and forth between Secretary Chrisman and then Regional Forester Jack Blackwell. The letters requested leaving the interim direction in place, and that the USFS not order things to the Chief for approval. That means the Forest Service has a limited list of exceptions where a road could be build in roadless to non-discretionary resource protection and emergencies. The USFS will consult with the State when they are considering a proposal to build a road in roadless. The USFS holds a monthly coordination meeting between Ms. Giny Chandler and Ms. Nota, at which the Forest Service will bring forward issues and the big over-arching plan. A few months ago, some decisions were made that the State felt were inconsistent with the letter, and Secretary Chrisman wrote the USFS of his concerns because there were some inventory roadless areas that had a prescription to build a road in roadless, even through the over-arching direction is to keep the unroaded character, which leaves the door open. Last week the USFS sent a letter back to Secretary Chrisman clarifying and re-affirming the USFS's protection of those areas while the state petition goes through the process.

## **REPORT ON THE STATE PETITION PROCESS FOR ROADLESS AREAS.**

Ms. Giny Chandler, Chief Counsel, Legal Services, said because of the Forest Service's Southern California plans and the fact that the State was not involved in that planning process until very late, it became obvious to the Resources Agency that a mechanism was needed to notify the State. This came about around the same time the state rule was proposed. The Resources Agency started brainstorming how to craft a state rule if we are going to take part in this process which the federal government has invited us to do. Agency decided the most effective way to deal with this was to meet with the Forest Service to decide what kind of rule would work best for our particular situation. While going through with this process, Agency came up with some concepts for a state petition. The Governor's Office approved Resources to pursue a state petition for a state rule. What is important about this is that the Board of Forestry makes policy for both state and federal forest lands within the State of California; this makes the Board the logical body to work on public participation part of this rule-making. There are a number of elements required in order for a rule to be accepted by the Secretary of Agriculture. One of the elements is public participation. Because the Board of Forestry has responsibility over the state for state forest lands and federal forest lands, Resources believes the logical place for public participation to take place is with the Board of Forestry. Ms. Chandler's mission from Resources is to ask the Board to take on this task. The petition for the rule, is to demonstrate that we have a public process, we have engaged in it, and that we intend to engage it. The petition provides that the Board of Forestry, through the public process, will develop a policy to be recommended to the Governor as the California policy. The rule essentially says that California will develop a policy for criteria for when roads might be built in inventoried roadless areas. Ms. Chandler has been in this collaborative effort between Resources Sandra Ikuta, Crawford Tuttle, Jessica Roberts. Executive Officer Gentry and Ms. Chandler have been involved in meetings and have had input into the substance of it.

Member Nawi asked Ms. Chandler to go over the public process.

Ms. Chandler said the federal rule invites states to submit a petition to the Department of Agriculture. This particular rule lays out elements the petition must contain. At the end of the day, when and if the petition is accepted, the federal government will engage in the rule-making which will put into the Federal Register and into regulation the rule which the state has asked the federal government to put into place. The end date for the petition is November 13, 2006. As part of the petition process, the State has to demonstrate that it has taken into account the public's interest in wilderness areas. Some of this has already been done through the original 2001 print rule; a lot of comment that was taken. The Board could go back and research through the Forest Service what those comments were, and summarize them and use that as a basis. The Board is mandated by state law to be the Board that articulates state policy, not just state forests, but federal forests. It is the natural place for these public hearings to take place. The petition, itself, envisions the Board of Forestry will take on the public hearings, probably four of them.

Member Nawi asked if the four hearings would take place before the November 13, 2006 date.

Ms. Chandler said yes, and that the hearings would have to start soon.

Member Nawi asked who would make the ultimate decision based on public input. As Member Nawi understands it, a petition has been prepared which would be the subject of the hearings, they have comment on the hearings to the extent that amendments, changes, and other decisions can be made – who will be responsible for making those decisions.

Ms. Chandler said the Board of Forestry will make the recommendations to the Governor's Office based upon that position. Ms. Chandler believes that there will be interested parties from Resources, Fish and Game, Water Quality, and a number of environmental groups. Part of what the Resources Agency has done as part of this process, is to take this to various different stake-holders and discuss the feasibility. In response to this, the Resources Agency has been reaching out to those groups and saying this is what we are proposing as a rule-making process, will you participate in it? Ultimately, their interest is not the only interest which will be expressed as part of the policy. If the Board takes this on they will hear from some very interesting and diverse groups as to

what they expect. It will be the Board's policy, framed by the input the Board receives. The petition will be submitted, but the substance of the petition with the policy will be developed through the public hearing process.

Member Nawi said if the Board were to hold four hearings concurrent with the Board's regular meetings, beginning in May, that would take us through to August. Member Nawi asked Ms. Chandler to acknowledge what the Board would be doing.

Ms Chandler said that Executive Officer Gentry has worked through the schedules and he probably has a better feeling for this.

Executive Officer Gentry said the first meeting would be concurrent with the meeting in Los Angeles in June, the second meeting would be concurrent with the Board's meeting in Sacramento in July. There would be a meeting in Fresno sometime in August, and the last meeting would be concurrent with the Board meeting in Redding/Mt. Shasta meeting in September.

Member Nawi asked Ms. Chandler if she felt the Board would be able to come to a conclusion in October at the final meeting of the Board.

Ms. Chandler said Agency is exploring the possibility of the Forest Service supplying funds for the process. She is envisioning, if they are able to get those funds, that they would hire someone who has experience in collating and weighing comments, so as to not task staff with the job of assembling the final package. Two states have received between \$130,000 and \$150,000 in funds from the Department of Agriculture.

Chairman Dixon said the Public Resources Code gives the Board this jurisdiction, and does not believe the Board has an option of whether or not they want to do this. It is the Board's responsibility under that Section to do this.

Ms. Chandler said she was not sent to this meeting with the mission of telling the Board they must do this, but the Resources Agency would very much like this process to go forward. The Board needs to undertake it willfully as part of the Board's duty. Ms. Chandler recognizes it will be a cumbersome process, and will add significantly to the hearings the Board has for the next five months.

Member Nehring said as he understands it, and as the result of federal action, the Board of Forestry now is in this position of developing policy for the potential future of developing roads on federal land which is FRA, and will be in a position to see that the petition meets the criteria that the Federal government set forth, which it will ultimately become the federal rule. The state has been given the opportunity to craft a federal rule. The Board is a policy making body. Member Nehring asked if it was the Board's responsibility to develop the proposed policy and then take it over to the Governor for the Governor to make a final decision as to whether it goes to the Federal Government, or does the Board recommend what goes to the Federal Government directly.

Ms. Chandler said the Board would recommend policy to the Governor. It is the Governor who has to petition for the rule. It is the Governor's rule. The rule embodies the policy which will be developed out of the hearing process. It is unlikely that the Governor is going to take a rule that has gone through intense public participation and significantly alter it. Ms. Chandler explained the exchange of letters. She said the exchange of letters explicitly allows road building for fire protection purposes. The exchange of letters also addresses native Indian sites. There is another law that applies to landlock parcels, including timber parcels.

Member Nehring reaffirmed that construction of roads for fire protection purposes is unaffected.

Ms. Nota said it is part of the agreement that until the state petition goes through, it is one of the exceptions the Forest Service agreed to. The USFS have temporarily opened a road or used a fuel break as a road so they could perform fuels reduction, and then closed the road behind them.

Member Nehring asked if we were talking about road development for purposes other than fire protection, such as recreation purposes. Member Nehring asked if timber operations were happening in these areas.

Ms. Chandler said some timber operations were occurring on private lands.

Mr. Nehring understood this to say that the environmental community is biased against road building in these areas and the other side we have the recreationalists.

Ms. Nota said the USFS is going through a route designation process for vehicle use. Our forests had been open for cross-country travel in large portions of the forests. The USFS is going to designate routes that the off-road vehicle folks can use. Once the USFS completes the process, there will be designated routes for off-road vehicles. Most understand and agree that the chances of building a brand new road in roadless, just for off-road vehicle use is incredibly slim. There are some existing roads in roadless that are very important to the off-road vehicle users, this is not about existing roads, it is about building new roads. Ms. Nota said the Board will probably hear from the off-road vehicle use community because it will feel like they have narrowed-down options, and that will have to be part of the dialog that will have to be worked through.

Member Nehring said the Governor's Office ultimate decision is to look at forest practices upheld. In 2006, which is a gubernatorial election year, the Board of Forestry will hold hearings with the environmental community vs. the off-road community on the issue of building roads on federal lands. Member Nehring looks forward to watching those hearings as a member of the Board or as a spectator.

Member Ostrowski asked what the options were in this policy as far as specific management direction for each roadless area. For example does the Board have the ability to recommend a very specific management direction for specific roadless area. Would it be the Board's charge to go line by line through each roadless area and review. The other would just a one line "we don't think any roads should be built in any of these", but not go beyond that and leave it to the Forest Service to manage them under their current plan.

Ms. Chandler said it was clear to the group when they began discussing the possibility of a state rule that the more specific-forest-by-forest any rule was going to be more of a requirement. The Board may feel differently when it comes to policy making. If the Board feels more specific guidelines are appropriate, that would be part of the process. There is a commitment to being a cooperating agency for purposes NEPA.

Member Ostrowski said there has been a long history of the roadless areas being fought over by lots of different groups. Member Ostrowski felt the new rule was meant to up with some solutions. Solutions generally mean a very definite plan for a roadless area. The minimum size for roadless area in California is 5,000 acres, which is a relatively small area. He feels the Board will hear the entire spectrum of opinion. If the Board takes this on, we are committing to try to find closure to this 20 or more year program of trying to figure out what to do with these areas that just happen to not have roads on them.

Ms. Chandler said after working with Resources and the Forest Service, they are trying to come up with general principles by which any time a road is proposed in any of the 18 national forests in the state, we would be:

1. Invited into the process very early on. Notification is part of the program rule.
2. Set criteria that would be applied to each project that is proposed in a roadless area.

Realistically, for financial reasons and because the Forest Service is not looking to develop these, we are not looking at a lot of road projects that are going to be proposed. The rule would provide the state with a set of criteria by which they could say to the Forest Service "this project meets the criteria" or "this project doesn't meet the criteria". No matter what the Board does in the way of a rule, they do not have veto power over what the Forest Service does. There is a supremacy clause, and the State of California does not get to dictate the final answer on policy. If the Board works cooperatively through the process now, it could have a lot more influence than in the past in the early part of decision-making process, rather than just commenting at the end of the process for proposed management.

Ms. Nota said those are rare cases. Lots of areas are roadless because the USFS cannot build roads in those locations. Idaho feels most strongly on this issue, they sued on it. When the state petition started they needed input for petitioning so they embarked on public meetings, and had their counties hold meetings. The USFS had intended to have roadless area by roadless area to make recommendations, and once they gathered all of the information from the public meetings, it now sounds like they are going to petition the process.

Member Ostrowski asked who would draft the notice for the hearing. Are we just going to notice around here and everyone wants to know general comments about roadless areas. The Board would want a draft policy.

Ms. Chandler said the noticing for this would be public hearings on a state petition for a roadless rule. Ms. Chandler doesn't think any of the stakeholders are going to be mystified by what that means because they have all been involved in the federal process of the rule making.

Member Ostrowski asked if this would be a Board of Forestry regulation.

Ms. Chandler said no, it is a federal rule. Resources is asking the Board of Forestry to step up to be the forum through which a policy is developed which would then be sent to the Governor, and the Governor will send that as part of the petition for a federal rule, which would then go through the federal rule-making process.

Member Nawi said when the Board receives the petition it would be the subject of the public comment, and if so, who would draft it.

Ms. Chandler said yes, Resources is working on that petition and she expects the Board would have that petition. The petition would have that submitted to the Department of Agriculture concurrent with the beginning of the meetings so that the Board can see what the framework is.

Member Ostrowski asked if Resources was going to do that, or is it something that the Board will draft after the public comment.

Ms. Chandler said the petition is different from the final policy. The petition will be submitted, but the public process is going to develop the policy that will become part of the federal rule-making. Oregon, Washington, Virginia, and North Carolina have submitted petitions. They are everything from "we want the Clinton Rule" to fairly specific requests for certain kinds of protection. Ms. Chandler has looked at all of the petitions except for North Carolina. What the state has tried to work through is a blend of a procedural rule and a substantive rule. The procedure is getting notification early on in the process, and attempting to participate in the process. The substantive part is the guts of the hearing process, those criteria that would be applied in the event that a project is proposed in a roadless area in a national forest. Some of those criteria have been developed generally by the letter exchange. The Board will get copies of all the letters exchanged, the last letter was sent to the Secretary of Resources on Tuesday, so the Board will know what the thinking up until now has been.

Mr. Bruce Reeves, Board Counsel, said in terms of criteria being proposed for evaluating roadless areas in the substantive part of the petition, if that comes to pass, are we partners with the Department of Agriculture or are back to just recommending something that Agriculture takes the way to the rule-making decision.

Ms. Chandler said the Board is a cooperating agency. We do participate, we are not the primary participant, we are a player in the process. Once the petition has been accepted, the formal rule-making begins. One thing that has to be decided is what key components are necessary for that rule to be complete. That rule cannot be decided until the policy comes out.

Member Nawi said this would be a resource-intensive, very visible, and time consuming process for the Board. Member Nawi urges the Executive Officer to take into consideration of the Board's limited resources. All people who have an interest in the rule should be fully aware of what is going on.

Ms. Chandler said Resources is in the process of developing a list of organizations, stakeholders, and legislators to notice. They might put a notice in the newspapers.

Member Ostrowski asked how many acres of IRAs California. Does the Forest Service have maps and descriptions and current management direction and options, and if mountain biking will be allowed in wilderness areas. The Board will hear a lot of comment that these should be wilderness areas. If the Board can develop policy for building roads, they will hear lots of comments that policy should say no roads can be built ever.

Member Ostrowski doesn't know if the Board can come out with a statement that says every road proposed should be looked at thoroughly. The state has always had the ability to develop the forest plans.

Ms. Nota said 4.4 million acres for California.

Ms. Chandler said it gives the Board the ability to provide guidance before the update of the forest plans. There are 18 forests in the state, four of those plans have just been updated. Three are scheduled to be updated in the next few years. All of the plans will be updated eventually. Part of what this rule does is it gives the framework for the state's participation in those management plan updates, which currently we can comment on just as any member of the public can. If this rule process goes through, the State will have a much stronger voice in the direction that those plans take as to the inventory roadless areas. That is the intention of this process.

Member Ostrowski feels we now have that right as a government agency with jurisdiction within those areas. The State of California is a full cooperater with the federal government and local governments.

Ms. Chandler said Resources felt their participation was not adequate for the State's voice to be heard in the four southern California plans.

Ms. Nota said a very good website to look is: [roadless.fs.fed.us.com](http://roadless.fs.fed.us.com). This website contains all the roadless areas in the nation. You can click on California, and then click on forests.

Ms. Nota said that currently under the land management plans, there are land management plans with restrictions on top of those roadways, some will say they could be roaded, and some will say not. Right now by this agreement that we have that will last until the state petition is through. The USFS are not going to look at those land management planning guidelines that says this could be roaded. We are going to treat it all the same, that is our agreement with the state. This is in the interim until we have a policy.

Member Ostrowski asked Ms. Nota if the policy intended to be more specific than the interim.

Ms. Chandler believes the policy would track the interim, but would probably develop fairly specific criteria for evaluating projects proposed in wilderness areas. Not taking criteria forest-by-forest or inventory wilderness area-by-inventory wilderness area, but by applying specific criteria to every roadless area as a management tool.

Member Nawi said there will be a great deal of work and focus by the Board, and will this will take resources and the Board's time and attention away from other things. Member Nawi also noted that the Chairman is correct, the Board has a statutory responsibility under the Public Resources Code and if it is appropriate to accept this significant responsibility, he was prepared to make a motion, and the motion would simply say that the Board of Forestry and Fire Protection will hold hearings for the petition and provide recommendations to the Governor's Office, and would ask the Executive Officer to evaluate the need for additional research and seek necessary resources.

Chairman Dixon said the issue is not as complex as it sounds. Administration is exercising their right to be a participant. It is critically important the Board be a player in the beginning. The Board is simply doing what the Public Resources Code gives them jurisdiction to do, which is to provide a public forum process on the roadless issue. Chairman Dixon recognizes the concerns about resources, but he believes Agency will be providing funding.

Ms. Chandler said a letter was drafted to the Secretary of Agriculture requesting funds to include the resources necessary for the process. Other states have received over \$100,000. Ms. Chandler believes that the Department of Agriculture will recognize this as a resource issue. If the Board is going to undertake this, we have to partner out. Ms. Chandler believes the Board will receive funding.

Chairman Dixon said the Board has few resources to conduct the hearings and perform the work that will be involved in defining the process and holding the public hearings. Chairman Dixon feels the Board should not shy away from taking responsibility and exercise their right.

Chairman Dixon said before proceeding with Member Nawi's motion and other Board discussion, the Board would take Public Comment.

## **PUBLIC COMMENT**

Mr. Bill Keye, representing California Licensed Foresters Association, said as a professional forester, he has been following the wilderness/roadless issue for many years. Mr. Keye has seen the process as a citizen trying to participate and give public comment. Mr. Keye has a mistrust of these processes. Is the Board going to be fixing policy with regard to state roadless policy, or is the policy going to be fixed within narrow sideboards and then handed to the Board by the Resources Agency to have public hearings when the policy has already been set with very narrow sideboards. It is Mr. Keye's understanding that the California Wilderness Act of 1984 was an attempt to resolve the issue of roadless. A considerable amount of the roadless areas, at that time, were made into wilderness and then the rest were called released. These areas had been considered for wilderness and then released from that consideration. Mr. Keye wondered if the term of "inventory roadless area" were the same as "inventory released from consideration for wilderness roadless area"

Ms. Nota doesn't think so. The USFS land management plan still has overlays that keep about half roadless and some are roaded. Ms. Nota will look it up. Revisions are to focus in on roadless wilderness does not become wilderness unless congress decides to bring it forward and make it wilderness.

Chairman Dixon asked Mr. Keye what his first question was.

Mr. Keye said it sounds to him like the petition has already been crafted in the Resources Agency, and the Board is going to be given the policy, but just asked to just refine the policy with narrow sideboards.

Chairman Dixon doesn't believe the administration has crafted the policy and will ask the Board to rubber stamp it. Agency is exercising by petition their right to be part of this.

Ms. Chandler said when the rule came out and invited states to submit petitions. The Resources Agency started looking at what kind of petition would be effective. As part of that look, Agency went through the process with the Forest Service. Resources asked what is legal, how much veto power can we have. The answer was not very much. One thing that came out of that was do we want to develop a highly substantive rule, which looks at every single project, or do we want to develop an entirely procedural rule and simply come up with a procedure for notification and comment and then the decision goes on to the Forest Service. The draft petition which is currently circulating, the one the Governor's Office has approved in concept, has a blending of those two things. It has a very precise procedural element to it, but the policy element and substantive criteria would be a fly to decisions for attaching road-making projects in inventory roadless areas is something we can develop through the process if the Board is willing to undertake. There are certain criteria that have been developed generally by Resources Agency but by no means has Resources Agency handed this to the Board and say "this is our criteria, now bless them" at the end of the day. There would be no point in doing this process if that were the case.

Chairman closed the public comment.

Member Ostrowski would like to see a draft as soon as possible so that the Board could craft and get out to the public exactly what is they are going to be commenting on. Member Ostrowski hopes the Board can steer the public comment to specifically to the policy approach, rather than "my favorite roadless area is this...and does your policy cover that."

Member Nawi anticipates the Board will get the petition from the Resources Agency, then we will notice that or hear comments that the Board of Forestry has received from the Resources Agency, and the public will comment on any issues of the Federal proposal.

Ms. Chandler said Mr. Nawi is accurate. The petition will be submitted as a petition before the hearing process as concluded, but the policy portion of the petition will not be submitted until the public hearing is complete. The petition needs to be submitted before November 13. If we wait until November 13, then we have an insufficient

petition, we have lost the opportunity to take advantage of this. The thinking has been that we should not resubmit it, but this portion of it is blessed. The criteria is open to public comment and crafting. Yes, the petition will be out there, but the petition may be amended. It is Ms. Chandler's understanding of the process, that simply because the petition is submitted to the Department of Agriculture, the Agriculture may ask for additional information or things we had not considered in the draft petition. Now that the Governor's Office has approved that process going forward, the petition will probably be submitted in the next couple of weeks. Some states have been engaged in the public process over the last 18 months. California's petition proposes that the ultimate substantive policy that would come out at the end of the day will not be in the petition that is submitted to the Department of Agriculture. The Department of Agriculture gets the Board's proposal for a petition, which will have a policy so the procedural elements are fairly set, but the policy, the substantive elements that are apply to any road policy would be developed through this public process. Ms. Chandler expects the Secretary of Agriculture may wait to act on the petition until the public process is complete. Just because we submitted the petition to the Secretary of Agriculture doesn't mean it is going to be moved on to the FACA Committee until the Secretary is satisfied that all the elements are there, and the public participation element is one of them. The Board is on a parallel track. We are submitting a petition, but it will not be substantively complete until the Board goes through its process.

Member Giacomini asked if it would be a draft petition.

Ms. Chandler said it would be a formal petition with a letter just like the other states have submitted.

Member Giacomini asked if the petition would be subject to change after the public input.

Ms. Chandler said that is the unique part of California's petition compared to what other states have done. We are asking the Secretary to allow us to engage in this public process while the petition is under consideration.

Member Nawi said this is confusing and asking for trouble for the public.

Member Ostrowski thought that each state has the option of not engaging the issue. The petition is just saying, "yes we want to engage the issue". It does not necessarily say we have to have it completely defined and how we are going to engage it by November.

Ms. Chandler said the deadline for submitting a complete petition is November 13, 2006. If the petition is accepted, then federal rulemaking will take place. The rule will be what that petition ultimately looks like.

Member Ostrowski thought the petition was just a place holder. These issues have been debated for years, and to assume that we can put down policy that ends twenty years of debate in eight months is optimistic.

Ms. Chandler said not everyone will leave the process satisfied, that does not usually happen when you have a highly controversial issue. The intent is to ask the Board to work with the public and come up with criteria that can be applied to these projects. At least there would be a consistent way of looking at projects. No one will be entirely satisfied. There are those who will want all of the areas to be wilderness and those who want roadless areas to be open recreational opportunity. Blending these two is probably not possible from a specific policy. Coming up with a consistent way of looking at the issues is what the rule making envisions.

Mr. Bruce Reeves, Board Counsel, said there seems to be some concern about turning in a provision all as one package right on the November 13 that it might be rejected and we would have not time to fix it. Mr. Reeves asked what the difference was between the non-substantive piece that Ms. Chandler envisions occurring and the much more controversial substantive piece that follows is going to be very close to November 13, when it is submitted.

Ms. Chandler said part of what we have engaged in is a collaborative process with Forest Service, and they have given us feedback as to what is a viable form of petition. Regarding the substantive piece of the petition, there is a notification part of the petition that says we will be notified at the earliest possible date. We have written into that draft petition certain turn-around dates for responses to be given. The response to be given would be based on substantive criteria which would be developed during the public process.

Executive Officer Gentry explained that the Governor's Office was quite clear that the expectation was that the Board would listen and incorporate public comment for the Governor. The petition needs to be submitted in order to ensure that we can get far enough in the process to know that we are not going to get rejected at the last second. Executive Officer Gentry acknowledged the discussion is confusing, but given the Board's statutory responsibility, this is an important step.

Chairman Dixon firmly agrees with Executive Officer Gentry that the Board should take this on. Without the Board having had the opportunity to review the petition prior to making this decision adds to the uncertainty. If the Board feels comfortable that they will have the opportunity after the public hearing process to make recommended changes, then Chairman Dixon is comfortable with that. To go through the process and hold four public hearings around the state simply to be told "you are just the errand boy" would not work.

Ms. Chandler said that is not what she heard at any of the meetings that she was present at. She thinks the Executive Officer would confirm that. The critical piece of this is that the stakeholders, themselves, reiterated that there be public hearings, and that their concerns be heard and addressed in the ultimate policy.

Member Nawi said his motion is based the explicit understanding that the Chairman just articulated.

Chairman Dixon said the transparency of the petition is what the Board is concerned about. Chairman Dixon said the Board should provide the public hearing process and develop the recommendations, whether they are in agreement with what is publicly heard without alteration. If there isn't that transparency that the public doesn't believe that the hearing process gives them the opportunity to have their views incorporated, if they are valid, doesn't work for the Board.

Ms. Chandler believes that is the intent. Ms. Chandler will go back and tell the Resources Agency that without that we would not have recommended that the Board take this on. This is what Ms. Chandler has been told and what she heard. This is also what was heard from the Governor's Office to amend the petition.

Member Nawi would like to amend his motion to include the reassurance that the Board has discretion at the end of the day to formulate such recommendations.

**04-06-08: Member Nawi made a motion that the Board of Forestry and Fire Protection will hold hearings for the petition and provide recommendations to the Governor's Office, and would ask the Executive Officer to evaluate the need for additional research and seek necessary resources. Member Giacomini seconded the motion. All were in favor, motion passed unanimously.**

Member Ostrowski would like to see a briefing on the whole issue. The public should also have access to the briefing. The Board is confused and Member Ostrowski expects to see that from the public as they see this posting.

Ms. Chandler thinks a briefing could be developed. She will take that direction back to Resources to put together a package which spells out what the process will be.

Chairman Dixon asked when the petition becomes a public document.

Ms. Chandler said as soon as it is submitted to the Department of Agriculture. Now that the Governor's Office has approved the petition in concept, she doesn't think there will be an issue with having to bring it back to the Board because it is clear that the Board needs to have that.

Mr. Bill Synder, Deputy Director for Resource Management, said it would be helpful to have a flow chart showing steps needed and the deadlines the Board will have. Mr. Synder asked what type of response does the Board have to prepare to the comments as it develops policy and makes choices relative to direction.

Chairman Dixon said it was implied with Board's discussion with Ms. Nota that the resources to do the work that go with four public hearings around the state would require significant assistance of resources from the Agency or resources that work directly for the Board from grant funds. Without funding the issue is dead on arrival.

Ms. Chandler said funding was understood as part of the process.

Member Nawi suggested that the discussion be carried on next month at Lake Tahoe.

**DISCUSSION OF TWO RESOLUTIONS BY THE BOARD. RESOLUTIONS WOULD ACCEPT GRANTS FROM THE WILDLIFE CONSERVATION BOARD AND THE STATE COASTAL CONSERVANCY TO PURCHASE A CONSERVATION EASEMENT FOR THE SIX RIVERS TO THE SEA LEGACY PROGRAM. SUBJECT PROPERTY: PRICE CREEK RANCH.**

The California Department of Forestry and Fire Protection (CDF), Forest Legacy Program Coordinator, Jeff Calvert, requested the Board of Forestry approve resolutions allowing CDF to accept two grants for a total of \$1,443,679 from the Wildlife Conservation Board and State Coastal Conservancy for the purchase of a conservation easement on Price Creek Ranch, a tract of the Six Rivers to the Sea Forest Legacy Program project. CDF has received a federal grant in fiscal year 2005 for the purchase of up to five of the tracts in the "Six Rivers" project. Since the Forest Legacy Program started in California, the program has conserved 5,329 acres of working forest land. With the Six Rivers to the Sea Project, California did what many other states have done, created a Forest Legacy Program project which included more than one landowner or tracts. The Six Rivers to the Sea Project, Phase I includes five distinct properties, owned by five different owners. All tracts, once completed, will grant to CDF a "working-forest" conservation easement.

The Price Creek ranch has been home to the Grandy family for four generations. CDF received the application in August of 2002. It is west and adjacent to Howe Creek Ranch, California's number one Forest Legacy Program project for 2001. Price Creek Ranch encompasses 1,280 acres of forest, range and grassland. The ranch contains 8.9 miles of perennial streams, including two miles of Price Creek salmonid spawning gradients and ½ mile of Sweet Creek salmonid spawning gradients. Stream habitat surveys found abundant populations of Steelhead in Price and Sweet Creeks. There are nesting pairs of spotted owls. Other rare, endangered or threatened species are commonly found on the ranch. Timber harvesting and commercial cattle production have been a tradition with the family for generations, but they are struggling financially. Because the ranch incorporates 15 patent parcels, if the ranch were sold, development and fragmentation would likely be the result.

Mr. Steve Hackett discussed why he and his family wanted a conservation easement. It has potential that they believe in. The family started working on the easement in 1995.

Chairman Dixon strongly supports this proposal, and feels the Board should support it.

Members Giacomini and Nawi felt the package submitted by Mr. Calvert was very informative.

**04-06-08: Member Nawi moved to adopt the resolution for the purchase of a conservation easement on Price Creek Ranch. Nehring seconded the motion. All were in favor.**

**UPDATE ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR JACKSON DEMONSTRATION STATE FOREST (JDSF) DRAFT MANAGEMENT PLAN.**

Executive Officer Gentry reported that staff continue sorting through public comments on the DEIR for Jackson Demonstration State Forest. At this time, there is no completion date. Mr. Gentry discussed the possibility of a second field trip to visit Jackson Demonstration State Forest. Mr. Gentry will email a variety of dates for the field trip to Board Members. The field trip will take place around the middle of May.

**STANDING COMMITTEES OF THE BOARD**

**REPORT OF THE SENSITIVE WATERSHEDS NOMINATIONS REVIEW COMMITTEE (SWNRC)**

No report.

## **FOREST PRACTICE COMMITTEE (FPC)**

Member Nawi, Chair of the Forest Practice Committee reported the Committee met Monday afternoon in Sacramento to discuss issues related to Threatened or Impaired Watershed Rules. The meeting was well attended. Dennis Hall presented an overview and history of the present status of T&I Rules, including extensions. The Committee heard from Ms. Charlotte Ambrose from the National Fisheries Service, who presented an overview of her agency. Ms. Ambrose is supportive of continuing with the rules currently in effect. The Committee also heard from Pete Cafferata, Tom Strickland, Galen Lee, and Marty Berbach. CH2M Hill Consultants presented a bound volume summarizing the 59 studies they had looked at. Mr. Galen Lee, from the State Water Quality Control Board suggested contracting for an independent, outside evaluation of issues presented. U. S. EPA has a contract with an organization called TetraTech that can be available to do work with a minimum of time and energy expended. Cajun James gave her view on the science review. The Committee discussed an extension of the rules based on the fact that it is highly unlikely to complete the scientific review by July. Members Nawi and Ostrowski agreed to meet as a subcommittee to the Committee with agency, industry and members of the public to discuss issues related to the body of the study, format of the study, how summarized, use of a consultant, and connection of scientific data to the rules and timing of the process. Member Nawi hopes to have something to present to the Committee in May. The Committee came to a consensus that they will come to the Board with a recommendation regarding extending the sunset beyond 2006.

The Forest Practices Committee resumed their meeting on Tuesday, April 4, at the Alpine Community Center, where they discussed the Lake Tahoe Region Exemption. The Committee was presented with a recommendation by staff to move forward with a 15-day notice with action to adopt or take action on the rule-making package where the Board previously considered certain changes. It was made clear to the Committee that the proposed changes would not satisfactorily address the concerns of the Lahontan Board. The Committee felt it would make more sense to give one more full opportunity to come to agreement with the Lahontan Board. The Committee asked staff to schedule a meeting with appropriate CDF staff and the staff of the Lahontan Board to try to address these issues. Member Nawi asks that this meeting be scheduled at the same time in Sacramento as the meeting on the T & I Rules.

The Committee discussed the timberland definition and the exemption process for the Lake Tahoe Region. Based on a report by the Executive Officer, the Committee felt it would make more sense not to go down the path of trying to create a definition of timberland specific to the Lake Tahoe area. As an alternative, the Committee supported the suggestion that an MOU be negotiated with TRPA to address the issues on enforcement of the existing rules and to have the agencies coordinate their process. One consideration under the MOU would be protection under TRPA would meet or exceed what is in the forest practices. The MOU will also address enforceability issues.

The last item the Committee discussed was the proposal that the Committee adopt a resolution to facilitate restoration and preservation of Aspen stands. CDF expressed some concerns. Mr. Marty Berbach of Fish and Game voiced his concurrence with CDF's concerns. Mr. John Kessler has agreed to work with the Department and the Department of Fish and Game to try to come up with a rule package to meet everyone's concerns, and present that to Committee in May. At that point the Committee would recommend going out on a 45-day notice. Although there are some issues, this still receives unanimous support from the Committee.

## **POLICY COMMITTEE**

Member Nawi said the main discussion at the Policy Committee meeting was the Board's Policy Statement. After reviewing the draft policy, the Committee will present the Executive Officer with their editorials. The Committee did not have major organizational and structural suggestions. The draft policy has been posted on the web, but the committee is requesting additional comments from the public. Executive Officer Gentry will meet with Member Marckwald, and will give the Committee the amended version in May. The Committee is committed to bringing this to the Board in early-June.

Member Ostrowski said the Committee reviewed current legislation. Substantial amendments have been made to SB 1310, it continues to be amended and reviewed. The Board had a discussion on the Board's past policy and interacting with the legislative process. There will be times the Board will have to write a letter in an advisory manner or comment manner. The Committee discussed what legislation the Board may propose or support in concept to assist in our regulatory capacity.

### **MANAGEMENT COMMITTEE**

Member Giacomini said a short Management Committee meeting was held, where the Executive Officer Gentry gave an update on road management plans. Ms. Chandler submitted a draft proposal to the Resources Agency on coming forward with a certified regulatory program on roads. Discussion of long-term management vehicles will continue.

### **RESOURCE PROTECTION COMMITTEE (RPC)**

Member Nehring reported that the Resource Protection Committee received a briefing of the Department on the proposal of delaying fire season in extreme northern California counties to help the Department with its deficit. The Department reported on a high level of vacancies due to early retirements, causing nearly a 50% vacancy rate. Year-round staffing in southern California counties proved to be helpful this year. The levels of staffing outlined in the Blue Book are good, but staffing is not taking place at those levels due to financial issues.

The Committee took two actions on the Amador Plan. The first directive was to post the hearing for the Amador Plan revisions, and the second was that those revisions go out for a 45-day notice. The Committee recommended the notice of adoption for the notice of preparation of the VMP EIR. Certain revisions were suggested to the VMP EIR to clarify that vegetation treatment programs, fuel reduction. The Committee also heard an update on fire protection cooperative agreements.

Mr. Zimny said following the discussion and recommendation by the Board, there was a recognition by members of the public that there was some additional editing that would help clarity for the public. The document that Member Nehring and the Board discussed for inclusion, along with the public amendments were woven into a document which was passed out this morning. As part of the motion for noticing the 45-days, the Committee will reference the version for June of 2006 as an updated version to the package that incorporated public comment from the Committee on Tuesday.

Member Giacomini complimented staff on the fast turnaround time for incorporating comments into the document. The Committee recommended the 45-day on the regulation because it was very complicated with all of the strike-out and underscore.

### **PUBLIC COMMENT:**

Jim Rissmiller, representing CDF Firefighters thanked Chris Zimny, Ken Pimlott and Steve Dunlap for their work on the Amador Process. CDF Firefighters were the sponsors for AB 1346. The intent behind the bill is to update the antiquated language behind the statute. Mr. Rissmiller had some minor points he felt could be addressed during the 45-day comment period. Mr. Rissmiller would like to see "what is the Amador period" included. CDF is looking at delaying opening its fire season in the northern part of the state to save money – will that action have an impact on any of the Amador Plans in the northern part of the state. By the state delaying opening fire season, it prolongs the amount of time the local agency has to pay for those resources. Mr. Rissmiller feels it is important that the regulations include the time period, or include how that time period would be determined.

Member Nawi asked Mr. Zimny if he could address Mr. Rissmiller's concerns before the 45-day notice goes out.

Mr. Zimny said yes.

**04-06-11: Member Nehring made a motion close the hearing on the Amador Plan. Member Giacomini seconded the motion. All were in favor.**

**04-06-11: Member Nehring made a motion to issue the 45-day notice. Member Giacomini seconded the motion with the understanding that the comments the Committee just received are included. Member Saito seconded the motion. All in favor.**

Member Giacomini said she quickly reviewed the regulation, they look good, but she would like to take more time for review. The 2-person Ad Hoc Committee has been set up.

**04-06-11: Member Giacomini moved to go ahead and publish notice of preparation as appropriate, but let the ad hoc committee review them. Member Nawi seconded the motion. All in favor.**

#### **REPORT OF THE REGULATIONS COORDINATOR**

Mr. Chris Zimny, Regulations Coordinator, said no hearings were scheduled for May.

#### **REPORT OF THE EXECUTIVE OFFICER**

Mr. George Gentry, Executive Officer for the Board, reported the May meeting will be at Lake Tahoe at the Kings Beach Community Center. Hotel reservations will be made at North Star. The first day will be a joint meeting with the Fish and Game Commission in the morning with a possible field trip in the afternoon. The Committees will meet on Wednesday, May 3, and a full Board meeting will be held Thursday.

**PUBLIC FORUM:** Members of the public may address the Board on any topic within its jurisdiction not otherwise on the agenda. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Board. Please be prepared to summarize comments to three minutes in length, or otherwise at the discretion of the Chairman.

Bill Keye, representing California Licensed Foresters Association, said if Fish and Game doesn't step forward and develop a tour, and being close to a working forest, there might be an opportunity to look at real forestry during that afternoon.

Chairman Dixon suggested Mr. Keye put his suggestion in writing to the Executive Officer for consideration.

There was no other public comment.

### **NEW AND UNFINISHED BUSINESS**

There was no new and unfinished business to discuss.

### **ADJOURNMENT**

Chairman Dixon adjourned the April 6, 2006 meeting of the Board of Forestry and Fire Protection.

Respectfully submitted,

ATTEST:

George D. Gentry  
Executive Officer

Stan Dixon  
Chairman