



REGULATORY AGENCY ACTION

out adversely impacting the state's ability to meet certain policies and objectives relating to the conservation, maintenance, and utilization of the policy with respect to ocean resources, is pending in the Assembly Committee on Water, Parks and Wildlife.

LITIGATION:

On February 19, the Committee to Ban Gill Nets, Dolphin Connection, Earth Island Institute, Assemblymember Doris Allen, and Leo Cronin petitioned the Alameda County Superior Court for a writ of mandate commanding DFG, DFG Director Pete Bontadelli, and FGC to enforce Proposition 132, which bans the use of gill and trammel nets, out to 200 miles offshore (instead of the three-mile limit enforced by DFG). (See CRLR Vol. 11, No. 1 (Winter 1991) p. 126 for background information on Proposition 132.) This case was dismissed by stipulation on March 5, after DFG agreed to enforce the initiative out to 200 miles.

However, on March 15, DFG was sued in *Vietnamese Fisherman Association of America, et al. v. California Department of Fish and Game, et al.*, No. C910778-DLJ, in the U.S. District Court for the Northern District of California. In this case, plaintiffs claim that DFG's interpretation of Proposition 132 conflicts with and is preempted by federal law, and that the state is forbidden from enforcing its laws in the area between three and 200 miles offshore. On March 18, the court issued a temporary restraining order prohibiting DFG from enforcing Proposition 132 beyond the three-mile state waters limit. At this writing, this case is on hold while the Pacific Fishery Management Council holds hearings on the issue. The Committee to Ban Gill Nets and Assemblymember Allen have intervened in this case in support of DFG.

In *California Native Plant Society v. Manuel Lujan, Secretary of the Interior*, No. 91-0038EJG-JFM, the Native Plant Society is attempting to force the U.S. Fish and Wildlife Service (USFWS) to list 159 California plants as endangered. The complaint was filed on January 9 in the U.S. District Court for the Eastern District of California by the Sierra Club Legal Defense Fund. USFWS had until March 15 to respond to the suit. According to the suit, USFWS studies have determined that the plants are at risk of extinction, and should be listed as endangered. A similar lawsuit filed in Hawaii resulted in the government's addition of 186 plant species to the endangered list in three years.

RECENT MEETINGS:

At its January 8 meeting in Palm Springs, FGC approved a Captive Raptor Propagation Permit to the Folsom City Zoo for a pair of golden eagles which are unable to be released. Golden eagles are a species of special concern in California, although not considered threatened or endangered. The male eagle was at risk of being euthanized if the permit had not been approved.

At its January 31 meeting, the Commission heard comments regarding the proposed renewal of the Memorandum of Understanding (MOU) between the Bighorn Research Institute and DFG. DFG works with the Institute, a nonprofit organization which conducts a research, recovery, and release program intended to increase the bighorn sheep population in California. Bighorn Research Institute conducts helicopter surveys of bighorn sheep populations in southern California mountain areas, captures sick lambs to nurse them back to health for re-release into wild populations, researches the causes of mortality of adult and baby bighorn sheep, monitors the survival of re-released sheep, and monitors the status of bighorn populations.

The Institute's neighbor, Bighorn Ventures, a real estate development company, appeared before FGC and asked the Commission to require Bighorn Research Institute to prepare an EIR before renewing the MOU. Bighorn Ventures seeks to build 484 homes and a golf course on the land adjoining the Institute. Last year, the City of Palm Desert contacted Bighorn Research Institute to determine whether it had any objections regarding the proposed development by Bighorn Ventures. The Institute empaneled a group of experts, which subsequently determined that an environmental buffer zone between the development and the Institute is necessary to protect the sheep present on Institute property. The Institute reported its findings to the City of Palm Desert, which then required Bighorn Ventures to pay for the preparation of an EIR. The EIR requires Bighorn Ventures to leave a 100-acre environmental buffer zone between the development and the Institute. However, experts retained by the development concluded that no environmental buffer zone is needed. Bighorn Ventures filed a lawsuit against the Institute after it contacted the City of Palm Desert with the determination of its expert panel.

At the January 31 hearing, Bighorn Ventures, represented by its attorney Richard Zejlenga, expressed concerns about the research and presence of

bighorn sheep at the Institute, claiming the sheep at the Institute have contagious ecthyma, which will cause skin lesions on the skin of children playing nearby; the Institute uses toxic chemicals; the Institute is illegally landing helicopters at the site; and it uses electric cattle prods on the sheep. Dr. Jenner, a veterinarian associated with the Institute, explained that contagious ecthyma is rarely transmitted to people. Jim DeForge of the Institute addressed the remaining concerns, explaining the Institute keeps formaldehyde for the purpose of conducting necropsies, uses helicopters as an emergency tool to rescue sick lambs, and that personnel carry cattle prods when they enter holding pens containing 250-pound rams. At the request of both parties, DFG postponed its decision on the renewal of the MOU to its April 4 meeting.

Simian Aides, represented by Dr. M.J. Willard, appeared before the Commission at its January 31 meeting, requesting permission to place two capuchin monkeys in foster homes in California. The monkeys are bred at Disney World in Florida, and reared in foster homes for several years. They are trained using a reward-punishment system to perform tasks as companion helpers to quadriplegics. Because the monkeys usually bond with and are protective of the person they live with, their teeth are extracted to avoid injuries caused by bites. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 128 for background information.)

DFG opposed the request. Representatives of several animal rights groups also testified in opposition to the program. They stated the capuchin monkey is social, aggressive, and gregarious, characteristics not compatible with assisting the handicapped. Further, teeth extraction and castration means the monkey can never socialize with or live in a monkey group. FGC denied Dr. Willard's request.

FUTURE MEETINGS:

August 1-2 in Newport Beach.
August 29-30 in Long Beach.
October 1-3 in Redding.
October 31-November 1 in San Diego.
December 5-6 in Sacramento.

BOARD OF FORESTRY

Executive Officer: Dean Cromwell
(916) 445-2921

The Board of Forestry is a nine-member Board appointed to administer the



Z'berg-Nejedly Forest Practice Act (FPA) of 1973 (Public Resources Code section 4511 *et seq.*). The Board is established in Public Resources Code (PRC) section 730 *et seq.*; its regulations are codified in Division 1.5, Title 14 of the California Code of Regulations (CCR). The Board serves to protect California's timber resources and to promote responsible timber harvesting. Also, the Board writes forest practice rules and provides the Department of Forestry and Fire Protection (CDF) with policymaking guidance. Additionally, the Board oversees the administration of California's forest system and wildland fire protection system, sets minimum statewide fire safe standards, and reviews safety elements of county general plans. The Board members are:

Public: Carlton Yee (Acting Chair), Robert J. Kerstiens, Franklin L. "Woody" Barnes, and Elizabeth Penaat.

Forest Products Industry: Roy D. Berridge, Mike A. Anderson, and Joseph Russ IV.

Range Livestock Industry: Jack Shannon.

The FPA requires careful planning of every timber harvesting operation by a registered professional forester (RPF). Before logging operations begin, each logging company must retain an RPF to prepare a timber harvesting plan (THP). Each THP must describe the land upon which work is proposed, silvicultural methods to be applied, erosion controls to be used, and other environmental protections required by the Forest Practice Rules. All THPs must be inspected by a forester on the staff of the Department of Forestry and, where deemed necessary, by experts from the Department of Fish and Game, the regional water quality control boards, other state agencies, and/or local governments as appropriate.

For the purpose of promulgating Forest Practice Rules, the state is divided into three geographic districts—southern, northern, and coastal. In each of these districts, a District Technical Advisory Committee (DTAC) is appointed. The various DTACs consult with the Board in the establishment and revision of district forest practice rules. Each DTAC is in turn required to consult with and evaluate the recommendations of the Department of Forestry, federal, state, and local agencies, educational institutions, public interest organizations, and private individuals. DTAC members are appointed by the Board and receive no compensation for their service.

MAJOR PROJECTS:

Proposed Logging Slash Treatment Regulations. On February 6, the Board

held a hearing to consider the amendment of sections 895.1, 917.5, and 937.5; the repeal of existing and the adoption of new sections 917.2, 937.2, 957.2, 919, 939, 959, 1052.2, and 1052.3; the renumbering of sections 919.2, 939.2, and 959.2; and the adoption of new Technical Rule Addendum No. 3, Title 14 of the CCR. These regulatory changes establish separate standards of treating logging slash for fire protection and hazard reduction purposes; set standards to provide pest protection related to timber operations; and modify the Board's regulations on emergency timber operations.

In January 1990, the Board formed a subcommittee in response to questions raised by the public, the Southern DTAC, and Board members while considering emergency slash disposal regulations. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 186 for background information.) The subcommittee was charged with: (1) determining the adequacy of the existing rules under today's logging and fire protection practices, particularly in urban/rural areas; (2) identifying the research needs to set effective slash disposal standards for pest protection and fire hazard reduction; and (3) identifying areas of the regulations which should be modified for improved effectiveness in timber salvage, protection needs, and cost-effectiveness.

The subcommittee accomplished the tasks and provided the Board with a report in May 1990. Among other things, the subcommittee found that the existing regulations were not effective in reducing fire hazards or in providing insect protection. The resulting regulatory proposals are as follows:

-Section 895.1 would be amended to define the terms "pest hazard reduction" and "lopping for fire hazard reduction" to mean severing and spreading slash so that no part of it remains more than 30 inches above the ground; and define the term "brood material" to mean any above-ground portion of a tree which is greater than three inches on the main stem in diameter with intact bark.

-New sections 917.2, 937.2, and 957.2 would provide improved fire hazard treatment standards for logging slash and debris remaining after timber operations. An exception is provided for the subdistricts created by the Board which have their own hazard reduction standards based on special needs.

-Sections 917.5 and 937.5, relating to the burning of piles or concentrations of slash, would be amended to delete the term "fire protection zone," since it

would not be consistent with the other regulatory changes.

-New sections 919, 939, and 959 would require that THPs in a declared zone of insect infestation shall identify feasible measures being taken to mitigate adverse infestation impacts from timber operations. Technical Rule Addendum No. 3 describes the conditions under which insects breeding in pine slash may produce epidemic levels of insects and significant levels of tree mortality; it describes the risk factors that contribute to insect population increases, and treatment alternatives which will be effective in lowering the risk of logging slash providing the base for an insect epidemic.

-Section 1052.2 would be amended to create the presumption of an emergency when tree-killing insects are active; once a Notice of Emergency Timber Operations has been filed by an RPF, timber harvesting of the infected trees may commence on an expedited basis. Section 1052.3 sets parameters to ensure that emergency timber operations only remove trees which are actually infested. This is accomplished primarily through the rule's requirement that an RPF conduct an onsite inspection.

-Renumbered sections 917.11, 937.10, and 957.10 require that timber operators, timber owners, and RFPs assist the state in determining the location of insect and disease outbreaks and report them to the CDF Director.

Following the February 6 hearing, the Board released a modified version of these proposed regulatory changes, and received written public comment on the modified version until March 4. Among other minor changes, the Board modified section 895.1 to delete the definition of "pest hazard reduction," clarify the definition of "lopping for fire hazard reduction," and changed the definition of "brood material" to mean any cut or downed portion of a tree's stem greater than three inches with intact deteriorated bark. The Board was scheduled to adopt these modified regulations at its March 5 meeting, but postponed that decision until its April 5 meeting.

Watercourse and Lake Protection Zone Regulations. At its March 5 meeting, the Board received preliminary public comment on its republished amendments to the Forest Practice Rules to protect areas identified as watercourse and lake protection zones (WLPZs) from negative environmental impacts associated with adjacent timber operations. Over one year ago, the Board published the original version of these proposed regulatory changes and held extensive public hearings on the changes at its



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November 1989 and January, February, and March 1990 meetings. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 188 and Vol. 10, No. 1 (Winter 1990) pp. 140-41 for extensive background information on these changes.) Following those hearings, however, the Board decided to hold the regulations in abeyance pending the preparation of a cost analysis by the Board's Forest Practice Committee.

Thus, on January 18, the Board recommenced the rulemaking process and published notice of its intent to adopt the WLPZ regulations, in compliance with a Management Agency Agreement between itself and the Water Resources Control Board, based upon the findings of the interdisciplinary Watercourse Protection Task Force. In its statement regarding the costs of the proposal, the Board notes that the proposed regulatory amendments may have a significant economic impact on private persons, timber operators, and timberland owners. When the Board originally proposed these regulatory changes, it estimated that the cost of the proposals was approximately \$4.63 per thousand board feet harvested. However, during the past year, the Board has developed new cost estimates, based on sample tests of the proposed regulations for an industrial and nonindustrial ownership in each of the three forest districts (six tests). Based on its sample, the Board now estimates the additional costs of the revised regulations to range from \$11.65 per thousand board feet harvested on the THP to minimal extra preparatory cost (depending upon type of stand, district, operational costs (including road resurfacing), and regeneration expenses).

At the March hearing, only one person (an RPF) objected to the rulemaking, stating that differing factors (such as non-erodible roads) should be held to different standards, and that the Board's cost estimate should take into account the losses to forest owners. The Board was expected to hear additional public comments on its proposed WLPZ regulations at its April meeting.

Board Amends "Commercial Species" Regulation. On February 6, the Board held a hearing to consider amending section 932, Title 14 of the CCR, to include the coast redwood as a "commercial species" in the Northern Forest District.

The boundaries of the Northern Forest District, described in section 908, Title 14 of the CCR, include lands which have substantially similar characteristics and are best served by substantially similar rules. The boundaries, however, are not determined by the range of a particular tree species. The eastern edge of the

coast redwood range crosses the western boundary of the Northern Forest District. Natural stands of coast redwood with commercial value have been identified in this district in the County of Mendocino, and CDF has received a THP involving a significant number of coast redwood trees.

Under the current regulation, however, the coast redwood cannot be used to meet the stocking standards or the basal requirements of the silvicultural rules because it is not included as a "commercial species" in the Northern Forest District. If the subject is not addressed, forest landowners would need to consider land management practices such as timberland conversion or vegetation type conversion. The Board believes this is inconsistent with the intent of the FPA, in that reasonable and sound forest management cannot be practiced by forest landowners. The amendment was adopted by the Board following the public hearing; at this writing, it still awaits review and approval by the Office of Administrative Law (OAL).

Status Update on Other Proposed Regulatory Actions. The following is a status update on regulatory proposals discussed in recent issues of the *Reporter*:

-Protection of the Northern Spotted Owl. At its February meeting, the Board readopted its emergency regulations to protect the Northern Spotted Owl, which were originally adopted in July 1990 after the federal government listed the species as threatened throughout its range. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 128 and Vol. 10, No. 4 (Fall 1990) pp. 157-58 for background information.) The Board submitted the emergency rules to OAL on February 22; OAL approved them on March 25.

-Roads and Landings Regulations to Comply with "Best Management Practice" Under Federal Clean Water Act (FCWA). In July 1990, the Board adopted new sections 912.6, 932.6, 952.6, Technical Rule Addendum No. 3, and amendments to Technical Rule Addendum No. 1 and numerous sections of its regulations in Title 14 of the CCR. These regulatory changes modify the Forest Practice Rules (FPR) addressing road and landing construction standards to ensure compliance with the FCWA, and to enable the Board's FPR to be certified "best management practice" under the FCWA and the Federal Pollution Control Act. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 186-87 for background information.) This regulatory package was approved by OAL on February 11.

-Wildlife Protection Regulations. At its November 1990 and January and February 1991 meetings, the Board considered a proposed regulatory action that would substantially modify numerous provisions between sections 917.1-1034, Title 14 of the CCR. These proposed regulatory changes would consolidate wildlife and habitat regulations into Article 9 of the Board's rules and clarify the information which must be provided on THPs concerning wildlife impacts. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 128 for background information.) Following the February meeting, the Board modified the regulatory proposal and reopened the public comment period until March 4. The Board adopted the modified regulatory package at its March 5 meeting.

-Cumulative Impacts Assessment Methodology. In September 1990, the Board adopted amendments to sections 895.1, 896(a), 897(a), 898, 898.1(f), 898.2(c), 1034, 1037.3, and 1037.5, and adopted Technical Rule Addendum No. 2, Title 14 of the CCR. These controversial amendments originated in a petition for rulemaking by the Timber Association of California (TAC) in October 1988, and purport to preclude the application of the California Environmental Quality Act (CEQA) to THP approvals. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 159-59; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 191; and Vol. 10, No. 1 (Winter 1990) p. 140 for background information.) Board staff hoped to submit this rulemaking package to OAL by the end of March.

-Non-Industrial Timber Management Regulations. In November 1990, the Board amended sections 895 and 895.1, and adopted new sections 1090-1090.27, Title 14 of the CCR, in response to SB 1566 (Keene) (Chapter 1290, Statutes of 1989), which established an alternative to the THP for non-industrial forest landowners (less than 2,500 acres). (See CRLR Vol. 11, No. 1 (Winter 1991) p. 128 and Vol. 10, No. 4 (Fall 1990) pp. 159-60 for background information.) The Board submitted the rulemaking package to OAL, which rejected it on March 4 because the record failed to comply with the clarity, consistency, and necessity standards of Government Code section 11349.1. The Board plans to modify the regulatory language to comply with OAL's determination and renotice the language.

-Fire Safe Regulations. In November 1990, the Board adopted new sections 1270-1276.04, Title 14 of the CCR, in response to SB 1075 (Rogers) (Chapter 955, Statutes of 1987), which added section 4290 to the PRC. This statute



requires the Board to adopt minimum fire safe standards applicable to the state responsibility area lands under the authority of CDF. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 128-29 and Vol. 10, No. 4 (Fall 1990) p. 160 for background information.) On February 19, OAL rejected the rulemaking package due to, among other reasons, the Board's failure to address questions raised during the hearing and its failure to provide sufficient disclosure of the reasons for incorporating sections of other laws by reference. On March 18, the Board released a modified version of these regulations, and reopened the public comment period until April 12.

LEGISLATION:

AB 87 (Sher), as introduced December 4, would prohibit until July 1, 1992, timber operations within any stand of ancient redwood which, alone or in conjunction with any contiguous stand under public ownership, measures ten or more acres and which has never previously been subject to timber harvesting. This bill pending in the Assembly Natural Resources Committee.

AB 445 (Sher), as introduced February 7, would enact the California Releaf Act, requiring cities and counties to enact tree planting and protection ordinances and to report to the Secretary of the Resources Agency regarding their implementation. The Resources Agency would be required to implement an educational and technical assistance program related to urban and community forest resources. This bill is pending in the Assembly Natural Resources Committee.

AB 714 (Sher), as introduced February 25, would prohibit clearcutting in any old-growth coast redwood or Douglas fir timber stand, and would require harvest operations on those lands to have specified characteristics. The bill would require the Board to adopt regulations by November 1, 1991, for all timber types, limiting the use of the clearcut method of regeneration to specified conditions, and would prescribe related requirements. This bill is pending in the Assembly Natural Resources Committee.

SB 213 (McCorquodale). Under existing law, moneys in the Forest Resources Improvement Fund may be expended for specified purposes relating to forest resources and to reimburse the General Fund for costs of operation of state forests administered by the CDF Director. As introduced January 22, this bill would permit moneys in the Fund to be expended, upon appropriation, for forest pest research and management, technical transfer, and outreach. This bill

is pending in the Senate Appropriations Committee.

SB 279 (McCorquodale). Existing law authorizes CDF, with the approval of the Department of Finance and in accordance with policy established by the Board, to enter into agreements with any owner and with any agency of government for the purpose of controlling or eradicating forest insects or plant diseases damaging or threatening destruction to timber or forest growth, and CDF may make expenditures for that purpose. As introduced February 4, this bill would delete the requirement for approval by the Department of Finance. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 300 (McCorquodale), as introduced February 6, would enact the Forest Protection Act of 1991, requiring the Board to adopt rules and regulations restricting clearcutting so that lands shall not have the appearance, or exhibit the ground disturbance, of a clearcut. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 512 (Sher). Existing law requires the owner of timberlands which are to be devoted to uses other than the growing of timber to file an application for conversion with the Board; the application is required to be accompanied by a specified fee payable to CDF. As introduced February 13, this bill would create the Timberland Conversion Account in the General Fund, and require those fees to be deposited in the account. The funds would be available, upon appropriation, for purposes of administration of the conversion provisions of CDF. This bill is pending in the Assembly Natural Resources Committee.

AB 641 (Hauser and Hansen), as introduced February 20, would require the Board, by July 1, 1992, to adopt rules that promote sustainable forestry within ownerships and across watersheds, as determined by the Board. This bill is pending in the Assembly Natural Resources Committee.

AB 833 (Farr). Under existing law, the board of supervisors or planning commission of any county for which the Board has adopted specified regulations may request a public hearing on any THP submitted for lands within the county and, upon that request, CDF is required to hold a hearing prior to taking any action on the plan. As introduced February 27, this bill would prohibit CDF from approving any plan in certain counties if, after the hearing, the board of supervisors objects to the plan. This bill is pending in the Assembly Natural Resources Committee.

AB 959 (Areias), as introduced March 4, would require CDF to establish a program for the provision of mobile communications vans, mobile command offices, and mobile kitchen trailers and support staff for the maintenance and operation of that equipment. This bill is pending in the Assembly Natural Resources Committee.

AB 1407 (Lempert), as introduced March 7, would require THPs within the Southern Forest District, as established by the Board's regulations, to be submitted for approval to the county in which the timber operation is to take place, in lieu of CDF. This bill is pending in the Assembly Natural Resources Committee.

AB 1976 (Campbell), as introduced March 8, would require all timber operations to comply with specified minimum requirements, including a requirement that timber operations shall not be permitted which may degrade the waters of this state. This bill is pending in the Assembly Natural Resources Committee.

SB 848 (Vuich), as introduced March 7, would require all owners of 75,000 acres or more of timberland to submit to CDF for approval, and to manage their lands pursuant to, a long-term resource management plan, prepared by an RPF, unless the owner elects to be subject to specified alternative limitations. The bill would prescribe, as alternative limitations on the landowners, prohibitions on the use of clearcutting, and prohibitions on the harvest of timber stands for which the average age of the stand is less than 50 years and the average diameter at breast height is less than sixteen inches. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 888 (Keene), as introduced March 7, would enact the Old-Growth Forest Protection Act of 1992 which, if adopted, would authorize, for purposes of financing a specified old-growth forest protection program, the issuance of bonds in an unspecified amount. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 1072 (McCorquodale), as introduced March 8, would rename the Board the State Board of Forestry and Range, and impose additional duties on the Board relating to range resources and management. This bill would also revise the composition of the Board, which currently has five public members, three members from the forest products industry, and one member from the range livestock industry. This bill would require the Board to have two members from each of those industries. This bill is



pending in the Senate Committee on Natural Resources and Wildlife.

AB 1903 (Hauser). Under existing law, the Board is required to establish an examining committee of at least five members to examine applicants for registration as professional foresters; any professional forester serving on the committee is entitled to receive \$25 per day for performance of official duties. As introduced March 8, this bill would increase the examining committee to seven members, at least two of whom represent the public. The bill would require the committee to review independent investigations and make disciplinary recommendations to the executive officer of the Board. The bill would increase the compensation of committee members to \$100 per day, if requested. This bill is pending in the Assembly Natural Resources Committee.

AB 54 (Friedman), as introduced December 3, would require the Resources Agency to adopt regulations establishing a model ordinance to protect existing trees, and require the planting of trees as a condition of project construction. This bill is pending in the Assembly Ways and Means Committee.

LITIGATION:

On February 14, the California Supreme Court denied CDF's petition for review of the First District Court of Appeal's ruling in *Sierra Club et al. v. California Department of Forestry (Pacific Lumber Company, Real Party in Interest)*, Nos. A046150 and A046632 (Nov. 21, 1990), in which the court held that a provision of the California Environmental Quality Act (CEQA) requiring a petitioner to request a hearing within 90 days of filing a writ of mandate alleging noncompliance with CEQA does not apply to THPs. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 130-31 for background information on this case.) In the same opinion, however, the Supreme Court depublished the appellate court's decision.

RECENT MEETINGS:

After a January 9 public hearing, the Board voted 5-3 to uphold the CDF Director's July 1990 denial of a Pacific Lumber Company (PALCO) THP application, thus ending six hours of debate between the lumber firm, state officials, and environmental activists. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 129 for background information.) The focus of debate centered around the marbled murrelet, a bird that feeds at the ocean but nests in seaside forests. PALCO's THP sought to harvest 3,000 acres of old-growth redwood trees in Humboldt

County, an area known to be inhabited by one of the three remaining populations of the marbled murrelet in California. Ray Jackman, the state forestry resource management officer in Santa Rosa, said that PALCO's THP did not provide sufficient mitigation for loss of forest habitat for the bird. Acting Board Chair Carlton Yee commented after the hearing that the Board will ask the legislature for funds to buy the property in the Eureka-Fortuna area as soon as possible and include it in the state forest program.

Governor Wilson had sent a letter to the Board dated December 21, endorsing the Director's decision; however, the letter was not entered into the legal record and, according to Yee, did not factor into the Board's decision.

At the Board's March 5 meeting, CDF Director Hal Walt reported on the status of the 1991 fire season. Due to the drought conditions and the loss of many fire personnel to the Persian Gulf campaign, CDF requested and received additional funds in anticipation of a severe fire season; however, an early spring rainfall and the end of the war have temporarily relieved that threat, and emergency funds have been returned. Nonetheless, Walt warned the Board that fire season could still be severe as the drought conditions returned with the additional fuel of the new growth brought on by the rain.

FUTURE MEETINGS:

September 10-11 in Sacramento (tentative).

WATER RESOURCES CONTROL BOARD

Executive Director: James W. Baetge
Chair: W. Don Maughan
(916) 445-3085

The state Water Resources Control Board (WRCB) is established in Water Code section 174 *et seq.* The Board administers the Porter-Cologne Water Quality Control Act, Water Code section 13000 *et seq.* The Board consists of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional board composed of nine members appointed for four-year terms. Each regional board adopts Water Quality

Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. All regional board action is subject to State Board review or approval.

The State Board and the regional boards have quasi-legislative powers to adopt, amend, and repeal administrative regulations concerning water quality issues. WRCB's regulations are codified in Divisions 3 and 4, Title 23 of the California Code of Regulations (CCR). Water quality regulatory activity also includes issuance of waste discharge orders, surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the marine environment. Construction grants from state and federal sources are allocated for projects such as waste water treatment facilities.

The Board also administers California's water rights laws through licensing appropriative rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water, and violations of license terms. Furthermore, the Board is authorized to represent state or local agencies in any matters involving the federal government which are within the scope of its power and duties.

The Board currently has one vacancy, due to the December 31 resignation of Darlene Ruiz, an attorney; Ms. Ruiz resigned from WRCB to join a political consulting firm in Sacramento. At this writing, Governor Wilson has not named a replacement.

MAJOR PROJECTS:

Drought and Conservation Efforts. As California entered its fifth year of drought, warnings of severe voluntary and/or mandatory cutbacks were heard throughout the state. On January 18, the State Water Contractors, a group made up of 28 of the 30 public agencies that contract for water supplies from State Water Project canals and reservoirs, asked Governor Wilson to declare a statewide drought emergency. At about the same time, WRCB announced an emergency public hearing and Board meeting for January 29, to consider drought-related issues. Over 700 water officials attended the hearing, many voicing alternative courses of action. Local water agencies took issue with a proposal to limit domestic water use to 300 gallons per household per day,