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**BOARD OF FORESTRY AND FIRE PROTECTION  
FULL BOARD OF FORESTRY MEETING**

**Sacramento, CA**

**December 9, 2011**

**BOARD OF FORESTRY MEMBERS PRESENT:**

Stan Dixon, Chairman  
Pam Giacomini  
Bruce Saito  
Mark Andre  
Jim Ostrowski  
Susan Britting  
J. Keith Gilles  
Mike Miles  
Richard Wade

**BOARD OF FORESTRY MEMBERS ABSENT:**

**BOARD STAFF:**

George Gentry, Executive Officer  
Eric Huff, Executive Officer, Forester's Licensing  
Linda Cano, Executive Assistant

*The Board's Mission:*

*To lead California in developing policies and programs that serve the public interest in environmentally, economically, and socially sustainable management of forest and rangelands and a fire protection system that protects and serves the people of the state.*

1. Reconvene Regular Session.
2. No Actions taken in Executive Session.
3. Approval of Minutes from Previous Meetings. Deferred.

### **MONTHLY BOARD REPORTS**

4. Report of the Chairman. No report.
5. Report of the Director/Department. No report.
6. Report of the Regulations Coordinator.

Mr. Huff reviewed the Regulation Table

7. Report of Executive Officer.

No report

8. Report of the Standing Committees.

- Forest Practice, Mark Andre, Chair
- Policy, Jim Ostrowski, Chair
- Management, Vacant
- Resource Protection, Pam Giacomini, Chair

The Executive Officer reviewed each committee's priorities for the coming year. Minor modifications were suggested by the Board.

9. Report of Board's Advisory Committees

- California Oak Mortality Task Force (COMTF) – No report
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- Monitoring Study Group- Pete Cafferata  
Reviewed meeting of November 16, which included a report by Lee Benda on Large Woody Debris recruitment.
- Research and Science Committee- George Gentry  
Reviewed goals and objectives for 2012, including research on JDSF.
- Committee on Criminal Trespass- George Gentry  
Reviewed the purpose of the committee.
- Range Management Advisory Committee -No report
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- Professional Foresters Examining Committee – Eric Huff  
Reviewed of State Licensure requirements.

### **SPECIAL BOARD REPORTS AND ACTION ITEMS**

10. **Hearing: Utility Clearing Exemption Extension, 2011.** The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR)

Division 1.5, Chapter 7 [Fire Protection], and Article 4, described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend: § 1257 Exempt Minimum Clearance Provisions- PRC § 4293

Acting Regulations Coordinator, Eric Huff introduced the topic and provided an overview of the proposed rulemaking. He noted that the hearing date was revised from December 7 to December 6 in light of the Board's decision to meet for one day rather than two. He went on to explain that this proposed regulation has been in existence for nearly four years beginning with its initial adoption in 2007 and including two subsequent re-adoptions in 2007 and 2009, respectively.

Mr. Huff explained that the adopted regulation makes permanent an existing regulation that provides an exemption to the utility vegetation clearing requirements in Title 14 of the California Code of Regulations, Section 1257(a)(3). The exemption allows for the trunks and limbs of healthy, mature trees that are sufficiently rigid so they do not present a risk to public safety, to be closer to powerlines than the minimum clearing distance under existing regulations. Specifically, the exemption reduces the allowable minimum clearance from four feet to six inches for utility lines of less than 75,000 volts.

Huff further elaborated that the regulation modifies the existing regulation to include provisions to further define the characteristics of an exempt tree, provide for verification of exempt status by qualified professionals, and impose monitoring requirements on regulated utility companies. The regulation applies only to utility lines exclusively within areas designated by the Board as "State Responsibility Area" [for fire protection].

Huff reported that the Department of Forestry and Fire Protection and regulated utility companies have been monitoring the implementation of this regulation since 2007. There have been no reported occurrences of fire ignition as a result of this regulation to date. The Department and regulated utility companies are in support of this regulation.

Huff concluded his presentation with an explanation of the Board's options for action on the proposed regulation. He noted that there has been no written comment on the proposed regulation during the 45-day Notice period.

Board Member Ostrowski asked Mr. Huff about the necessity of a tentative adoption in light of the lacking public comment on the proposed regulation. Mr. Huff responded that the proposed regulation is ready for adoption at this time due to the lack of public comment. A Final Statement of Reasons would be prepared if the Board votes to adopt the proposed regulation following the public hearing.

Chairman Dixon asked Resource Protection Committee Chair, Pam Giacomini to offer any remarks on the proposed regulation. Member Giacomini provided additional background and history noting that all outstanding issues between the Department and regulated utilities had been resolved prior to the 45-day public noticing of this rule proposal. Member Giacomini then asked Ms. Melodie Durham, Staff Chief with the Department of Forestry and Fire Protection/Office of the State Fire Marshal, and Mr. Niel Fischer from Pacific Gas and Electric Company to address the Board and reiterate their support for the proposed regulation.

Ms. Durham introduced herself and offered the Department's support for adoption of the regulation at this time.

Mr. Fischer introduced himself and likewise offered Pacific Gas and Electric Company's support for adoption of the regulation.

As no member of the public was inclined to address the Board on the proposed regulation, a public hearing was not opened and therefore did not need to be closed prior to Board action on the proposal.

**12-11-01 Member Giacomini made a motion to adopt the rule proposal. The motion was seconded by Member Saito. There was no discussion of the motion.**

**Chairman Dixon called for a role call vote:**

**Member Ostrowski - Aye  
Member Saito - Aye  
Member Britting - Aye  
Member Andre - Aye  
Member Gilless - Aye  
Member Miles - Aye  
Member Wade - Aye  
Member Giacomini - Aye  
Chairman Dixon - Aye**

**The motion passed unanimously and the regulation was adopted.**

11. Presentation of the Battle Creek Alliance. Mr. Jack Ellwanger.
12. Presentation by Sierra Pacific Industries on monitoring activities in Battle Creek. Dr. Cajun James.
13. **Hearing: The Board is soliciting public comment and review of regulations for State Responsibility Area Fees.** Possible Action Item: The Board may authorize staff to issue a 45 day notice for rulemaking.

The Executive Officer reviewed the emergency rulemaking process, and noted that many in public expressed concern over lack of a comment period. He noted that the emergency process is not conducive for receiving comment. He then reviewed timelines for future rulemaking. Both he and Counsel Ashby then reviewed the potential impacts of litigation to the Board process. The Executive Officer then reviewed the rules themselves.

**Public Comment:**

Staci Heaton- RCRC continues to oppose the fee in any form, and is frustrated by the lack of a comment period.

Joanne Drummond- Nevada County FSC suggests BOE contracting with local county assessors to implement the fee, and to have County supervisors handle the grant allocations.

Tim Lynch- San Bernardino Supervisors continue to oppose, offered San Bernardino as a meeting venue.

Karen Martinson- CSAC opposes, and encourages the Board to take its time in crafting a permanent regulation.

Jim Little- Long Valley Fire, opposed, and believes this should be sent back to the legislature to fix what they created. Local Fire Districts are an important part of the State Fire Protection System, and this fee will impact their capacity.

Erin Gilbert- San Diego Supervisors opposes, offered San Diego as a meeting venue.

John Hoffman- Amador County opposes, but at minimum the Board should find a way to make the fee lower and proportional.

**CONCLUSION**

14. Public Forum.

Mike Tadlock thanked the Board and staff for their work on the road rules

15. New and Unfinished business.

Adjournment.

Respectfully submitted,

ATTEST:

George D. Gentry  
Executive Officer

Stan Dixon  
Chairman

Copies of the attendance sheets can be obtained from the Board Office.