

COUNTY OF EL DORADO

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December 6, 2011

OAL Reference Attorney
200 Capitol Mall, Suite 1250
Sacramento, CA 95814

RE: California Board of Forestry and Fire Protection Emergency Rules to Implement State Responsibility Area Fees

To Whom it Concerns:

The County of El Dorado thanks you for the opportunity to comment on the Emergency Rules to Implement State Responsibility Area (SRA) Fees submitted by the California Board of Forestry and Fire Protection on November 21, 2011. The County of El Dorado has many constituents located in the SRA and have long opposed the imposition of fees on the owners of structures within the SRA. We now have grave concerns regarding the most recent regulations adopted by the Board.

AB 29X required the Board to adopt emergency regulations by September 1, 2011 establishing and implementing the SRA fee. Even with the September deadline approaching, the Board scheduled a special session on August 22 to hear the initial regulations and allow the public additional time to review and comment on the language. We fail to see why the Board could not have done the same in this instance, particularly considering that the amended proposal added numerous stakeholders, including already economically-challenged rural county governments, by including non-residential structures. The amended language was posted on the Board's website just two days prior to adoption, and no notice was sent to stakeholders. This action marginalized the public's ability to provide meaningful input on a highly contentious issue.

We also question the "emergency" nature of the regulations now submitted to the Office of Administrative Law (OAL) considering that the Board did not submit the August version, which was adopted to meet the AB 29X emergency deadline, to your office for approval. The Board held the regulations internally for nearly three months to allow the Administration time to draft "cleanup" legislation, which ultimately would have imposed an even higher fee on citizens living in the SRA. Since the

Board already had the August regulations in place, we maintain that the Board's rushed adoption of the second emergency regulations on November 9, 2011 was superfluous and does not actually constitute an emergency.

Finally, we believe that not only are these regulations unnecessary to "avoid serious harm to the public peace, health, safety, or general welfare," (Government code section 11342.545), but that they might actually endanger the public by disrupting mutual aid agreements for fire protection. Whether a fire originates on wildlands or from a structure, a strong initial response through a united response protects California's resources against catastrophic damage. Through these agreements, local, state, and federal agencies are cooperative partners in all emergencies. The imposition of SRA fees will make it nearly impossible for local fire entities to pass new local assessment, and their willingness and capacity to turn out to disasters outside their own areas will sharply diminish.

In light of our comments, the Board of Supervisors for the County of El Dorado asks that the OAL disapprove the proposed SRA Fee Rules and that the Board be required, at minimum, to conduct a 15-day public comment period with extensive public notice before adopting the proposed regulations for submittal to OAL.

We thank you for your consideration in this matter.

Sincerely,

Raymond J. Nutting
Chair, Board of Supervisors

cc: Eric Huff, California Board of Forestry and Fire Protection
Chief Ken Pimlott, Director of CAL FIRE