

**BOARD OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246  
SACRAMENTO, CA 94244-2460  
(916) 653-8007  
(916) 653-0989 FAX  
Website: [www.bof.fire.ca.gov](http://www.bof.fire.ca.gov)



**BOARD OF FORESTRY AND FIRE PROTECTION MEETING  
SACRAMENTO, CA  
OCTOBER 4, 2006**

**BOARD OF FORESTRY MEMBERS PRESENT:**

Stan Dixon, Chairman  
Kirk Marckwald, Vice Chair  
Gary Rynearson  
Mark Bosetti  
Jim Ostrowski  
David Nawi  
Bruce Saito  
Pam Giacomini

**BOARD STAFF:**

George Gentry, Executive Officer  
Eric Huff, Executive Officer, Foresters Licensing  
Chris Zimny, Regulations Coordinator  
Carol Horn, Executive Assistant  
Laura Alarcon-Stalians Analyst

**DEPARTMENTAL STAFF:**

Crawford Tuttle, Chief Deputy Director  
Bill Synder, Deputy Director, Resource Mgmt.  
Dennis Hall, Staff Chief, Resource Management  
Bill Stewart, Assistant Deputy Director, FRAP  
Duane Shintaku, Asst. Deputy Director, Forest Practice

**CALL TO ORDER**

Chairman Dixon called the Board of Forestry and Fire Protection to order.

**ADJOURN TO EXECUTIVE SESSION**

Chairman Dixon adjourned the regular session of the Board of Forestry to Executive Session.

**RECONVENE REGULAR SESSION**

The Board of Forestry reconvened to their regular session.

**ANNOUNCEMENT OF ACTIONS TAKEN IN EXECUTIVE SESSION**

Chairman Dixon recognized Deputy Attorney Generals Bruce Reeves and Anita Ruud. Mr. Reeves reported that three matters, with potential litigation, were brought to the attention of the Board. (1) The decision in the Joy Road Area Forest and Watershed vs. California Department of Forestry and Fire Protection, Case # A105421. (2) Registered Professional Forester Feller litigation concerning the recent petition to revoke his license. (3) The status of attorney client privilege regarding a letter from Deputy Attorney General Teri Ashby to the Board, which will be discussed at public session. Assistant Executive Officer Huff reported the Board voted to uphold appeal of the April 7, 2006 RPF exam.

**10-04-4: Member Rynearson made a motion to approve the registration of Mr. Robert O. Hoover, RPF #2832. Member Ostrowski seconded the motion. All in favor.**

### **APPROVAL OF MINUTES - AUGUST AND SEPTEMBER 2006**

Chairman Dixon deferred the approval of the August and September 2006 Board minutes to November meeting.

### **REPORT OF THE CHAIRMAN**

Chairman Dixon reported that Agenda item 12 (Presentation by the Peninsula Open Space District on the Fuel Reduction Treatment Program and Associated Regulatory Processes) would be deferred until at least the December meeting.

### **REPORT OF THE DIRECTOR/DEPARTMENT**

Mr. Crawford Tuttle, Chief Deputy Director, announced that after many months of negotiation and effort, the Department has reached an agreement with the Department of Personnel Administration and Department of Finance on a solution to the Chief Officer salary inversion problem. The solution is retroactive to July 1, 2006, and consists of the following:

Assistant Chiefs will be given a gross compensation increase, inclusive of longevity and Extended Duty Pay at 10%, which represents a 5% increase above the average monthly compensation level of a 72-hour Battalion Chief. Unit Chiefs and Forestry and Fire Protection Administrators will receive a compensation increase equivalent to 5% above the Assistant Chief level.

In addition, Extended Duty Pay will increase an additional 5% from May 1 through October 31 each year beginning May 1, 2007.

Mr. Tuttle said this represents an annualized compensation increase of approximately 12% in PERS-able salary.

In addition, a recruitment and retention bonus will be offered for 36 months at a rate of \$1,850 per month for Assistant Chiefs and approximately 5% higher for Unit Chiefs and Forestry and Fire Protection Administrators. This recruitment and retention bonus will not be PERS-able and will sunset on June 30, 2009. Chief Officer CEAs will be compensated at a 5% or one step level above their subordinate staff. Chief Tuttle said CDF will also continue to look at needed

reorganization, reclassification, and long-term succession planning. A statewide managers meeting is being held next week to address these issues and look toward the future of CDF.

Chief Tuttle said the Governor signed a piece of landmark legislation, AB 32, which places the state in a leadership position with regard to establishing protocols in efforts to reduce our carbon emissions over the next several decades. The Department and Board will play a strong role in the future, and AB 32 is gathering quite a bit of attention nationally.

Director Grijalva will hold a meeting on reorganization with his senior leadership on October 12, to learn how to better integrate all the important missions of the Department in an efficient and effective way.

### **REPORT OF THE CALIFORNIA OAK MORTALITY TASK FORCE (COMTF).**

Mr. Mark Stanley, Chair of the California Oak Mortality Task Force, gave an update on the Task Force. A copy of Mr. Stanley's presentation was included in the Board Binder.

### **REPORT OF BOARD'S ADVISORY COMMITTEES**

#### **Range Management Advisory Committee**

No report was given.

#### **Monitoring Study Group**

Mr. Pete Cafferata gave an update on the Monitoring Study Group. A copy of the presentation was included in the Board Binder. The MSG last met on September 7, 2006. No date has been set for the next MSG meeting. Meeting minutes, monitoring reports and archived documents are posted on the MSG website at: [http://www.bof.fire.ca.gov/board/msg\\_geninfo.asp](http://www.bof.fire.ca.gov/board/msg_geninfo.asp). The MSG draft revised Strategic Plan is posted on the MSG website at: <http://fob.fire.ca.gov/pdfs/MSSGStrategicPlan>.

### **PUBLIC COMMENT**

Mr. Richard Gienger said it would be important to have group of people really evaluate what monitoring is going on.

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### **PROFESSIONAL FORESTERS EXAMINING COMMITTEE**

Mr. Eric Huff, Executive Officer for Forester Licensing, requested Board action on a number of RPF/CRM requests for change in status:

Those requesting Reinstatement : Mr. John Coburn, RPF No. 1425

Those requesting Voluntary Relinquishment: Mr. Thomas W. Lealos, RPF No. 856  
Mr. John Coburn, RPF No. 1425

**10-04-9: Member Ryneerson moved to approve the PFEC Requests. Member Nawi seconded the motion. All Board members were in favor.**

Mr. Huff said the RPF exam will be offered this Friday in Sacramento, Redding, Riverside, and Arcata/Eureka. The PFEC will meet October 25. Agenda items include the Policy Statement on RPFs and other professions. PFEC Member's Stroud and Ferrier term will be up in January of 2007. The PFEC will be soliciting nominations for positions on PFEC. Both Members Stroud and Ferrier have expressed their desire to continue their service on the PFEC. Member Ryneerson will work with Mr. Huff on the PFEC nominations.

## **REPORT OF THE UNITED STATES FOREST SERVICE**

No report was given.

## **HEARING: WATERCOURSE STREAMLINING, 2006**

Regulations Coordinator Zimny reviewed the 15-day noticed hearing for modifications to proposed regulation "Watercourse Rules Streamlining, 2006". An initial 45-day notice public hearing was held on July 12. The original 45-day notice proposed amendments, made three changes to the WLPZ and T/I Rules to reduce the economic impact to landowners while retaining a high level of environmental protection:

- 1) Amendments modified WLPZ marking requirements to allow a sample mark of trees to be harvested to be done prior to the pre-harvesting inspection, instead of requiring all trees to be marked.
- 2) Amendments modified T/I regulations to eliminate the rule applicability to Class I stream reaches that are not restorable salmonid habitat due to such things as the presence of physical barriers prohibiting fish movement above the barriers.
- 3) Amendments removed prohibition on harvesting of limited amounts of dead and dying trees in T/I watercourses under Emergency Notices.

During the July 12<sup>th</sup> hearing, the Board directed staff to incorporate the CDF recommended changes and consult with DFG for possible solutions on the "barrier" issue.

On September 14, 2006, the Board directed staff to issue a 15-day notice of public hearing for rulemaking with changes outlined above from CDF, and deletion of rule amendments pertaining to T/I rule waiver for stream reaches above barriers. The Board may adopt any individual proposed change, a selected group of the proposed changes, or all of the proposed changes.

The current proposal contains two of the provisions that were originally proposed for this rule, sample marking and the importance of WLPZ, and the amendment for allowing for removal dead and dying trees in T/I watercourses. The Board received one public comment during the 15-day period from the Law Offices of Sharon E. Duggan. Ms. Duggan's letter was in the Board Binder.

Mr. Dennis Hall said CDF submitted a letter on September 27 (letter in Board Binder) supporting the package. Mr. Hall said Board staff incorporated all the language CDF suggested addressing their concerns.

Mr. Marty Berbach, DFG, said they had no objections to the 15-day notice. CDF took out the section DFG objected to. Mr. Berbach said DFG does not agree with the components of Ms. Duggan's letter on watercourse marking on steeper slopes. There is nothing that precludes Fish and Game or any other agency from requesting full marking prior to the harvest inspection. The 1600 always applies to exceptions. The intent of this modification is to allow for sample marking on those areas of the property they do not intend to harvest immediately. The intent is not to require 100% flagging on areas where they do not intend to harvest. Fish and Game will probably require full marking, regardless if it is 50% slope or 0% slope on the areas intended for harvest in the next five years. Mr. Berbach said whether or not to flag could be worked out on a plan-by-plan basis. The Department of Fish and Game does not look at 100% of all THPs

### **PUBLIC HEARING:**

Mr. Dave Hammonds, representing California Licensed Foresters Association, said CLFA worked long and hard on this proposal, and he is glad it had come this far. It allows streamlining for harvesting dead and dying trees, which is a needed option. Mr. Hammonds said we need to be able to harvest within goals. Mr. Hammonds asked the Board to pass the Watercourse Streamlining proposal as written.

Mr. Richard Gienger, asked the Board to consider the points made by Ms. Duggan in her September 29, 2006 letter. (Copy of letter in Board Binder)

Ms. Jodi Frediani, representing Sierra Club, shares some of Ms. Duggan's concerns. She feels that the public is being left out of this project. Ms. Frediani said sample marking is good and agrees CEQA needs have to be addressed.

Mr. Bill Keye, representing California Licensed Foresters Association, remembered when this package was proposed almost 4 years ago. Mr. Keye said that both CDF and DFG have no problem with the package, and a decision needs to be made. Mr. Keye told the Board not to be thrown of by the tactic of the eleventh-hour letter.

Mr. Paul Mason, representing Sierra Club, agrees with Ms. Duggan's comments. Mr. Mason said the Board should prioritize their time. Mr. Mason said the package deals with the same issues as salmon harmonization, and to let it ride while having science review of T/I Rules.

Mr. Jeff Shellito, representing California Trout, said it is a valid point that this is amending Forest Practice Rules the same as 2112 rules. Mr. Shellito felt since the 2112 package was moving forward, possibly this action should be deferred to see how it fits in with 2112 package.

Mr. Adrian Miller, representing California Licensed Foresters Association, said the new rule package allows for sample marking prior to the pre-harvest inspection. Mr. Miller said it is useful and important to change to standards, this allows for operations on WLPZs.

**10-04-11: Member Ostrowski made a motion to close the public hearing. Member Nawi seconded the motion. All were in favor.**

Member Nawi asked the Department to comment on the issue of sample marking on 50% slopes.

Mr. Dennis Hall said as CDF developed the rule package, it was a concern that the sample did represent the range of conditions found based on field examination. That was critical to CDF's acceptance of the language presented today, that regardless of the slope and conditions, the RPF found what they needed to address through the marking, and then mark them appropriately. That way when CDF went out for a field examination they could look at the areas that were sample marked and be assured that they did cover a representative sample. Mr. Hall expects CDF inspectors to determine if the sample is appropriate for the conditions. Sample flagging only applies to NTMPs. The sample marking applies only to THPs outside of Threaten or Impaired Watersheds and NTMPs.

Member Nawi asked Chief Hall to comment on Ms. Duggan's letter under "New subsection (u)" stating there is no definition for "salvage logging" in the Forest Practice Rules or Forest Practice Act and it should be properly defined or a different term used.

Chief Hall said Ms. Duggan was incorrect. Salvage and sanitation logging are both defined in the Forest Practice Rules under the "Silvicultural" section.

Member Nawi said Ms. Duggan's letter raised several CEQA points. In Ms. Duggan's letter, she says "The environmental effects associated with lessening standards have not been adequately assessed". Member Nawi asked Staff Counsel or Mr. Zimny clarify.

Regulations Coordinator Zimny said the initial statement of reasons regarding the potential affects of lessening standards as mentioned in Ms. Duggan's letter, and taking into evaluation of potential affects from a project that will be entering into a watercourse for salvage logging, the primary statements that were made regarding the environmental affects related to detailed protection requirements consistent with the existing Forest Practice Rules are in place for these operations, there is no potential significant impact.

Member Nawi felt the Board should rely on comments received from CDF and DFG. Member Nawi would like to have the "initial statement of reasons" in front of him and look at the CEQA issues mentioned in Ms. Duggan's letter to be sure they have been met.

Member Nawi indicated his support in going forward with improving the 15-day changes, conditional upon looking at the CEQA compliance issue. It is unfortunate that after all this time we get great comments. We thought we had reached an impasse between the inability of the Department of Fish and Game on the upstream barrier issue, but CLFA dropped that. I am going to move ahead with it, but I do need to satisfy myself on the CEQA point, if the Board will indulge that.

Chairman Dixon asked Mr. Zimny to get the initial statement of reasons which was included in the 45- day package.

Mr. Zimny said the changes between the originally proposed 45-day notice and the changes before the Board today on section 916.9 regarding ISOR were changes to originally labeled "F" and to Section "Q". On page 14 of the rule language in the 15-day notice was that Section "Q" was renumbered. The ISOR summarizing the most substantial potential efforts to impact that

are referring to Section “F” and Section “Q”. The Initial Statement of Reasons added the original 45-day notice proposal. It added Section F. Section F addressed the barriers. Page 15 of the 15-day notice rule language, line 2, the item allowing under emergencies in T/I watercourses construction or reconstruction of improved water crossings was shown as underscored as new text that is being added. That item was existing rule language prior to the Board beginning any rule package. On page 14, line 9, existing pre-45 day notice language states that “no timber operations are allowed in WLPZs under emergency notices or exemption notices. Existing language in the Forest Practice Rules would allow under emergency notices the construction or reconstruction of improved water crossings. Mr. Zimny said nothing been changed.

Board Counsel did not have any concerns.

**10-04-11: Member Ostrowski moved to adopt the Watercourse Streamlining package as presented. Member Bosetti seconded the motion. The Chairman called for a roll call vote.**

<b>Bosetti</b>	<b>Aye</b>
<b>Marckwald</b>	<b>Aye</b>
<b>Rynearson</b>	<b>Aye</b>
<b>Nawi</b>	<b>Aye</b>
<b>Giacomini</b>	<b>Aye</b>
<b>Ostrowski</b>	<b>Aye</b>
<b>Saito</b>	<b>Aye</b>
<b>Dixon</b>	<b>Aye</b>

**All in favor. Motion passed unanimously.**

### **PRESENTATION BY THE PENINSULA OPEN SPACE DISTRICT ON THE FUEL REDUCTION TREATMENT PROGRAM AND ASSOCIATED REGULATORY PROCESSES**

This agenda item was deferred to next month (November).

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

Mr. Bill Stewart reported that since the last Board meeting, most of the effort on JDSF had been discussions and individual feedback. Discussions were held with people from the North Coast Forest Restoration Cooperative, the Conservation Fund, the Nature Conservancy, some RPFs and Forest Yield Members, Kathy Bailey, the Sierra Club. Mr. Stewart is trying to set up a meeting with the Mendocino County’s Forest Advisory Committee. Mr. Stewart said they are trying to clarify the technical issues before moving forward. Mr. Stewart said there are two major areas of focus, metrics for the measure and the shape of the older forest structure zone. Mr. Stewart distributed a new map of JDSF and a letter from the “Mendocino Group”. Mr. Stewart asked how much research and demonstration document is needed to perform activities there.

### **PUBLIC COMMENT**

Mr. Vince Taylor, representing Campaign to Restore Jackson State Redwood Forest, said that Jackson State Demonstration Forest has been a long-standing issue that has not been easily resolved. Mr. Taylor believes that Jackson State Forest should become a world class research and demonstration forest. The issue now seems not so much what to do, but how to do it. Mr. Taylor said everyone agrees there will be a major revision in the objectives of the management in Jackson Forest. To incorporate those changes into a long-term landscape plan and management plan is a complex and politically difficult process. A hasty effort will give a defective result both objectively and politically. Mr. Taylor said transforming the agreement into resumed operation of the forest would best be done in two phases.

Mr. Peter Ribar, representing Campbell Timberland Management Company, is supportive of alternative research as outlined by Mr. Bill Stewart.

Member Nawi said he and Member Rynearson and CDF staff are proposing to meet with the Mendocino group to see if they can arrive at a consensus. Member Nawi felt a 45-day notice would be appropriate if and when they come up with a new alternative.

Member Rynearson is supportive of continuing work with the Mendocino Group, and meeting with them after they have had a chance to meet among themselves, to reach consensus on their desire to move forward with the alternatives.

### **UPDATE BY THE DEPARTMENTS (CDF AND DFG) ON COHO/FISH AND GAME CODE §2112 REGULATIONS**

Mr. Duane Shintaku summarized a letter to Chairman Dixon signed by Mr. Crawford Tuttle and Mr. John McCamman, Chief Deputy Directors for both CDF and DFG. The letter said on August 30, 2006, the Board of Forestry conducted a workshop to discuss the draft rule proposal prepared by CDF and DFG under the direction of the Resources Agency. The proposal contained prescriptive and performance based measures intended to meet requirements of the California Endangered Species Act for an Incidental Take Permit for State-listed coho salmon, as well as providing an integrated approach for the protection of other listed anadromous salmonids. The proposal further intended to provide a basis for an application to the National Marine Fisheries Service for a State Habitat Conservation Plan or 4(d) rule for coho salmon, Chinook salmon, and steelhead listed under the Federal Endangered Species Act. Both CDF and DFG indicated a need for further work to incorporate additional details regarding monitoring and adaptive management. Extensive dialogue among members of the Board, questions for Department representatives and public testimony identified numerous perspectives about the proposal, and a need for additional communication with stakeholders and further work to complete the rule language. The Resources Agency and both Departments have been active in consulting with stakeholders, and in working to complete the rule proposal. However, it was felt that further outreach is needed prior to presenting a complete proposal to the Board, which will require additional time. CDF provided a further iteration of draft language regarding monitoring and adaptive management for discussion by the Board. The idea is to replace the existing 916.11 Section in the T/I Rules with the language provided. The intent of the language is 3-fold: to provide a mechanism to evaluate whether or not the operational forest practice rules and mitigation measures are adequate to ensure protection of anadromous salmonids; whether or not implementation of the rules are consistent with the California Endangered Species Act, and to provide a meaningful feedback mechanism for the Board to assess rule effectiveness.

Mr. Shintaku expects to have a final draft complete rule proposal before the Board before the November meeting. Also, prior to the November Board meeting, CDF will provide a draft of the proposed DFG 2112 procedural regulations providing for incidental take authorization permitting for coho salmon. This component could be adopted along a parallel track by DFG during the Board's consideration of substantive rules.

The eight key concepts are:

1. Try to develop into the regulation a collaborative effort between CDF and the other Review Team Agencies regarding necessity monitoring and design and implementation of monitoring practices.
2. The program allows the Director to engage other experts as CDF deems necessary or appears appropriate for the particular instance we are facing.
3. Monitoring practices and strategies making pure review by scientific technical advisory committee appointed and established by the Board.
4. The monitoring practices shall be evaluated on their scientific merit, as well as what is reasonable and practical.
5. The trigger to require monitoring shall be based upon substantial evidence and record to provide assurance to the regulated public that it is not going to be based upon somebody's preference or comfort level that makes them warm and fuzzy, but that there is substantial evidence in the record that would dictate the necessity.
6. When monitoring is required, data will be provided to CDF on an annual basis, and the Department, Board, and Technical Advisory Committee shall then prepare an annual report to be delivered to the Board during the first quarter of the calendar year, so that when we actually get monitoring data it doesn't end up on somebody's shelf and the Board receives this information annually on a regular basis.
7. Information reported to the Board shall be posted on the Board's website for the public to view for at least 180-days.
8. Based upon the findings identified in the Annual Report, the Director may recommend changes to the rules if the recommendation is supported by substantial evidence.

Member Ostrowski asked how the monitoring would be applied.

Mr. Shintaku said beginning with line 23 it says who will do what and when. It could apply to all harvest operations, but Mr. Shintaku doubts CDF will require monitoring on all THPs, which is why there is language talking about case-by-case decision making.

Mr. Mark Stopher, DFG, said in respect to the California Endangered Species Act, one of the statutory requirements for an incidental take authorization is that it be accompanied by implementation and effectiveness monitoring. Part of the overall proposal to the Board wherein the descriptive parts of an incidental take from that process would be incorporated into the regulations of the Board of Forestry. In order to meet the CESA issuance criteria there would need to be a monitoring program incorporated into the regulations.

Member Rynearson asked if the 2112 rule package would be specific to coho or would it address all listed salmonids in CESA or federal CESA.

Mr. Crawford Tuttle said the package that will be presented to the Board will provide options for the Board to consider.

Ms. Charlotte Ambrose, National Marine Fisheries, said they would recommend a state and federal conservation plan. NMFS is open to an HCP for one species or all species. Ms. Ambrose feels it may be more efficient for the state to pursue a habitat conservation plan of all listed salmonids in California. Forest Practice Rules set a very strong foundation to those working on a HCP. Ms. Ambrose said to say that we are starting from ground zero would be misrepresenting how far along the state already is relative to accomplishing the statewide HCP for all anadromous salmonids. It is critical if the state decides to move forward on a habitat conservation plan that commitments are received from the Board of Forestry, CDF, DFG, forest land owners, the Fish and Wildlife Service, and NMFS. The Forest Practice Rules provide part if not all of the package that would be needed for a habitat conservation plan. It would be incumbent for the Board to adopt Forest Practice Rules in collaboration with CDF's agreement to address enforcement issues. Ms. Ambrose said they have been very clear in conference calls with the state that they need to look through their administrative record relative to the inadequacies that have been outlined by NMFS over the last ten years to address those inadequacies either by saying they are not applicable and here is why, or this is how we are addressing this specific inadequacy. Ms. Ambrose said Secretary Chrisman visited the Undersecretary for Commerce for National Oceanic and Atmospheric Administration. Secretary Chrisman indicated to the Vice Admiral that the State is interested in pursuing a forestry HCP, and there is a letter forthcoming from the Admiral making statements to the effect that forestry in California is important. Ms. Ambrose said regulatory certainty for landowners in California is important and NOAA is here and committed if the state chooses to move forward.

**10-04-14: Member Ostrowski made a motion that CDF in coordination with the Department of Fish and Game prepare for rule-making a process for information required in a THP for issuing an incidental take permit for listed coho salmon, and that this be consistent with Fish and Game's Commission's guidelines policy adopted as part of coho recovery strategy plan.**

Chairman Dixon said what Member Ostrowski included in his motion was also included in Member Marckwald's motion at the August Special Meeting.

Member Ostrowski said it may have been, but at that time the Board was facing a motion for having something come back immediately to the Board in September. We were promised something would be here in October. Now we are hearing something will be here in November. Member Ostrowski said the Board was asked to act as quickly as possible on this. Member Ostrowski wants to be sure the Board is asking for something very specific to the collaborative needs. The specific part that Member Ostrowski doesn't see in the proposal the Board has before them that they will have before them something on incidental take.

Member Nawi said he has been confused where the Board is on this matter. Member Nawi said the original justification was the need to move rapidly, and the Board was told that because Fish and Game had to follow CEQA process, and CDF had the functional equivalent, could not complete 2112 regulations this year. Member Nawi mentioned a letter from Senator Kuehl expressing concerns about the timing. It appeared that the earlier draft that Fish and Game had discussed prior to the litigation on coho listing was a source of substantial concern to landowners. Right now the Board is being asked to await a proposal from the two departments, and to his knowledge no one on the Board is party to crafting that proposal. Member Nawi said Member Ostrowski would like to see a very limited approach on 2112 incidental take. Member Nawi said the Board has not charted any particular direction for being asked to take action

based on something that is brought to us, we have not given direction on what that something should be. Member Ostrowski made a motion to make that something fairly limited, and Member Nawi feels there is a great deal of visibility on this issue, the need to move fast, yet it is now October and this was initially brought to the Board in July, the Board has yet to see a comprehensive rule package. Member Nawi said he is very confused and concerned. He believes the Board needs to decide what they are going to do. If the Resources Agency is going to take a strong and aggressive role as the Chairman said in Santa Cruz in August, it needs to be done publicly. Member Nawi felt a lot of time has been spent on this issue with no positive outcome, and hopes some clarity can be lent to the situation.

Member Marckwald said he thought his original proposal went to the consultation. Mr. Marckwald said he is inclined to let the Secretary's Office and the two Departments work through this and bring back to the Board what they can bring back to the Board and then decide.

Chairman Dixon said he assumed from Chief Tuttle's comments that the package was essentially still to deal with the whole anadromy, but they were also looking at alternatives, one of which was probably a more narrow approach which would deal simply with the issue Member Ostrowski is talking about. Chairman Dixon asked Chief Tuttle if this was what he implied in that statement.

Chief Tuttle said Chairman Dixon was absolutely correct.

Chairman Dixon said it is too late to do what the Board originally wanted to do or thought they could do. Chairman Dixon believes what the Board receives in November may give the Board a basis for where they want to go, including a longer-term approach.

Member Rynearson agrees with Member Ostrowski's motion. He said the Board was told it would take 4-5 years to do an HCP, so this is a very long-term project. Ms. Ambrose did identify the 2000 federal listing for the listing of steelhead identified their specific deficiencies with the Forest Practice Rules. That has not been updated for six years. The Board needs to have a better understanding of what their current position is on deficiencies. Member Rynearson said the other issue is that we have a listing in place for state coho, we have a set of standards that were established in 2004 by the Fish and Game Commission that essentially were used by DFG to develop their initial 2112 package along with input from their biologist. Now we have an additional package which built off of that which listed not full anadromy, but listed salmonid species both under the state and federal rules. Member Rynearson said the Board has what appears to be a two-tier issue; we have a current listed fish under that state standard that Fish and Game are obligated to develop an incidental take permit form. DFG came to the Board and asked if it could be done more efficiently under your process. It seemed like a good idea at the time to streamline regulations, and Member Rynearson would still like to do that. DFG is under direction from their Commission to develop incidental take standards. The other fish have been listed from 1999 through 2002 for federal listings and that seems to be a long-term proposition that could follow the review of the T/I Rules and then, perhaps, start to shape that first development into a federal habitat conservation plan. Member Rynearson said that although Member Ostrowski's motion failed for a second, he feels it is on target for November to deal with coho in the near term, and then set up a long-term process, with the T/I review to look at the other two species we are dealing with in the process. Member Rynearson said the Board asked for at the Redding meeting, but had not heard anything on, was the Door B option for landowners.

Member Nawi felt it would be helpful for the Board to receive a package from CDF and DFG in November, and that the package contain options and specific explanations of where you might stop if you were just addressing 2112, and if we are going for a wider scale resulting in a 4D. This should be clearly set out. Member Nawi felt if all of these things could be covered at once, it would be a tremendous step forward. Next month, Member Nawi would like to see a comprehensive of regulations, then the Board could pick and choose based on the explanation that came with that set of regulations what the Board intended to proceed with a 45-day package, and then have a full discussion on that and whether or not to integrate the literature review of the T/I. Member Nawi said the Board is the agency of people looking to do this, yet the Board has very little control over it until we receive a full package.

Member Rynearson asked CDF and DFGs counsels to consider their options for MOUs under 2112. He asked if the Board can pass regulations, after passing a CEQA review and having cleared OAL, can those be implemented through an MOU. Member Rynearson would like to understand the process and whether or not it would meet the legal standards and go out under 2112 through the MOU option.

Member Marckwald wondered if all Board members had a chance to look at the federal register notice, which from NOAA Fisheries perspective, noted the deficiencies in the existing rules and in the interim rules. Member Marckwald felt it would be beneficial if the all the deficiencies could be put on one piece of paper for the next meeting.

Member Ostrowski said even though there was no second for his motion, he found it interesting that at least four other interested Board members with specific requests as to what they would like to see, from a simple one-option to whatever the Departments want to present. Member Ostrowski hopes his concerns have been conveyed, and next month the Board will see a variety of options and as much information to inform the Board so they may make a good decision.

Chairman Dixon believes this is path Mr. McCamman, Mr. Tuttle, and both departments are headed. Chairman Dixon said he thought the Board had an opportunity much earlier in the process to be where, hopefully, the Board will be in November, December or January, but he is happy with the take and the progress. Chairman Dixon wanted to be sure that Mr. Shintaku, Mr. Stopher, and staffs are clear about what the Board would like to see.

## **PUBLIC COMMENT**

Mr. Kevin Collins, representing Lompico Watershed Conservancy, said he attended the August 30 meeting, which he found fascinating and felt privileged to attend. This is why Mr. Collins opposed the Governor's proposal to do away with State Boards, because discussion is necessary. He hopes that Fish and Game bring forward enough in their proposal to actually start the recovery of coho salmon because that is what the law requires, to make them come back and be caught by fisherman. Because steelhead are always going to be present where there are coho, Mr. Collins believes it would be efficient to link the anadromous fish together in a single package.

Mr. Richard Gienger said the effort is so specific and yet so broad. Mr. Gienger thought monitoring ought to be brought into this as soon as possible.

Ms. Nadia Hamey, representing Big Creek Lumber Company, was concerned because she had not seen any changes to the rules since the 8/30/06 draft, and was concerned what might pop up at the November meeting. She hopes she will have the chance to review the material before the November meeting, to determine what the impact might be on their timber operations in their southern subdistrict. Ms. Hamey and Big Creek Lumber have been trying to work with the agencies that are drafting the rule proposals. Ms. Hamey believes the rules in the 8/30/06 draft are overly broad and prescriptive. Situations are very unique in different parts of California, and Ms. Hamey feels the rules should reflect that, and she urged the Board to be aware of the big picture.

Member Ostrowski asked to have the rule package agendaized at the next MSG meeting.

### **REPORT OF FOREST PRACTICE COMMITTEE**

Member Nawi reported that he and Members Ostrowski and Bosetti met as the Forest Practice Committee yesterday. Their first agenda item was a discussion and update of Threatened or Impaired Watershed Regulations, and the Technical Advisory Committee. The Technical Advisory Committee (TAC) was formed and members were appointed. The TAC has a meeting scheduled for next week in Redding, where they will consider how they will operate, their protocols, and review a draft "Scope of Work". Member Ostrowski will attend the TAC, and Member Nawi will try to attend. It is Member Nawi's understanding that the Department will provide \$50,000 to fund the literature review, but they would like to see a finished "Scope of Work" before providing funding. The TAC will not be able to complete their review the "Scope of Work" for the literature review on the 10<sup>th</sup>, they anticipate having another meeting another meeting in October. When the Board and Committee meet in November, they will have the recommendations of the Technical Advisory Committee to bless the "Scope of Work", then Mr. Tuttle will write the check and start the process.

The Committee also discussed the MOU for the Lake Tahoe Region. They thought they would have a coordinated enforcement program among the TRPA, the Water Board and CDF. TRPA is unwilling to go ahead with this. Member Nawi is not sure why. He and Member Ostrowski will make one more attempt to speak to TRPA with CDF and the Regional Board present.

Member Nawi said the Committee listed to Mr. Zimny on efforts with the State Board of Equalization to treat fuel hazard reduction activities differently. Apparently there was some resistance, based on (1) the extra work it would take to implement that kind of proposal, and "it would not have much financial impact – why bother"; and (2) some of the county tax folks don't want to see their revenues cut. Mr. Zimny will continue to follow the Board of Equalization issue.

Member Bosetti said the committee had a discussion of the Findings from the Modified Completion Report Study, which was submitted to the Board by the Department. The Committees discussion led to requesting the Department respond back to Committee with an action plan relative to the recommendations that were made in the report, and to divide that action plan specifically along the lines of what the Department would be doing to implement the recommendations, and what, if any, responsibility lay with the Board on suggestions for potential rule modification. Member Bosetti said if Board Members had comments on the Study to give them to Mr. Dennis Hall so they may be incorporated with CDF's response relative to their action plan and recommendations and findings. The Committee received an update on what was called

yesterday “Interagency Road Rules Task Force” on their progress, now called “Road Rules Task Force”. The Road Rules Task Force will have a draft of their suggestions to the Forest Practice Committee in March of next year.

## **POLICY COMMITTEE**

Member Nawi chaired the Policy Committee in Member Marckwald’s absence. The first item on the agenda was a discussion of revisions to the Board’s Draft Policy Statement “The Changing California”. Executive Officer Gentry will continue to refine the document and add their comments to it. Member Nawi said they are considering the document for public comment at next month’s hearing in December. Member Nawi hopes that following the hearing, Policy Chair Marckwald with work with Executive Officer Gentry to prepare a final draft for the Board to consider in December. The Policy Committee also discussed the MSG Strategic Plan, which Pete Cafferata is working on. Comments should be given to Mr. Cafferata by October 17. Mr. Cafferata hopes to bring the revised MSG Strategic Plan to the Board for their consideration and approval. It would go to the Committee first, then the full Board.

The Committee had a discussion and review of CDF reporting and evaluation of Forest Practice Rules. This was going to be a MOU, now it is a policy document for the Review and Evaluation of Forest Practice Rules. They will consider it again at Committee next month, and hopefully bring to the Board for approval next month.

The Committee looked at the joint policy between the Board and Fish and Game Commission for anadromous salmonics. Member Nawi said the Committee is creating the document as they would like to see it, in terms of form and substance. Executive Officer Gentry has undertaken the task and will bring it back to the Committee next month. The Executive Officer is working with Ms. Gail Newton, DFG, to be sure to coordinate, so that the document will be jointly acceptable to both staff’s, and then the Board and Fish and Game Commission.

The last item the Committee discussed was the Performance-Based Pilot Project. Member Nawi said the issue needs to be revived and go forward. Member Nawi hoped some people on the industry side are looking forward to preparing proposals. Member Nawi said both the Department and industry are anxious to go in that direction. Some items and problems were discussed but never resolved, such as, how do we enforce and administer it at the end of the day.

## **MANAGEMENT COMMITTEE**

Management Committee Chair Gary Rynearson said they had two agenda items. The first was the road management plan, and the second was a discussion PTEIR and letter authorized by the Board to be sent to Mendocino Redwood Company regarding the administration of a PTEIR.

Member Rynearson said they had a good discussion on the road management plan. Several issues were raised as to how the road management plan would interface with the sustained yield plans and PTEIRs. At the meeting in Redding in September the Committee deferred on a 15-day notice for two reasons. One, they received comments from CDF that had a number of changes. They also had a verbal request from a representative of the Central Valley Water Quality Board that they wish to review it and provide input. The Committee also discussed how the road

inventory needs to be complete; that discussion was deferred back to CDF staff. At this point, CDF is not requesting or recommending any additional changes.

Mr. Bill Snyder, Deputy Director for Resource Management, said Member Ryneerson made him realize the issue he originally had was a non-issue.

Member Ryneerson said there continue to be some concerns by some members of the public that the road management plan should not be submitted until 100% of the road inventory is complete. Member Ryneerson said it is his understanding that CDF supports the package as prepared and has made the required changes from input from staff. Mr. Ryneerson said the Committee is supportive of releasing the amended package for a 45-day notice.

**10-04-15: Member Ryneerson moved to release the amended package for a 45-day notice. Member Giacomini seconded the motion. All in favor of motion.**

Member Giacomini said this is a way landowners can start tackling issues, and get a handle on a comprehensive look at the roads within their ownership. Member Giacomini feels this is an important start in getting a handle on the road issues.

Member Ryneerson said Board Members had a copy of the amended road package, and copies were available for the public.

### **PUBLIC COMMENT**

Mr. Richard Gienger said there was consensus of the Committee that the definition of road management plan, on page 3, line 3 would changed to State Timberlands. This change was not made.

Mr. Paul Mason, Sierra Club, had number of outstanding concerns. One is the road management plan and impacts to water quality. Mr. Mason asked why there was no feedback from water quality. He feels a 15-day notice is trying to move to quickly.

Mr. Pete Ribar, representing Campbell Timberland Management, supports moving forward with this package with a 15-day notice. Mr. Ribar feels the package will provide a standardized opportunity reviewable by agencies. Mr. Ribar would like to see this passed this year.

Mr. Bill Snyder, Deputy Director for Resource Management said the Department supports the package. Mr. Snyder said the package are not prescriptive standards. Performance based rules will take time to work on.

Member Ryneerson said Fish and Game supported the Road Management Plan, 2006 at the Redding Meeting. Previously water quality has been supportive of other versions of the document

Regulations Coordinator Zimny said the package fits the statutory requirements for a 15-day notice.

Member Nawi requested Mr. Zimny seek comment from the North Coast and Lahontan Water Boards.

The Management Committee revisited the Mendocino Redwood Company letter, pertaining to the PTEIR.

**10-04-15: Member Rynearson made a request to staff to agendaize. The agenda item will be a reconsideration of the motion to issue the Mendocino Redwood Company letter; who should the letter be addressed to and should it remain confidential.**

**10-04-15: Member Rynearson made a motion that the Board waives the confidentiality retainer and the letter be released to the public. Member Nawi seconded the motion. All in favor.**

## **RESOURCE PROTECTION COMMITTEE**

Chairman Bosetti said there were two action items that RPC covered from the agenda. The Committee deferred discussion on agenda item #1 and #2. The first action was that they had a discussion from CDF Firefighters Union regarding legislative proposals that they have begun to contemplate. The Union provided the Committee with a rundown of the two items they are suggesting for potential legislation. They are still working on form and content. The first potential legislation has to do with establishment of non-inmate crews to perform prefire management and vegetation treatment work and reduce the threat of a catastrophic wildland-urban interface fires. The second potential legislation had to do with the designation of State Responsibility Area (SRA).

Member Bosetti said the first action item that he would like to make a recommendation to the Board to adopt is a motion that would direct staff to send the recommendations to the Town of Truckee relative to their General Plan Safety Element Review. The Committee went through each of the recommendations offered by staff. Staff reported that the Unit had made comment, in the "Unit Comment" space that the Committee feels is unconditional and should be focused upon as the Board's response.

**10-04-15: Chairman Dixon asked if Member Bosetti had made a motion. Member Bosetti replied yes. Member Giacomini seconded the motion. All were in favor.**

The second action item had to do with a discussion on utility clearance regulations. At the August meeting, the Committee had a proposal that was made by representatives of PGE to consider regulations that would provide an exemption relative to clearance standards around utility distribution lines, and provide an exemption to removal of major woody stems. PGE and the Department have held discussions. The Committee reviewed the initial draft and had additional questions in August. PGE returned in September, and then again this month. Member Bosetti said all of the Committee's questions and concerns had been addressed, and the Committee is comfortable in recommending that the Board direct staff to develop and submit for a 45-day notice some possible regulations to address the issue.

**10-04-15: Member Bosetti moved that Board direct staff to develop and submit for a 45-day notice some possible regulations to address the issue. Member Marckwald seconded the motion. All were in favor.**

## **REPORT OF THE REGULATIONS COORDINATOR**

Regulations Coordinator Chris Zimny said because of the action today, a 15-day notice hearing will be held in November. The major, woody stem utility exemption will likely be a January hearing.

## **REPORT OF EXECUTIVE OFFICER**

The Executive Officer had no items to report.

## **PUBLIC FORUM:**

Mr. Richard Gienger, said salvage is defined in the Watercourse Streamlining regulation. Mr. Gienger said regulation contains inconsistent placement of definitions. Mr. Gienger submitted substantive road management plan comments. They are in the Board folder. Mr. Gienger asked if Scott Feller's RPF was revoked, he thought it was at last month's board meeting.

Board Counsel Bruce Reeves said there is a petition for re-application pending, which will be heard by an Administrative Law Judge.

Mr. Adrian Miller, representing California Licensed Forester's Association will hold their annual workshop in Redding at the Holiday Inn on October 27. Mr. Miller will forward the CLFA Workshop agenda to the Board.

## **NEW AND UNFINISHED BUSINESS**

There was no new and unfinished business.

## **ADJOURNMENT**

Chairman Dixon adjourned the Board of Forestry and Fire Protection meeting.

**Respectfully submitted,**

**ATTEST:**

**George D. Gentry  
Executive Officer**

**Stan L. Dixon  
Chairman**