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14 October 2022

Board of Forestry & Fire Protection
P.O. Box 944246
Sacramento, California 94244-2460
PublicComments@bof.ca.gov

RE: "Implementation and Effectiveness of Rules"
or "2022 Regulations and Priority Review"

Board [and staff, including 'CalFire']:

In sum: It's broke, been broke. Fix it.

Broken promises, delayed action, half (or less) baked measures, and disingenuous posturing continue to jeopardize the forests and peoples of California. This is not an exaggeration. This is what I have seen in my lifetime. Perhaps some of this will be conveyed to you in a new memoir forth coming by Richard Wilson. It has already been conveyed by many over many decades. The forests and people are witnesses. Whole careers communicating the deep need for reboot and reform – adherence to the spirit and integrity of pertinent laws and regulations -- are ignored. Chris Maranto's heavy tome and evidence backing essential reforms remain hidden in multiple administrative and legislative closets..

Now that I've gotten that out of the way, let's examine some basic and obvious examples needing solutions "to better achieve resource protection". We must not lose sight of that in the posturing around "reduce[-ing] regulatory inefficiencies" while, ostensibly, "maintain[-ing] the same or better level of protection." "Reducing regulatory inefficiencies", not always, but is usually code for unfettered 'old-time' plantation economics at huge environmental and social costs.

Starting with three unrequited efforts from the 2020 and 2021 'traditional' Regulations and Priority Review:

From Richard Gienger
(and on behalf of Forests Forever and
Why Forests Matter)
Tuesday, 7 November 2020

RE: 2020 Regulation & Priority Review

Board, Staff, and CalFire:

There are a number of issues, interpretations, standards, and modifications that need to be addressed at your 9 December 2020 virtual Board meeting.

Among them:

** Reform the evaluation and response to cumulative impacts into a credible procedure in line with, among other things, data use, formats and transparency that are integral to the implementation of AB 1492.

** Reform and expand the use of sustained yield plans.

** Reform the information and standards for describing forest conditions – and implement practices that will result in practices that will result in healthy resilient forests with large components of larger, older trees at or past culmination of mean annual increment.

** Reform the implementation of 14 CCR 916.4 to include standards useful formats to enable stream and watershed restoration.

** Set standards for the use of LiDAR and other remote sensing systems that can be incorporated into review, approval, and implementation of measures for forest and watershed maintenance, restoration, and enhancement – that can be applied to their THP and other plan processes ASAP.

RE: 2020 Regulation & Priority Review

Marc Jameson – 22 October 2021 [especially the section on “the primary failure to construct rules which reflect the intent of legislation [which] has been associated with the term Maximum Sustained Production.”]

[REFER TO MARC JAMESON ATTACHMENT: "full-10-b-8...t_ada 2.pdf"]

His final two paragraphs of comments on the need for reform of MSP process and standards:

"In the 1970s, most even-aged stands being entered in the redwood region exceeded 70 years of age. What is the situation today? No-one knows for certain, but the Board and Department should have some idea. My guess is that most even-aged stands being entered for the first time in the redwood region are in the 30 to 40 year age class. Some of those stands being selectively harvested are probably seeing their level of annual growth slowly reduced through high-grading or over-harvest. Again, do the Board and Department have any idea what the true picture is today?

My request of the Board is that you find a way to include better verification of MSP projections made by timberland owners, particularly the larger ones, and to include periodic written departmental assessments of conditions. In addition, I believe that the definition of MSP needs to be modified to ratchet up toward a higher level of sustained production than exists today. How high is a subject for debate between landowners and the Board, but existing legislation and the true definition of terms should serve as a guide."

Loretta Moreno – 16 November 2021 [especially regarding absolute need for improved records and access to geospatial data, currently not required!]

[REFER TO LORETTA MORENO ATTACHMENT:
"Annual Call f...y Review.pdf"]

Now for the crippled implementation of AB 1492:

The Board, CalFire, the Natural Resources Agency have some heavy lifting to come any where near into compliance with AB 1492 – both legislative and regulatory intents and specifics. Here's a "Public Process Approaches" document for "AB 1492 Timber Regulation and Forest Restoration Program, from 15 June 2015 that show how far, criminally astray really, the TRFR Fund/Program has gone.

[REFER TO THE AB 1492 PUBLIC PROCESS ATTACHMENT:
"AB 1492 Pro...15-2015.pdf"]

And perhaps the most egregious bungle is the attempt to finesse a “solution” for the Jackson Demonstration State Forests issues – an incredible opportunity to have a showcase model for California Forests and Co-Management into the future. I’m a little hard pressed to go into the perspectives and details that need to be covered, so I am hoping that the 3 following attachments will give you a pretty good idea of what really needs to be done. A couple things that are particularly aggravating is the failure to publically address the issues head-on in the Management Committee (Top priority for 2022), putting an unreal spin on the situation, and failing to transcend the past and have the multifaceted and multicultural reforms necessary. As some might be prone to express: the solutions are outside of what is the normal “wheelhouse” of the Board and CalFire.

Soda Gulch:

[REFER TO THE SODA GULCH ATTACHMENT:
“mgmt-4-a-coyote-valley-thp...jdsf(1).docx”]

Caspar 500:

[REFER TO THE CASPAR 500 ATTACHMENT:
“Save Jackson Coalition’s...est-2.docx”]

rg & Forest Forever:

[REFER TO THE rg AND FOREST FOREVER ATTACHMENT:
“letrREjdsfEm...9.27.22.docx” ...]

AB 1492 Timber Regulation and Forest Restoration Program

Public Process Approaches

June 15, 2015

Intent: It is the intent of the Timber Regulation and Forest Restoration (TRFR) Program to be transparent and to provide the public with frequent and meaningful opportunities to receive information about the work of the Program and to provide input on its direction and methods.

Email Updates on Program Activities: We have established a list serve for the TRFR Program. We will use this to send email program updates and meeting notices to interested persons. You may subscribe to the list serve from the TRFR Program website (<http://resources.ca.gov/forestry/>) or at: https://listserv.state.ca.gov/wa.exe?SUBED1=CNRA_AB1492&A=1

Website Postings: The [TRFR website](#) provides a Program overview; reports; meeting announcements and summaries; an events calendar; and other detailed program information.

Commenting on Program: Comments on the TRFR Program can be emailed to: ab1492program.comments@resources.ca.gov We will check this mailbox at least once per week and will acknowledge the receipt of comments. We will post the written comments that we receive regarding the Program on the Program website (unless submitters request otherwise). We will periodically post written responses to summaries of the written comments that we receive.

Advisory Committee: We have started the process of establishing a stakeholder advisory committee for the TRFR Program. We entered into an interagency agreement with the Center for Collaborative Policy (California State University, Sacramento) to have them help to establish and manage the advisory committee. As designed, the process would start in June 2015, with the Center for Collaborative Policy conducting a series of stakeholder interviews. Advisory Committee meetings will be open to the public and, whenever possible, webcast. The public will have the opportunity to speak to agenda items, as well as other TRFR Program issues they may wish to raise. Meetings and agendas will be announced at least 10 days in advance. Meetings will be held periodically in Sacramento and in other areas across the state that are closely connected to forest management.

Participating in Meetings and Workshops: The TRFR Program will hold periodic public meetings or workshops to update the public on our work and to seek input. We will facilitate public participation by webcasting public meetings and workshops whenever possible. Webcasts will be managed to allow participants to make comments or ask questions. Webcasts will be recorded and be available following the meetings or workshops.

- The Administrative Performance Measures, Data and Monitoring, and Ecological Performance Measures Working Groups will have periodic public meetings to inform stakeholders of the progress on their work, including workshops for substantial interaction at critical milestones in work product development (see the working group charters for more details).
- Summaries from the meetings of the Working Groups and the AB 1492 Leadership Team will be posted on the TRFR Program website.
- The TRFR Program as a whole, organized by the AB 1492 Leadership Team, will have periodic public meetings to inform stakeholders of the progress on the Program's work, including workshops for substantial interaction at critical milestones in work product development.
- Pilot projects will typically be done in a collaborative fashion that invites the participation of stakeholders, landowners, other agencies (local, state, or federal), and, where needed, experts from outside of state agencies.
- The TRFR Program Advisory Committee meetings, as noted above, will be open to the public and provide opportunities for public comment.

From: [Moreno, Loretta@CNRA](mailto:Moreno.Loretta@CNRA)
To: [Public Comments@BOF](mailto:Public.Comments@BOF)
Subject: Annual Call for Regulatory Review
Date: Tuesday, November 16, 2021 4:27:38 PM

Warning: this message is from an external user and should be treated with caution.

Dear Eric,

I am submitting a comment pertaining to the Annual Call for Regulatory Review. Specifically, I reference the following text in your request for comment:

3.Suggested regulatory modifications which would either clarify existing rule language to better achieve the intended resource protection, or which would reduce regulatory inefficiencies and maintain the same or better level of protection.

To support more efficient state operations and build upon effective implementation of ecological performance measures as called for under AB 1492, state agencies and research institutions would be better served by improved records and access to geospatial data as to where timber harvest has been completed, type of harvest, acreage, and timing of treatments. This would include emergencies and exemptions among other permit types. At this time completion reports (post-project implementation reporting) do not include this information and the information is not required. This makes it difficult and in some cases impossible to know where, what and when management has taken place. If the Board of Forestry can evaluate the feasibility of adjusting the Forest Practice Rules to include geospatial documentation, post-treatments, the state would be better served to incorporate this data into our growing treatment tracking systems, monitoring, modeling, and planning operations.

Thank you in advance for your consideration of this theme in your assessment of potential rule change needs.

Sincerely,

Loretta (Lorie) Moreno
Senior Environmental Scientist
[Timber Regulation and Forest Restoration Program](#)
916-813-4501 (mobile)



Marc J. Jameson
October 22, 2021

re. Board of Forestry and Fire Protection 2021 Regulations and Priority Review

Dear Members of the Board:

Comments and suggestions relative to your Regulations and Priority Review

MSP:

Over the many years of rule development; perhaps the primary failure to construct rules which reflect the intent of legislation has been associated with the term Maximum Sustained Production. While legislation clearly states “maximum”, the rules have essentially altered the definition of the term to “moderate” or modest. In essence, each landowner is allowed to freely determine what maximum sustained production means to them. They can freely identify their “products” and calculate a level of sustainability that they choose, be it timber or fenceposts.

Another major reason for this failure to define maximum as it should be defined, is that the Board and Department really have little or no idea what is actually happening in the field. Each landowner submits their own inventory and projection to the Department and the Department struggles to determine whether or not it is accurate or even valid. I can recall one instance where a significant ownership submitted an Option A with a stated annual growth of 1800 board feet per acre per year; thus proposing to remain sustainable by harvesting at this level. An RPF supposedly did this work and certified its validity by signing the document. After over a year of back and forth with the Department; the estimated annual growth from that property was established at under 500 board feet per acre per year! No action was ever taken against the RPF or the landowner, yet this was clearly an example of gross incompetence, or perhaps intentional (probably a little of both). The Department attempted to conduct an independent inventory and growth assessment of the property in question, but was denied access and had no legal standing in regulation.

My point is that the Board cannot expect to know the status of sustainability in California if it is totally reliant upon estimates made solely by landowners. California is in need to some form of verification process, in order to know whether timber operations are sustainable and at what level. To my knowledge, the only tool available today is the U.S. Forest Survey. Thankfully, as of 2015, it appears that growth exceeds cut on California’s private timberlands. However, this data is sketchy and not overly informative. In addition, several million acres of timberland have burned since that estimate was made. While large owners have submitted Option A’s and SYPs, I see no evidence that these are monitored by the Board or Department. Even the most basic state or region-wide data does not appear to be tracked and reported consistently on an annual basis.

In the 1970s, most even-aged second-growth stands being entered in the redwood region exceeded 70 years of age. What is the situation today? No-one knows for certain, but the Board and Department should have some idea. My guess is that most even-aged stands being entered for the first time in the

redwood region are in the 30 to 40 year age class. Some of those stands being selectively harvested are probably seeing their level of annual growth slowly reduced through high-grading or over-harvest. Again; do the Board and Department have any idea what the true picture is today?

My request of the Board is that you find a way to include better verification of MSP projections made by timberland owners, particularly the larger ones, and to include periodic written departmental assessments of conditions. In addition, I believe that the definition of MSP needs to be modified to ratchet up toward a higher level of sustained production than exists today. How high is a subject for debate between landowners and the Board, but existing legislation and the true definition of terms should serve as a guide.

Shared roadways:

Roads shared by landowners are routinely damaged or degraded during timber operations, leaving landowners stuck with expensive repairs or passability issues that are not of their making. When confronted with complaints, the Department's response is generally that "this is a civil issue between landowners". Road passability and condition is a significant environmental issue. Rules should be implemented to insure that road conditions are not deteriorated by timber operations. If a THP identifies a road as permanent status, it should be maintained and left as permanent status upon completion of operations. Otherwise, environmental damage is extremely likely following completion of operations, and should be foreseeable. This damage may be inflicted by road users who had no part in the timber operations that degraded the road. Hauling and skidding on wet roads is the primary cause of these damages, whether or not they meet the definition of "saturated".

On many occasions, I have observed shared roads that may be rough and full of potholes, but are hard and passable during wet weather. Upon completion of timber operations, these roads are typically graded and perhaps waterbarred, leaving them looking better, but in reality, soft and impassable during wet conditions, leaving the other party to make expensive repairs or cause environmental impacts associated with use of the road. This constitutes a significant impact that is foreseeable, predictable. It also reflects poorly upon the Department and further imbeds an anti-logging sentiment in the general area.

NSO:

The northern spotted owl was listed approximately 30 years ago! Regulations require that habitat needs of the species be identified and preserved or sustained, ending the temporary measures put in place decades ago. And yet, timberland owners are still faced with the "temporary" process of 2 years of mandated species survey and departmental no-take determinations. Please confer with the CDFW to finalize the NSO situation and relieve timberland owners of this on-going expense.

When the NSO was initially listed, the "experts" in the field estimated that only a few pairs remained in the region, and that they were dependent upon old-growth forest. Survey was mandated, and this survey soon found population numbers to be over 3000 within the region, with coincident smaller home range requirements than anywhere else within the range of the species. Most of the birds were found to be associated with second-growth forest, and closely associated with even-aged management for their food source, though they tended to nest in second-growth areas with high canopy levels. In essence, the "experts" were found to be way off the mark, but timberland owners are paying the price.

Now, we're experiencing a reduction in even-aged management, and increase in barred owls, and a coincident decrease in NSO. Continuation of survey requirements for individual THPs should be discontinued in favor of a stable long-term solution for the species, which may well be nothing specific, given likely future habitat availability.

Jackson Demonstration State Forest:

My final request to the Board is increased support for JDSF, which is, once again, under attack by local citizens who either do not recognize, or do not care what the Forest was established for, and the great value that it serves, both to the region, and to the state. The fact that timber operations temporarily alter landscapes appears to be what drives local protests. JDSF is a state-wide resource, not just a local one. It needs to be vigorously promoted and defended, and its research budget increased. It is the source of more research and study of value to the state than any other regional forest entity, and serves as a shining example of what sustainability can look like, while also being a significant recreational resource and habitat. I urge the Board to maintain the value of the state forest as an example of forest sustainability by not incrementally reducing productivity in future management planning. Timber products are inherently sustainable relative to most of the alternatives. The issue is not whether more carbon can be stored on any specific acre or area, but whether and at what level of sustainable production, carbon from other sources can be offset and overall atmospheric carbon can be reduced.

Marc J. Jameson
RPF 1773

Richard Gienger
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27 September 2022

Dear Board of Forestry & Fire Protection, CalFire, and CNRA --
[AND THE GOVERNOR AND LEGISLATURE OF CALIFORNIA]

There is an essential need for you all, ASAP, to really give substance to “modernization” of management at Jackson Demonstration State Forest and implementation of co-management. The decision to push forward business-as-usual, THP-by-THP -- basically derailing the necessary respect and process to achieve that modernization and co-management – is wrong and must be changed. The latest example of this comes from a Jackson CalFire letter of 26 September 2022 proposing negotiating piece-meal and inadequate co-management on a single THP rather than taking on essential broader reform. This is in the context of many, many past, present, and potential future THPs and applicable considerations for real stewardship on multiple levels.

The groundbreaking report and recommendations written by the Tribal Relations Subgroup of the Jackson Advisory Group (JAG) ARE being ignored. The process necessary to actually determine the standards for healthy forests as graphically described on page 19 of the LAO’s April 2019 "Watershed Management in California" is being ignored. California certainly has the capability to settle existing contracts in Jackson to allow the chance for the realization of modernization and co-management to start NOW.

Contrary to the rosy conflicted disingenuous picture painted at the August 19th JAG meeting and associated “visioning” statement and press release, the subsequent sordid press release restarting Jackson operations showed the grim reality of suppression and control. I would point out that the appeals court decision of 1985 in EPIC and International Indian Treaty Council v Johnson (CDF) & Georgia-Pacific has never been implemented and particularly as applied to Jackson: There still is no adequate consideration and response to cumulative effects, no adequate consultation with Tribes and Indian people, and no assurance that the Native American Cultural Heritage is being protected.

On top of that is the, should we say, uneven and way inadequate policy reform and action over many years: from the modern era’s formation of the Native American Heritage Commission, through crude inadequate and late application of archaeological and cultural oversight processes for California forestlands, to the most current claimed reforms involving apologies, land-back, co-management, and 30 x 30.

It's not a perfect example, but a version of the Scientific Review Panel (SRP) report of 1999 process applied to Jackson would be several steps up from what is obviously impossible with CalFire/BoF. Link:

http://www.krisweb.comwww.krisweb.com/biblio/cal_nmfs_ligonetal_1999_srprept.pdf

”The Scientific Review Panel (SRP) was created under the auspices of the Watershed Protection and Restoration Council, as required by the March 1998 Memorandum of Agreement (MOA) between the National Marine Fisheries Service (NMFS) and The Resources Agency of California. Under this agreement the state agreed to organize an independent panel of scientists to undertake a comprehensive review of the California Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species.”

Such a panel must be put together, with strong Tribal representation, for a comprehensive review of the pressing issues of Jackson with corrective measures, and that will apply in a broader scope to forests of California. The SRP team that went through a process that developed the 1999 Report was Frank Ligon, Alice Rich, Ph.D., Gary Rynearson, R.P.F. Coordinator, Dale Thornburgh, Ph.D., R.P.F., William Trush, Ph.D. This was a mix with a wide range of abilities that certainly included commercial forestry interests, but was not controlled by CDF/CalFire/Industrial Forestry.

Note that the most striking deficiency was determined to be the evaluation and response to cumulative impacts. Also note that JDSF was/is NOT the major factor in Forest Practice Rule improvements, as has been erroneously claimed. The forces that made any improvements possible were from a broad array of persons and organizations aware of both the unacceptable damage done and the need for protection and recovery.

With a similar and higher level of expertise and expanded ‘bandwidth’ reflective of the policies and proclamations described in the Tribal Relations Report, including the unimplemented sections/intents of AB 1492 (forest & watershed recovery, ecological performance measures, public participation and transparency); **a credible process to achieve the obvious necessary reforms could actually be realized.**

Sincerely,

Richard Gienger

And on behalf of Forests Forever

Delivered by email: May 19, 2022

Kevin Conway
Cal Fire State Forest Manager
Kevin.conway@fire.ca.gov

The Archaeological Subcommittee of the Government to Government Consultation Team of the Coyote Valley Band of Pomo Indians was only recently apprised of Cal Fire proposed amendments to the Soda Gulch THP which involve incremental small modifications of buffer zones and diminishing the size of the proposed landing deck, etc.

In response we continue to demand the following:

- (1) The road through the site must not be used for log removal from the proposed landing deck adjacent to the area that the Registered Professional Foresters have determined to be the boundary for the sacred site. We insist that the entire slope running from Park Gulch at the ridge top through Soda Gulch to the Noyo River below be protected as *cultural landscape* under CEQA. (Cal. Pub. Rec. Code § 21074(b));
- (2) We continue to assert that due to the conflict of interest inherent in having the representatives of those who seek to cut the trees determine sacred site boundaries, we have no faith and confidence that the boundaries have been adequately established. It is in CAL FIRE Registered Professional Foresters interest to define them as narrowly as possible in order to extract more trees. Improper and insufficient designation of ancestral Native American site boundaries is a repeated pattern we have experienced at the hands of not only Cal Fire but also Cal Trans hired archaeologists during highway building projects which adversely impacted ancestral sacred sites. Conflict free, independent archaeologists, who are not employed by CAL FIRE should be assigned to resurvey site boundary determinations;
- (3) All the ancestral cultural sites within JDSF must be resurveyed and a road maintenance and site protection plan must be developed as per the recommendations of the state sponsored Betts Report of 1999;
- (4) As per the recommendations of the state sponsored Betts Report, no logging operations should be allowed to occur in the vicinity of these sites until they can be independently surveyed by conflict free archaeologists and adequately protected from road building activities. Kevin Conway's response to our team anthropologist Dr. Patterson as to why the site boundaries were never resurveyed was that Cal Fire did not have sufficient staff to do so. This is unacceptable. Cal Fire has sufficient staff to crank out THP's for logging but not to protect our ancestral heritage in this State Forest;

- (5) We, once again, as we have repeated throughout all government to government consultations of the Archaeological Subcommittee to date, request the creation of a protective zone around the sacred site on the Soda Gulch THP and the ridge top villages and ancient trail systems connecting them in the Soda Gulch, Park Gulch and proposed Gulch 16 THP's. The Gulch 16 THP proposes to rebuild a road smack through the middle of the most important archaeological site in all of Mendocino County, 3 Chop Village;
- (6) We also oppose the building of the landing deck and skid trails on the steep slopes of the Soda Gulch THP sacred site and the reconstruction of the road straight through it.
- (7) There are alternate back road entries on the northern portion of the Soda Gulch THP from which logs can be extracted without rebuilding the road though the Soda Gulch sacred site and under a CEQA analysis we should be able to have the state consider these alternate roads for log extraction.
- (8) Also, once again, we believe that in so far as it comes to sacred site protection CAL FIRE has been far from candid, open and transparent with us throughout the government to government consultation process. Why did we have to learn of the most recent Cal Fire proposed amendments regarding the protection of the sacred site on the Soda Gulch THP from a member of our team who happened to be reviewing the Cal Trees website? Why were the Archaeological Subcommittee members not formally notified of these amendments?
- (9) We have requested several times a site visit to Park Gulch, the ancestral village site that abuts the Soda Gulch THP up on the ridge top, and to be shown the ancestral trail system running between the ridge top villages and down to the Noyo River. We have never been taken to Park Gulch or shown the trails connecting Park Gulch, Soda Gulch and 3 Chop Village. We deserve more respect to our site visit requests than this.

Your immediate attention to these concerns is hereby requested as well as a response to us in writing regarding these concerns prior to the approval of the Cal Fire proposed amendments to the Soda Gulch THP

Sincerely,
Priscilla Hunter, Tribal Historic Preservation Officer
Coyote Valley Band of Pomo Indians

Cc Wade Crowfoot, Secretary, CA Natural Resources Agency secretary@resources.ca.gov;
wade.crowfoot@resources.ca.gov
Geneva Thompson, Assistant Secretary for Tribal Affairs, CA Natural Resources Agency
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