CALIFORNIA FORESTRY ASSOCIATION

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Mr. Daniel W. Hancock, Chairman
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Dear Mr. Hancock:

The California Forestry Association (CFA) appreciates the opportunity to provide comments to the Little Hoover Commission regarding the governance structure of California's water quality laws and the relationship between the State Water Resources Control Board and the various regional water quality control boards.

To get a sense of how forest landowners are impacted by agencies that oversee the management of the state's water quality, one must understand the scale and level of complexity that is involved in managing California's private forestlands.

California has the most stringent environmental protections for forest management of anywhere in the world and no one should advocate diminishing the goals of the forestry laws and regulations California has put into place. Our privately-owned forests are growing 170% more wood than is harvested, and are planting seven trees for each tree cut. Additionally, ninety-seven percent of our old-growth forests are protected in public ownership, and our environmental monitoring is demonstrating that our actively-managed forests are providing clean, cold water, and excellent habitat for owls, fish, and other related species.

Forest landowners respectfully adhere to the provisions outlined under the Z'Berg-Nejedly Forest Practice Act, which grants the California Department of Forestry and Fire Protection (CDF) lead agency status for timber harvest plan (THP) approval and enforcement. THP's are also reviewed and potentially revised by the Department of Fish and Game, appropriate Regional Water Quality Control Boards, California Geological Survey, appropriate county officials, Coastal Commission staff if the plan is located in a Coastal Zone, and the State Park Service if adjacent to a state park. In addition, federal agencies and the general public can also comment if they so choose. In essence, the THP process is equivalent to the planning process specified under the California Environmental Quality Act (CEQA).

But implementation of these laws has caused significant challenges for forest landowners. Over the last twenty years, over 80 sawmills and thousands of jobs have been lost due to global competitive issues and a myriad of state laws that have placed California operations at a competitive disadvantage. For California forest products companies that are still in operation today, they have made the commitment to adhere to California's environmental values and are using sound scientific methods for forest management.

However, instead of being rewarded for trying to keep forest lands in production, California has replaced good forest planning with a costly, slow-moving, sporadic, highly subjective and completely inefficient labyrinth of bureaucracy. Overlapping and oft-competing state and federal agencies have made it appear as though paperwork and delay automatically result in a better forest environment.

This does not suggest that any specific regional water board(s) is the culprit for endless paperwork, however it speaks to the overlapping and duplicative reviews that involve a number of federal and state agencies that have made it extremely costly to do business in California.

For example, twenty years ago, costs to prepare a THP were roughly $400 per THP. Today, landowner costs to prepare a THP average about $40,000 to $50,000, in addition to about $4,000 in fees paid to various state agencies. Compare this to other neighboring states whose programs are much less bureaucratic and streamlined where preparation costs are kept to a minimum. As a result of this disparity, California has far less productive forests, exports environmental degradation beyond our state's borders, and ultimately causes landowners to look elsewhere for return on investment. With respect to issues surrounding the regulation and enforcement of forest operations by regional water boards, there are some deficiencies in how regional water boards operate which prevents them from carrying out their primary duties - protecting water quality and issuing permits.

First, there doesn't appear to be a universal characteristic in how forest operations are regulated by regional water boards. There are four regional water boards that have primary jurisdiction over most private forest lands, including the Lahontan Regional Water Quality Control Board, the Central Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board, and the North Coast Regional Water Quality Control Board. Each of these regional water boards have various procedures and regulations that are not applied consistently. Granted, there may be unique demographic and typographic issues in each of these regions; however, some of these regional boards seem to have a better relationship in working with regulated entities to resolve issues when they are involved early in the THP process. We would encourage more regional water boards to foster cooperative relationships with landowners to eliminate confusion and duplication, particularly if both management (executive directors) and staff are involved during the THP review stage.

Second, significant improvements are needed to the current makeup of the regional water boards and their prescribed duties. One of the most significant challenges in making sure regional boards are responsive is recruiting qualified board members. Unfortunately, federal law imposes some unique income restrictions on California's regional water board appointees where they are prohibited from serving on a regional water board if they receive 10 percent or more of their income from an entity regulated by any regional water board in California. There are hardly any qualified individuals that can meet the 10 percent rule. It is important to regional water boards' decision-making that they have members from various backgrounds and expertise, particularly members who have been involved with specific industries. Other state boards and agencies, including the Board of Forestry, do not impose such restrictions and they do not have conflict-of-interest problems. Yet, the 10 percent rule imposed on regional water board appointees discourages the expertise needed to address important water quality issues of today. Whether the California Legislature or the Administration can adequately address this situation is uncertain, but it may also require action by Congress with assistance from California's Congressional delegation working with the U.S. Environmental Protection Agency.

Third, the duplicative and overlapping regulation of water quality on forest lands needs to be streamlined. The Forest Practice Act protects water quality through harvest planning, environmental analysis, regulation, enforcement, research, and monitoring. Since passage of the Act in 1973, there have been over 16 significant rule packages adopted addressing water quality issues such as erosion, logging methods, road construction and watercourse protection. There has been considerable research and monitoring in the past 30 years on forest water quality, erosion, sedimentation, stream shading, and the effectiveness of the forest practice rules.

In addition, forest landowners have implemented a wide variety of successful state-of-the-art forestry management practices designed to avoid and minimize potential adverse impacts to water quality and in-stream fishery habitat. Yet, this strong record of environmental protection has come at a price. California's regulatory policies have reached a point of diminishing returns. Instead of improving the health of California's forestlands, the continued push for further restrictions has had the opposite effect.

What California needs is a more efficient regulatory scheme that rewards commercial operators who have proven their ability to abide by California's strict laws and regulations. In this regard, CFA believes long-term planning is needed for entire watersheds, which will provide stability and certainty for both commercial production and environmental protection. Unfortunately, that's not what we do in California today. Instead, there are "turf battles" between the regulatory agencies which leaves forest landowners caught in the middle. What's needed is a more cooperative relationship between the regulatory agencies. In this regard, CDF should continue to act as the lead agency over THPs, however they should also have the authority to develop basin-wide plans, with assistance from regional water boards, that are designed to take into account environmental considerations and water quality concerns. This approach would provide long-range planning opportunities to the landowner and could help eliminate some of the regulatory turf battles.

Ultimately, California's burgeoning population will require the enhanced water quality that California's private forests produce. As California's land mass becomes urbanized, people and wildlife will depend more and more on the state's large, undivided tracts of forestland. In fact, all of us have a stake in seeing that these vast private tracts remain economically viable and are healthy and resistant to natural disturbances. Making improvements, whether through statutory or administrative actions, on how to improve regional water boards' regulation of water quality on forest operations can help to ensure the continued viability of these lands for both economic and environmental reasons. We look forward to working with you and members of the Little Hoover Commission in pursuing these objectives.

Sincerely,

Brian White
Vice President for Legislative Affairs

cc: Members of the Little Hoover Commission