



(209) 984-1146 • FAX (209) 289-0016  
SierraResource@mlode.com  
15900 Granite Park Way • Sonora, CA 95370

April 6, 2017

Little Hoover Commission  
925 L Street, Suite 805  
Sacramento, CA 95814

RE: April 27, 2017 Hearing: California forest management in response to the tree mortality crisis

Thank you, Chairman Nava and Commissioners for this opportunity to share our experiences and challenges as we respond to the tree mortality crisis in Tuolumne County.

I serve as the Tuolumne County Tree Mortality Project Coordinator. I am pleased to provide the following testimony to you, and look forward to our discussion on this topic on April 27<sup>th</sup>.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Albrecht", with a stylized flourish at the end.

Mike Albrecht  
Tuolumne County Tree Mortality Task Force  
Project Coordinator

**An overview of the impact of the tree mortality crisis on Tuolumne County and the actions the county is taking in response.**

Webster’s provides several synonymous definitions of the word crisis: “turning point,” “emotionally significant event,” “unstable or crucial time.” Each definition helps describe the impact of the current bark beetle attack and tree mortality on Tuolumne County’s citizens and environment, but Webster’s final definition may be most accurate: “the period of strain following culmination of a period of business prosperity when forced liquidation occurs.”

Tuolumne County is indeed in a “period of business prosperity” triggered by the forced liquidation of millions of dead trees. This prosperity is marked by scores of PG&E crews operating 100-ton cranes lifting trees from subdivisions. Logging contractors and our two sawmills have been working extended shifts. Our 25-megawatt biomass power plant has been resurrected to provide power from the disposal of dead trees. Our hotels and restaurants are full from a combination of seasonal tourists and a large tree mortality labor force.

The “period of strain” is soon to follow. More on this later. By the numbers, the tree mortality impact to our county looks like this:

Tuolumne County: Estimated Number of Dead Trees								
Year	2010	2011	2012	2013	2014	2015	2016	Total
# Dead Trees	39,000	15,000	45,000	83,000	287,000	997,000	6,213,000	7,679,000

Acres of Tree Mortality	
Location	Estimated Acres of Mortality 2010-2016
California	7,767,000
Tuolumne County	437,000

Data supplied by US Forest Service

Bark beetle mortality took a noticeable jump between 2013 and 2014, with a dramatic increase occurring between 2015 and 2016. Whether the 175% of normal rain and snowfall delivered to Northern California during this past winter slows the epidemic remains to be seen (professional opinions vary widely, with a slight majority of foresters and entomologists leaning toward a slowing of bark beetle mortality in 2017).

Tuolumne County tree mortality is spread over approximately 440,000 acres, representing about 31% of our total land base. It occurs mainly between the 2,500-6,000’ elevations, is more pronounced on the drier southern and western mountain aspects, and has moved through Tuolumne County from south to north.

To date, the short-term, positive economic impacts (similar to the positive economic impacts provided by salvage logging following the Rim Fire) overshadow the inevitable long-term

negative economic and environmental impacts of drought, fire, and bark beetle tree mortality not yet fully recognized or evaluated.

The societal impacts Tuolumne County is dealing with are enormous. Trees are beginning to fall onto homes and property, and there have “near misses” of human injury, creating a sense of urgency and fear. Roads have been blocked by falling debris, schools have issued emergency tree removal requests around playgrounds, some high-country subdivisions look like “war zones,” and some property owners are dealing with homeowner insurance policies subject to cancellation or dramatic premium increases.

Fortunately, the Tuolumne County Board of Supervisors, back in 2014, recognized the potential severity of this crisis and took immediate, unanimous action to declare a state of emergency. Without their early intervention, and the corresponding response by the Tuolumne County Office of Emergency Services, impacts to the county would be much more severe.

The following are the actions Tuolumne County has taken to address the tree mortality crisis:

#### Brief Chronology of Key Events

- Feb. 2014 – Tuolumne County (TC) Board of Supervisors declares a local state of emergency due to the ongoing drought.
- Sept. 2015 – TC Board of Supervisors declares a local state of emergency due to bark beetle tree mortality.
- Oct. 2015 – Governor Brown declares a state of emergency for California due to bark beetle tree mortality.
- Oct. 2015 – TC forms a local Tree Mortality Task Force and holds its first meeting.
- Nov. 2015 – TC approved by the state for California Disaster Assistance Act funding.
- Dec. 2015 – TC submits its Tree Mortality Plan to the California Office of Emergency Services.
- Jan. 2016 – TC contracts with Sierra Resource Management to coordinate and lead its Task Force program.
- Feb. 2016 – TC places order for CAL FIRE slash disposal and chipping equipment.
- Feb. 2016 – TC Tree Mortality Task Force publicizes Request for Qualifications for foresters, arborists, Licensed Timber Operators, and Tree Service Contractors.
- April 2016: The TC Tree Mortality Task Force holds its first of five community forums to inform the public of the scope of the problem and Tuolumne County’s response.
- April 2016: TC implements first tree mortality removal project: Leisure Pines Pilot Project.
- April 2016: California State Tree Mortality Task Force tours the Leisure Pines Pilot Project.
- April 2016: TC opens a wood sort yard for tree mortality wood disposal – free to the public and contractors.
- December 2016: TC is awarded \$2.4 million in State Responsibility Area Grants to be used to assist private homeowners with tree removal.

- January 2017: TC Deputy Administrator and OES Coordinator, Tracie Riggs, receives CAL FIRE Partnership Award.
- April 2017: TC working on tree removal project #16.

It warrants repeating that without the unwavering and unanimous support of the Tuolumne County Board of Supervisors and county staff at all levels, this plan of action would not have progressed as smoothly or successfully as it has to date. Our county board, led by the efforts of Supervisor Randy Hanvelt, have attacked this problem with a keen sense of urgency. They fully understand that there are short-term, as well as long-term, impacts associated with this tree mortality crisis. All the affected counties will need this combination of immediate and long-term attention at all levels to get the job done, which will include:

- Keeping key access routes cleared of dead trees and debris for normal traffic flow as well as emergency response.
- Removing trees from around power lines, homes, schools, businesses and recreation areas.
- Cleaning up the general forest before trees are crisscrossed throughout the landscape, providing fuel for intense wildfires.
- Providing storage space for tree mortality logs and debris.
- Maintaining existing and developing new markets for tree mortality logs and debris.

**A discussion of the challenges the county faces in responding to the crisis and recommendations on actions the state could take to help mitigate those challenges.**

The challenges that Tuolumne County has faced as it has responded to the tree mortality crisis can be grouped into three main categories: financial, legal, and logistical.

Financial Challenges

Identifying the extent of the financial challenges Tuolumne County would face in dealing with the tree mortality crisis was recognized as “job 1” by the board of supervisors. To immediately address the financial challenge, in September 2015, Tuolumne County Board of Supervisors declared a local state of emergency due to “pervasive tree mortality.” Within the county declaration was a request for the following specific actions:

- 1) Pursue approval of California Disaster Assistance Act (CDAA) funding.
- 2) Seek federal assistance via a Presidential Proclamation
- 3) Request assistance from the State of California in the coordination of resources (CCC crews, prison inmate crews, etc.) to assist in tree removal and slash cleanup.
- 4) Procure waiver of Department of Industrial Relations prevailing wage regulations.

The State of California deserves credit for quickly responding to Tuolumne County's specific requests. Some of the responses yielded immediate results, others remain stalled by legal and legislative issues.

The request for CDAA funding was approved by the state on November 18, 2015, pending Tuolumne County submitting a Tree Removal Plan, which subsequently occurred in January of 2016. This state funding was critical to Tuolumne County as it moved forward with its tree mortality program. CDAA funding covers 75% of the county's tree mortality expenses specifically associated with tree removal to protect infrastructure and roads.

On October 30, 2015, Governor Brown wrote to Secretary of Agriculture, Tom Vilsack, requesting "expedited federal approvals of emergency actions on or nearby federal lands." This declaration of emergency would have reduced the county's 25% CDAA cost share down to 6.5%. Today, this request continues to languish in Congress because of additional language that is needed in the Stafford Act to allow insect-driven tree mortality to qualify for emergency federal funding.

The State of California earns very high marks for the assistance provided to counties from CAL FIRE foresters and officials, prison inmate crews, chipping and slash disposal equipment, and CCC hand crews. CAL FIRE's immediate focused assistance has saved Tuolumne County hundreds of thousands of dollars.

The waiver of the prevailing wage rules from the Department of Industrial Relations for emergency tree mortality work was slow to materialize. Although it took over four months for the request to be granted (on February 5, 2016), the DIR did allow this important waiver. (As a side note on this issue, Assembly Bill 1066, authored by Assemblymember Cecilia Aguiar-Curry, which recently passed out of the Assembly Labor and Employment Committee, proposes to subject tree removal contracts paid with public funds to prevailing wage laws. This will reverse the DIR waiver, and complicate contract procurement and cost issues for rural counties already strapped for funding.)

In quick summary, Tuolumne County's CDAA request was quickly approved; the request for federal emergency assistance languishes; the request for state assistance from CAL FIRE for manpower and equipment received excellent, prompt response; and the DIR prevailing wage waiver request was granted after time-consuming debate, and is now jeopardized by AB 1066.

How important is all of this to a rural county like Tuolumne? The initial estimate of the number of dead trees Tuolumne County would need to remove was over 9,000 trees at an average cost of \$1,000 per tree, for a total cost of \$9,000,000. The county's 25% cost share on \$9,000,000 equals \$2,250,000. At the time Tuolumne County decided to move forward on their Tree Mortality Plan, their total budget reserves sat at \$2.3 million. Moving forward with this plan was indeed a "leap of faith."

## Legal Challenges

The most challenging legal issue Tuolumne County has faced centers around obtaining a specific “Right of Entry Permit” required by Cal OES to be obtained from each private landowner prior to performing work (inspections, tree marking, or tree removal) on their property. At face value, obtaining permission from a private landowner for government employees or their agents to enter property to provide tree removal of dead and dying trees seems straightforward. The Tuolumne County Right of Entry Permit process starts with a positive and informative letter to the private landowner describing the need for the permit and what services the county is willing to provide at no cost.

The county letter contains the statement “All contractors working on or near your property will be fully licensed and will carry liability insurance.” Landowners are generally agreeable to the tone and intent of this cover letter. Unfortunately, agreeable often changes to skeptical and/or hostile as soon as they read clause #2 of the Right of Entry Permit itself:

*2. Hold Harmless. County shall not be liable for, and Owner shall indemnify and hold harmless the County, the State of California, Cal OES, and any of their officers, agencies, agents, contractors, subcontractors, employees and volunteers, against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics’ liens or other liens, labor disputes, attorneys’ fees and court costs (hereinafter collectively referred to as “Claims”), which arise out of or are in any way connected to actions arising out of this Permit, and hereby release, discharge and waive any claims and action, in law or equity, arising therefrom.*

This clause appears to indemnify everyone from anything that might go wrong during the tree removal process, seemingly nullifying the requirement for a county contractor to insure his/her work. The wording of this clause, and the unnecessarily “legalistic” tone of the Right of Entry Permit has created heated debate, and in some cases, landowners refusing to sign the permit. I believe it would be time well-spent for California OES to modify the Right of Entry Permit, making it easier for landowners to understand (copy attached for reference).

Another legal issue involves the type of license required for tree removal work and has unnecessarily restricted which types of contractors can perform the work. Put simply, Licensed Timber Operators (LTOs), who often have the needed equipment, experience, and know the area and the community, are currently not eligible to bid on our county tree removal projects.

The California Contractors State License Board requires that tree removal or pruning that occurs on trees over 15 feet tall, or on contracts of over \$500 in value, must be performed by a contractor with a C-61/D-49 tree service specialty license. This law precludes LTOs from bidding on our tree removal projects, that average over \$100,000 in value, and often have trees over 100 feet tall. For an LTO to obtain a C-61/D-49 license requires passing an examination and maintaining additional license bonding.

During the bark beetle epidemic that began in San Bernardino County in 2003, the State of California recognized the urgency of the tree mortality removal task and waived this licensure requirement. Both LTOs and C-61/D-49 contractors were then eligible to perform work on tree removal projects of all sizes. Tuolumne County has requested that the state recognize the scope and urgency of this current tree mortality crisis by again waiving this licensing requirement. To date, we have had no response to this request.

### Logistical Challenges

Tuolumne County was quick to recognize that the scope of the tree mortality crisis would require a rapid response that was beyond existing staffing expertise. To remedy that problem, the Tuolumne County Board of Supervisors approved the hiring of a consulting organization that had the experience and capabilities to manage and coordinate this problem. In January of 2016, the county hired Mike Albrecht, a Registered Professional Forester and owner of Sierra Resource Management, Inc., to lead its tree mortality task force efforts. Working together, the following tasks were quickly identified and implemented:

- 1) Formation of a unified Tree Mortality Task Force that would hold periodic (every 2-3 weeks) meetings to keep the various agencies involved in the tree mortality response informed and working as a team. Our Task Force includes Tuolumne County OES, Public Works Roads Division, and Air Pollution Control departments, PG&E, CAL FIRE, Caltrans, Cal OES, U.S. Forest Service, Fire Safe Councils, Tuolumne Utilities District, Twain Harte Community Service District, California State Parks, Mi-Wuk Fire District, Tuolumne Band of Me-Wuk Indians, market representatives from Pacific Ultrapower biomass plant and American Wood Fibers wood shavings plant, AT&T, and Groveland Community Service District.
- 2) Organization of a tree marking program consistent with Cal OES and FEMA guidelines. In January 2016, Tuolumne County solicited a Request for Qualifications for foresters and arborists to mark and map dead and dying trees. Six companies are currently certified to perform tree marking and mapping.
- 3) Organization of a tree removal program consistent with Cal OES, CAL FIRE, and USFS guidelines. In February 2016, Tuolumne County solicited Requests for Qualifications from Licensed Timber Operators and Tree Service Contractors. To date, 26 companies are qualified to perform tree removal work for Tuolumne County.
- 4) Sited a 4-acre wood sort yard to receive logs generated from tree mortality projects. This woodyard is open Monday – Friday, 7:00 AM to 5:00 PM. There is no fee charged for wood disposal. The yard is located adjacent to the Ultrapower 25-megawatt biomass power plant, which provides an excellent outlet for woodyard inventory. To date, approximately 5,000 tons of logs have been received, chipped, and shipped to Ultrapower in the form of biomass chips.

**Tuolumne County frequently is praised for the partnerships it has created to respond to the crisis. Are there any lessons learned from those partnerships or the county's response in general that could be applicable to other areas of the state just beginning to confront tree mortality?**

The fundamental success to Tuolumne County's response centers on the fact that we still have local markets for our wood products. Currently, there are two sawmills, two biomass power plants, a wood shavings plant, and a bark plant, operating in the county. From Tuolumne County south to the Mexican border, there is only one other sawmill in operation: Sierra Forest Products, located in Terra Bella, California.

Equally important has been the positive attitude and sense of urgency displayed by literally everyone on our county Tree Mortality Task Force. In preparing a response to this particular question, I noted these highlights from our first full Task Force meeting:

- We all committed to "rowing the boat" together and in the same direction.
- We reviewed the task ahead, the goals to achieve, and the questions to answer, to ensure coordination.
- We agreed to stay focused on "where we need to go, and how do we get there?"

I realize there is nothing too earth-shattering or sophisticated in the above "highlights." What has been significant is that our Task Force genuinely meant what it said. Having worked in the private sector for over 40 years, I'm familiar with the terms "close enough for government work" or "moving at the speed of government." These descriptive terms definitely do not apply to our Tree Mortality Task Force.

Here are the main lessons learned that might be helpful to other counties just beginning to confront this problem:

Tuolumne County has been praised for its partnerships because that's how we approached it from the beginning. The drought, fires, and bark beetle tree mortality are affecting everyone, and we quickly realized that no one entity could tackle this problem. Is our county more closely knit than other counties? I don't know, but we knew that on this issue of mitigating a massive tree die-off that has no real end in sight, we all needed to be partners. Each agency checks its ego at the door, and comes into our meetings with a genuine desire to overcome obstacles and get the job done.

Our Task Force formalized this in a list of nine Guiding Principles and Goals. I will share three of these goals that I believe are the foundation of our partnership:

- 1) Safe tree removal will be our primary goal. There will be no "lost time" accidents to the general public or government employees during implementation of Tuolumne County Tree Mortality Task Force operations.

- To date, this goal has been met. We've had several "near misses," but so far, no lost time, no lost lives.
- 2) Our county Task Force will begin by developing a work plan that prioritizes high hazard areas where the risk of injury to the general public, or damage to government infrastructure, is the greatest. This plan will meet the California Disaster Assistance Act requirements for funding eligibility.
- Tuolumne County's first tree removal project was designed around our highest hazard area. Dubbed the Leisure Pines Pilot Project, this joint effort between PG&E, Tuolumne County, and CAL FIRE removed trees and downed logs, woven throughout homes and a neighborhood, that had been dead for almost 18 months. This project successfully demonstrated that by working together and sharing resources, tree removal work could be accomplished quickly and economically.
  - CAL FIRE was able to successfully deploy their inmate crews in a neighborhood setting and fully utilize their innovative tracked chipping equipment. PG&E and Tuolumne County set up a protocol that would carry forward to future tree mortality projects in the county, where PG&E took the lead on tree marking and removal, followed up by county contractors doing the same on the remaining dead trees.
  - This project received widespread acclaim at State Task Force meetings and was well-publicized as a successful public/private partnership. Most importantly, it demonstrated to the public that there were workable solutions to deal with the tree mortality problem and that action was being taken.
- 3) The Tuolumne County Task Force will serve as a focal point for information and public outreach.
- Communicating our plans to the public became an immediate high priority. After the successful Leisure Pines Pilot Project, the community wanted to know when we would get to their neighborhood, what to expect, who would perform the work, and how they could stay informed.
  - To help get the word out, our Task Force undertook a media blitz. We went on local radio talk shows, held a community forum in each affected area, gave presentations at local service club meetings, and provided information for numerous newspaper articles. A section of the county website was dedicated to tree mortality issues, and we trained a small cadre of volunteers to man a phone bank for people who wanted to talk directly to someone about their questions and concerns.
  - These communication outreach efforts remain key to Tuolumne County's successful tree mortality crisis response. Through consistent efforts to educate the public on the solutions, as well as the problems, the overall public sentiment concerning bark beetles and tree mortality has turned from fear to hope, from anger to optimism.
  - Tuolumne County is an active participant in the California State Tree Mortality Task Force. A reciprocal benefit has developed, as our county receives

information and guidance from state agencies; and as the state agencies and other counties gain insight from Tuolumne County's tree mortality mitigation efforts.

To summarize lessons learned to assist other counties about to embark on this process:

- Emphasize that the first order of business will be ensuring that safety is the very top priority.
- Make a work plan that prioritizes the highest hazards and risks. Discuss this thoroughly with the Task Force and leadership team so that everyone is "on board."
- Keep the Task Force meeting regularly, with each agency regularly reporting on progress and issues.
- Communicate clearly and often with the public. Proactively deliver a message that is truthful and consistent among your whole team.

**An assessment of the state's actions and goals for forest resiliency and recommendations for the state to achieve a healthy ecosystem.**

I'll start by noting that this item is worthy of a full hearing on its own.

The Sierra Nevada Conservancy (SNC) is a California state agency created by bipartisan legislation (AB 2600) signed into law in 2004. At your last hearing, you received a very thorough report from SNC's Executive Director, Jim Branham. That 2017 report updated their 2014 report, which featured the subtitle "Sierra's Forests and Watersheds in Peril." The 2017 update was subtitled "From Bad to Worse." Also noted is this telling comment: "The solutions remain the same, but the need for action is more urgent."

The solutions proposed by SNC and other agencies that "remain the same" are these:

1. Increase investment in forest restoration.
2. Address policy and process constraints that increase costs and complexity of restoration work.
3. Support development of infrastructure to utilize material removed, for the dual purpose of producing wood products and offsetting restoration costs.

I have seen these same solutions echoed over and over in various white papers and agency reports for over forty years. I recently watched an excellent video documenting the 1993 Clinton/Gore Pacific Northwest round table discussion that addressed these very issues. Although the issues were the same, the nomenclature was a bit different. In 1993, "forest restoration" was called "multiple use forest management," "policy and process" was referred to as "analysis paralysis," "infrastructure to utilize material removed" was called "logging" and "sawmills."

My recommendations for action that the state can take to achieve a healthy ecosystem is to stop the analysis paralysis that prevents us from logging our forests and practicing multiple use forest management. (As an interesting side bar, over the course of my career, I've watched the term logging change to timber harvesting, forest thinning, vegetation management, ecosystems management, forest restoration, to the current theme, "purveyors of forest resiliency.")

My assessment of the state's actions and goals is best summarized by this observation: "When all is said and done, more is said than done." Consider these six facts as we ponder the current condition of our forests:

- 1) With three fire seasons left to go in this decade, more acres have already burned on the western slope of the Sierra Nevada than any previously recorded decade (The State of the Sierra Nevada's Forests by the Sierra Nevada Conservancy, 2017).
- 2) The largest source of black carbon emissions (a powerful climate change agent) in California is wildfire. An average wildfire season contributes two-thirds of the current black carbon emissions in the state (California Draft Carbon Plan).
- 3) The 2013 Tuolumne County Rim Fire emitted 12.06 metric tons of CO<sub>2</sub>, which was more than three times the year-on-year greenhouse gas reductions achieved in all other sectors statewide in 2013 (California Air Resources Board, 2016).
- 4) CAL FIRE and USFS estimates put the current tree mortality in California at over 102 million dead trees. Equally alarming, a Carnegie Institution for Science study (using an aerial laser-guided sensor) found that approximately 900 million trees were measurably drought-stressed on over 26 million acres of California's forests.
- 5) As Californians watch their forests burn and succumb to bark beetle attack, the infrastructure that would support thinning our forests is rapidly diminishing. In the past 25 years, 120 sawmills have closed, leaving only 27 still operating (Calforests 2016). Nearly 50% of California's wood-fired power plants have been closed. Rural California has lost \$1.2 billion annually in forest sector payroll.
- 6) America is now the second leading IMPORTER of softwood lumber in the world (only behind China).

These facts help underscore the magnitude of the challenge California faces if it chooses to act to achieve healthy forest ecosystems. They also underscore what will happen if we don't.

The federal government, through the U.S. Forest Service, currently manages 60% of California's 33 million acres of forestland. The U.S. Forest Service is currently deeply mired in "no action" forest management policies that will make moving California's forests away from destruction and toward recovery and resiliency, virtually impossible.

**An analysis of why the tree mortality and forest health issues faced by Tuolumne County are important to Californians statewide.**

It's time to circle back to Webster's definition of the word "crisis." The culmination of a period of business prosperity due to the forced liquidation of so much of our forested landscape will one day end. The "period of strain" is right around the corner and will have a profound long-term impact on Tuolumne County. Our county is California's southern-most representative of a vibrant timber industry. With that comes the desire, expertise, infrastructure, and commitment to manage our public and private forests.

In the midst of our current tree mortality crisis, along with the aftermath of high-intensity wildfires, our management goals are short-term: clean up the aftereffects of the bark beetles and wildfires, and long-term: get way out in front of the consequences of the next drought by restoring our forests to a healthier condition.

The same sense of urgency (emergency) proclaimed by our Governor regarding the results of tree mortality, fire, and drought, needs to be instilled into each of us and our state agencies. An analysis of why this is important to Tuolumne County, and to California statewide, is best understood by highlighting what will happen if we don't move forward aggressively and quickly:

- 1) Tuolumne County could see its timber industry vanish over the next two to four years. Our two sawmills process at least 140 million board feet of lumber each year. Our two biomass facilities dispose of over 350,000 tons of wood residue each year, cleanly converting it to electricity – enough to power our entire county on an ongoing basis. Our wood shavings plant converts 30,000 tons of cull logs to animal bedding, and our bark plant produces over 40,000 tons of decorative bark each year. Operation of this infrastructure creates well over 1,000 direct jobs in Tuolumne County each year. These jobs will be lost, just as they have been lost to counties up and down the Sierras as mills have closed and towns have been shuttered.
- 2) With the loss of Tuolumne County's timber industry will come the loss of our ability to get out in front of the next drought. Like the counties to our south, we will lament what could have been, what we wished we had done, how indeed, "hind sight is 20/20."
- 3) Tuolumne County, and California, will have our dependency on imported wood products increase. California is currently importing approximately 75% of its timber-related products. America is the #2 importer of softwood lumber in the world. Without a proactive and urgent reversal of our current forest management practices, we will continue to let valuable resources burn instead of making products, supplying jobs, and growing our economy.
- 4) If we don't see a dramatic decrease in the intensity and frequency of future wildfires and overall tree mortality, the effects on our air quality will negate any and all benefits of AB32 initiatives.

Hundreds of lawsuits have been filed against the state and federal government in the name of protecting wildlife and its habitat. Yet, as a result of the Rim Fire, over 40 California Spotted Owl Protected Activity Centers, were destroyed. As logging crews undertook Rim Fire salvage operations, the impact to wildlife was evident with carcasses of deer, cattle, bears, and mountain lion. The additional loss of small mammals, amphibians, and the biota within the soil, have never been calculated to my knowledge. With the Rim Fire encompassing over 400 square miles, these losses are surely incalculable.

Litigation must be replaced by common sense discussion. Local collaborative groups operated with a spirit of compromise can play an important role in this discussion. Ultimately, decisions need to be based on sound science, with the realization that there will always be those who disagree. Once all the stakeholders have gone through the consensus process, a lawsuit cannot be allowed to indefinitely stop work that so desperately needs to be done.

Rural counties like Tuolumne provide stewardship of our forests for all Californians. That stewardship should protect values that are critical to health, welfare and livelihoods for all Californians: abundant water, clean air, jobs, a healthy economy, wood products, and recreation.

**Any other information that could aid the Commission's analysis of forest management in response to the tree mortality crisis.**

I'll take this final opportunity to list the areas where I believe the Commission can be of most help to the counties affected by this tree mortality crisis:

- 1) Push hard for a federal declaration of emergency. Identify what really stands in the way, and attempt to overcome it.
- 2) Ask that Assembly Bill 1066 be withdrawn. To add the expense of prevailing wage mandates would unnecessarily burden county budgets.
- 3) Seek approval from Cal OES to make the Right of Entry Permit more "user-friendly." Delete the wording that indemnifies and holds harmless the county's contractors and subcontractors.
- 4) Seek a waiver from the Contractors State License Board that would enable Licensed Timber Operators to perform work on county tree removal projects.
- 5) Explore ways to use the Forest Service Good Neighbor Authority (GNA). The stated goal of the GNA is to "improve coordination across federal, state, and private boundaries during hazardous fuels, insect and disease, and watershed restoration projects."



## Office of Emergency Services County of Tuolumne

Karl Rodefer, Director  
Craig L. Pedro, Assistant Director  
Tracie M. Riggs, Coordinator

**Tuolumne County Administration Center**  
2 South Green Street  
Sonora, CA 95370  
Phone (209) 533-5511  
Fax (209) 533-5510

Subject: Removal of Dead and Dying Trees

Dear Resident,

Tuolumne County will soon begin removing dead and dying trees that have resulted from the current drought and subsequent bark beetle attack. We are sending this letter and Right of Entry Permit to you because Tuolumne County has determined that you **may** have dead and dying tree(s) on your property that need to be removed to maintain public safety and emergency personnel road access. Specifically, the county will be removing hazard trees that threaten county maintained road or structure. Some of these trees may be on your property or near your home.

Removal of these trees will be provided as a service, **free of charge to you.**

To initiate this process, Tuolumne County needs to obtain the enclosed Right of Entry Permit from you. By signing the Right of Entry Permit you are allowing:

- 1) The contracted arborists and/or foresters to enter your property to assess and mark any tree identified as dead or dying due to drought and/or bark beetle infestation that is within 200 ft. of a county maintained road or structure. Please note that some trees may not look dead, but may be marked for removal by the arborist of forester because the tree is showing signs of beetle infestation and will die in the near future.
- 2) The county and its contractors to operate on your property, holding them harmless, and waiving any ownership or monetary value of the trees.

**All contractors working on or near your property will be fully licensed and will carry liability insurance.**

Soon you will see contracted Arborists and/or Registered Professional Foresters in your area that will be marking trees for removal. A few weeks after the trees have been marked, Licensed Timber Operators or tree service companies, who are contracted through Tuolumne County, will be removing and disposing of the trees. Disposal of the trees will take place at Pacific Ultrapower, American Wood Fibers, Sierra Pacific Industries, and/or the Tuolumne County Wood Sort Yard, depending on the condition and market use of each tree. CAL FIRE, PG&E, and Caltrans will be coordinating with the county to ensure the trees are removed and debris is cleared.

While we are working on tree removal as quickly as possible, the problem is vast, and we cannot predict when this project will be complete. Every effort will be made to cut and remove dead trees in your area as soon as possible. Due to the fact we have to wait for the majority of the Right of Entry forms to be returned, we have no way of determining the begin or end date of a project. The Right of Entry permit will terminate upon issuance of a notice of completion to the contractor.

We appreciate your attention to this matter. It is important that you please fill out, sign, and return the Right of Entry Permit to: 2 South Green Street. Sonora, CA 95370 as soon as possible to expedite the work. Should you have any questions, please do not hesitate to contact the Community Information Lines at: (209) 533-6394. If no one is available, please leave a message and someone will get back to you as soon as possible



**Office of Emergency Services**

**RIGHT OF ENTRY PERMIT  
TREE MORTALITY EMERGENCY PROGRAM**

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**ADDRESS ("Premises"):**

**APN #:**

**DATE:**

**COUNTY OF TUOLUMNE  
OFFICE OF EMERGENCY SERVICES  
2 SOUTH GREEN STREET,  
SONORA, CA 95370**

I/We \_\_\_\_\_, the owner(s) of the above-referenced property, do hereby grant and freely and without coercion, the right of access and entry to said property to the State of California and the County of Tuolumne, and their agents, officials, employees, and/or volunteers, contractors and subcontractors, subject to all licenses, easements, encumbrances, and claims of title affecting the Premises upon the following terms and conditions:

1. Grant of Right-of-Entry. Owner hereby grants County a right-of-entry ("Permit") over the Premises for the purpose of inspecting the Premises for dead and/or dying trees, testing materials on the Premises, removing and/or clearing trees, hauling and/or disposing of trees, subject to the terms and conditions set forth in this Permit. It is fully understood this Permit does not create any obligation on the County to perform inspection, testing or tree removal or clearance. Owner understands the County will undertake no removal or clearance of trees or any related action until this Permit is signed and returned. Owner shall make Owner's best efforts to mark any sewer lines, utilities, septic tanks and water lines located on the Premises.

2. Hold Harmless. County shall not be liable for, and Owner shall indemnify and hold harmless the County, the State of California, Cal OES, and any of their officers, agencies, agents, contractors, subcontractors, employees and volunteers, against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' lines or other liens, labor disputes, attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to actions arising out of this Permit, and hereby release, discharge and waive any claims and action, in law or equity, arising therefrom.

3. No County Assumption of Liability for Remediation. In consideration of the assistance County is providing to Owner under this Permit, at no cost to Owner, County assumes no liability or responsibility, and Owner shall not seek to recover from County, the State of California, Cal OES or any of their officers, agencies, agents, contractors, subcontractors, employees and volunteers, the cost of any remediation of damages to the Premises incurred due to actions taken pursuant to this Permit. Owner agrees and understands the County and/or its agents may sell the felled trees and hereby waives any and all rights, actions, claims, in law or equity as to the value of said trees in exchange for the services provided pursuant to this Permit.

4. County's Agents. Any person, firm or corporation authorized to work upon the Premises by the County shall be deemed to be County's agent, including but not limited to Cal OES, Cal Fire, California Conservation Core or California Department of Corrections and Rehabilitation and shall be subject to all applicable terms hereof.

5. Authority. Owner represents and warrants it has full power and authority to execute and fully perform its obligations under this Permit pursuant to its governing instruments, without the need for any further action, and the person(s) executing this Permit on behalf of Owner are the duly designated agents of Owner and are authorized to do so, and that fee title to the Premises vests solely in Owners.

6. Entire Agreement. This Permit constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

7. Modification. The provisions of this Permit may not be modified, except by written instrument signed by both parties.

8. Partial Invalidity. If any provision of this Permit is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Permit shall not be affected thereby. Each provision shall be valid and enforceable to the fullest extent permitted by law.

9. Successors & Assigns. This Permit shall bind and benefit the parties and their successors and assigns, except as may otherwise be provided herein.

10. Notices. Any notice required hereunder shall be provided as follows:

For the County:

Name:	Tracie Riggs, Deputy County Administrator
Department:	County Administrator/Office of Emergency Services
Address:	2 South Green Street, Sonora, CA 95370
Phone:	(209) 533-5511

For the Owner:

Name:  
Address:  
Number:

**RELEASE:** IN CONSIDERATION FOR THE CONSENT TO ACCESS AND COUNTY'S PROVISION OF THE TREE MORTALITY EMERGENCY PROGRAM ASSISTANCE, AS SET FORTH ABOVE, I HEREBY AGREE TO ACCEPT ANY AND ALL RISKS OF DEATH, INJURY, OR DAMAGE TO MYSELF OR MY PROPERTY DURING THE PROVISION OF TREE MORTALITY EMERGENCY PROGRAM ASSISTANCE. I FURTHER AGREE THAT NEITHER THE COUNTY, NOR OTHERS, SHALL INCUR ANY FINANCIAL RESPONSIBILITY OR LIABILITY WHATSOEVER FOR ANY DEATH, INJURY OR DAMAGE SUFFERED OR INCURRED BY ME OR MY PROPERTY ARISING OUT OF THE PROVISION OF PROGRAM ASSISTANCE AS SET FORTH ABOVE. ACCORDINGLY, I HEREBY RELEASE AGENCY FROM ALL ACTIONS, CLAIMS OR DEMANDS THAT MY SUCCESSORS, HEIRS, ASSIGNS OR I MAY HAVE FOR DEATH, INJURY, OR DAMAGE SUFFERED OR INCURRED BY ME OR MY PROPERTY DUE TO PROVISION OF DROUGHT PROGRAM ASSISTGANCE AS SET FORTH ABOVE.

IN WITNESS WHEREOF, Owner and County have executed this Permit effective as of \_\_\_\_\_, 2016.

**OWNER**

Signed:

Date:

Print Name:

Signed:

Date:

Print Name:

**COUNTY OF TUOLUMNE**

Signed:

Date

Print Name:

Title: