

COUNTY OF EL DORADO

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November 13, 2012

Board of Forestry and Fire Protection
Attn: Eric Huff
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Subject: State Responsibility Area Fire Prevention Benefit Fee, 2012

Dear Mr. Huff:

The Board of Supervisors for the County of El Dorado opposes the imposition of the state fire fee and believes the Legislature has grievously erred by passing legislation imposing a new tax without the constitutionally required two-thirds majority. Recognizing however that the issue will ultimately be decided in court and that the Board of Forestry and Fire Protection remains under statutory obligation to adopt permanent regulations, the Board of Supervisors offers the following comments on the proposed rulemaking.

The SRA map we reviewed continues to be out-of-date and inaccurate. Prior to enacting permanent regulations, the Board of Forestry and Fire Protection needs to review, update, and correct the SRA map. If the state fails to correct the map, El Dorado County residents will continue to be inappropriately charged the State Fire Prevention Fee.

County staff has reviewed the "State Responsibility Area (SRA) Classification System available on the Board of Forestry and Fire Protection's website. The criteria contained in this Legislatively-directed procedure, along with the Public Resources Code §4101 et seq., are not congruent with the SRA map available online as of July 27, 2012 (adopted January 2011). If Cal Fire's existing SRA map is used to determine which parcels are levied the SRA fee, property owners will be inappropriately billed, based upon the criteria set forth in the SRA Classification System and Public Resources Code. We are specifically concerned about properties within the following urbanized (or semi-urbanized) areas: El Dorado Hills, Cameron Park, Rescue, Diamond Springs/El Dorado, Smith Flat, Pollock Pines/Sly Park, Auburn Lake Trails, Grizzly Flat, Meyers, and Meeks Bay/Tahoma. We are also concerned about the significantly-sized fruit orchards and vineyards located in Apple Hill, Gold Hill/Coloma, and Fairplay/Somerset/Mt. Aukum.

For purposes of fee assessment, Public Resources Code § 4211(a) defines structure as, “a building used or intended to be used for human habitation.” The law does not appear to allow the Board of Forestry and Fire Protection to impose the fee on property that is not used or intended to be used for human habitation. Even the staff recommended alternative (Alternative 3) notes that the enacting statute imposed the fee burden upon residents of SRA lands. Yet, the Notice of Proposed Rulemaking indicates that approximately 22,000 commercial, industrial and office structures are estimated to be eligible for the fee. Unnecessarily forcing rural business owners to pay an unauthorized fee and file a petition for redetermination is reckless. The discussion of the economic impact to businesses in the Notice of Preparation omits any acknowledgement of the time investment to pay and protest the fee, especially when supporting documentation is required to support the petition for redetermination.

Along these lines, the Board of Forestry and Fire Protection should allow 60 days rather than 30 to file a petition for redetermination. Thirty days is simply not enough time for a property owner to complete sufficient research, obtain supporting documentation, and complete the petition process. Moreover, the Board should adopt regulations which eliminate the necessity for a property owner to file a claim for a refund for money which was not owed in the first place. If a petition is successful and a refund is due, the burden to make the payment should belong to the state, not the property owner.

Furthermore, the economic analysis pertaining to the competitiveness of California businesses with other Western states is ironically flawed in that it compares the state fire prevention fee to other states “where landowners contribute to fire protection budgets...” Many landowners within the SRA already contribute to fire protection through local voter-approved special taxes (Government Code § 50075) and/or fire suppression assessments (Government Code § 50078). The state fire prevention fee is assessed in addition to taxes and assessments established for fire protection and is therefore an excess burden on California businesses. Given these considerations, ~~t~~The Board of Forestry and Fire Protection should remain within the authority granted by the Legislature and adopt regulations which reflect the narrow definition of “structure” provided in statute.

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We know from firsthand experience dealing with constituent questions that the public is confused about where to file a petition for redetermination. The proposed regulations perpetuate this confusion. Public Resources Code § 4221 says that each petition for redetermination “shall be in writing and be sent to the department [Cal Fire], the board [Board of Forestry and Fire Protection], and the State Board of Equalization. The proposed regulations indicate that a property owner “may petition the Department [Cal Fire] for a redetermination...” This confusion is compounded by the fact the State Board of Equalization is the entity distributing the

bills. The proposed regulation should clarify this confusion and perhaps include language which holds petitioners harmless against the timelines specified for filing, if a petition is erroneously sent to the wrong state entity.

The definition of property owner should be revised to exclude public agencies. The regulations transfer discretionary dollars from local agencies to Cal Fire. Any local agency providing any level of fire service is already funding fire prevention. The regulations envision the return of some funds to counties in the form of grants, so taking money away from counties in the first place makes little sense. Government should not have to pay fees to government.

The current regulatory scheme provides that the person responsible for the fee is the owner as of July 1. However, assessment roles reflect the owner as of the lien date which is January 1. Because the basis of the fire fee bill is the assessment role, the date should be changed and the conflict eliminated.

~~Finally, M~~mobilehomes and manufactured homes in mobilehome parks should be exempted from the fee requirement. These structures are almost entirely inhabited by senior citizens on fixed incomes. Consequently, the fee poses an undue financial burden. Mobilehome parks do not receive much benefit from fire prevention services commensurate with other residences due to their high density and minimal amount of vegetation. In addition, the State Board of Equalization and Cal Fire and its third party administrator have generated a substantial number of double billings on mobilehomes. These billing errors are principally due to conflicts between the records of County Assessors and those of the California Department of Housing and Community Development. Mobilehomes can also be licensed through Department of Motor Vehicles, or assessed on the local property tax roll. Using multiple sources of information to generate bills ensures billing errors will continue to occur. If the State cannot bill accurately, it shouldn't bill at all, especially given the unique hardship this fee causes for many senior citizens.

The Board of Forestry and Fire Protection should carefully reexamine the administrative costs of this program, and seek methods to make the program more efficient. The Notice of Proposed Rulemaking indicates a combined administrative annual cost between the Board of Forestry and Fire Protection and the State Board of Equalization of \$14,000,000 for an a program estimated to bring \$85,000,000 in revenue. This equates to an excessive 16.5% administrative charge. In other words, presuming most people pay the reduced amount of \$115, then a whopping 121,739 Californians will do nothing more than fund the SRA program's bloated overhead.

Finally, in setting the fee at the maximum \$150 dollars, the Board of Forestry and Fire Protection has significantly underestimated the devastating effect this will undoubtedly cause for local fire protection agencies. Rural fire protection districts provide all-hazard emergency response, and are often the first responders to wildfire incidents. In addition to ad valorem property taxes, most rural property owners in the County of El Dorado also pay a voter-approved special tax and/or fire suppression assessment. Despite this revenue, with increasing personnel, training and equipment costs local fire protection districts are on the brink of financial deterioration. The new fire prevention fee all but guarantees that local fire districts will never again achieve voter or landowner approval for new special taxes or assessments. The ultimate impact of this will be greater than the reductions in service discussed in the Notice of Proposed Rulemaking. The true consequence of this will be the complete dissolution of rural fire protection districts, which will in turn increase risk and further strain Cal Fire resources. This complex interplay between state

and local fire protection efforts deserves detailed analysis before the Board of Forestry and Fire Protection determines the maximum fee amount.

Please contact Terri Daly, Chief Administrative Officer at (530) 621-5123 should you have any question about these comments.

Sincerely,
County of El Dorado

John R. Knight, Chair
Board of Supervisors
County of El Dorado