

# Memorandum

To: Honorable Jerome E. Horton, Chairman  
Honorable Michelle Steel, Vice Chair  
Honorable Betty T. Yee, First District  
Senator George Runner, Second District  
Honorable John Chiang, Controller

Date: February 19, 2013

From: David J. Gau, Deputy Director  
Property and Special Taxes Department



Subject: **2013 Timber Advisory Committee Membership**  
(March 2013 Administrative Consent Calendar)

Revenue and Taxation Code Section 434.2 requires the Board of Equalization (Board) to appoint Timber Advisory Committee (TAC) members to consult with the Board every six months regarding estimates of "immediate harvest value." Section 431(c) defines the TAC as a "standing committee appointed by the Board composed of one representative of the Board of Equalization, one representative of the State Board of Forestry and Fire Protection, five assessors from the rate adjustment counties defined in Section 38105, one member representing small-scale timber owners, and one member representing large-scale timber owners."

I propose the following appointments to the Timber Advisory Committee for 2013:

- |                         |   |  |
|-------------------------|---|--|
| David J. Gau            | — | Representing Board of Equalization                       |
| George Gentry           | — | Representing State Board of Forestry and Fire Protection |
| Mari Wilson             | — | Assessor, Humboldt County                                |
| Susan M. Ranochak       | — | Assessor, Mendocino County                               |
| Charles W. Leonhardt    | — | Assessor, Plumas County                                  |
| Leslie Morgan           | — | Assessor, Shasta County                                  |
| Mike Mallory            | — | Assessor, Siskiyou County                                |
| Lennart Lindstrand, Jr. | — | Representing Small-Scale Timber Owners                   |
| Marty Olhiser           | — | Representing Large-Scale Timber Owners                   |

Please place this item on the March 2013 Administrative Consent Calendar for approval.

DJG:dy

cc: Ms. Joann Richmond  
Mr. Ken Thompson

Approved:   
Cynthia Bridges, Executive Director

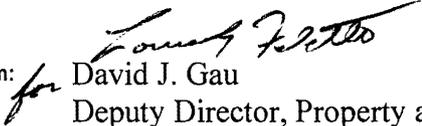
BOARD APPROVED  
at the March 13, 2013 Board Meeting

  
Joann Richmond, Chief  
Board Proceedings Division

**M e m o r a n d u m**

To: Ms. Cynthia Bridges  
Executive Director

Date: March 12, 2013

From:  David J. Gau  
Deputy Director, Property and Special Taxes Department

Subject: ***History of the Timber Advisory Committee***

Revenue and Taxation Code<sup>1</sup> section 431, subdivision (c) requires that the Board of Equalization (Board) appoint a *Timber Advisory Committee* (TAC). The current process of appointing the TAC members each calendar year started in 1995. The following provides a brief overview of the TAC's history. Further information on the appointment of TAC members may be found under the heading *Tenure of TAC Members*.

***HISTORY***

The Z'berg-Warren-Keene-Collier Forest Taxation Reform Act, AB 1258, Chapter 176, Statutes 1976, changed the method of taxing timber in California by replacing the ad valorem tax on standing timber with a yield tax on harvested timber. The resulting *timber yield tax* is imposed on every timber owner who harvests timber or causes it to be harvested on or after April 1, 1977. The Act also required the Board to appoint a TAC with which to consult prior to adopting administrative regulations governing the assessment of harvested timber and underlying lands.

***Authority***

Section 434.2 requires the Board to appoint the TAC members. Section 431(c) defines the TAC as "a standing committee appointed by the board composed of one representative of the Board of Equalization, one representative of the State Board of Forestry and Fire Protection, five assessors from the rate adjustment counties defined in Section 38105, and one member representing small-scale timber owners, and one member representing large-scale timber owners." Section 434.2 directed the Board to appoint the TAC within 30 days of the effective date of the section; thus, the first TAC was appointed in June 1976.

The original legislation provided that rate adjustment counties were those counties where property tax revenues on timber represented two percent or greater of the county's total property tax revenue. Subsequently, those counties were named in section 38105 as the "rate adjustment counties," as follows: Alpine, Del Norte, El Dorado, Glenn, Humboldt, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Yuba.

***Duties of the TAC***

Sections 434, 434.1(a), 38109, 38116(a), and 38204 and Property Tax Rule 1023(c)<sup>2</sup> include reference to the duties of the TAC. The major role of the TAC is to consult with the Board every six months regarding the estimates of "immediate harvest value." In an opinion dated August 29, 1978 (No. 78-52), the state Attorney General stated that the duties of the TAC "... are advisory in nature and encompass no administrative responsibilities." The opinion further

<sup>1</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

<sup>2</sup> All rule references are to the California Code of Regulations, Title 18, Public Revenues.

stated that "[t]he basic flow of information is from Committee members to the Board, not from the Board to the Committee. The Committee members can adequately perform their consultation function by providing information concerning valuation procedures and by applying their expertise to any questions raised by the Board."

In addition to specific statutory duties, the TAC performs other duties in support of the timber tax program, such as reviewing proposed amendments to statutes or administrative rules and generally advising the Board on timber issues.

### ***TAC Meetings***

There is no set schedule governing when or how often the TAC shall meet. When the yield tax system was being implemented, meetings were held on a frequent basis to address important issues and statutory requirements. Currently, the TAC meets twice a year, which enables the Board to consult with the members before meeting in open session to adopt harvest values schedules on or before June 30 and December 31 of each year. For these regularly-scheduled TAC meetings, Board staff provides suggested harvest values schedules that are developed from information collected statewide on the sale of logs and standing timber. Additional TAC meetings are occasionally held if issues arise that require the Board or its staff to consult with the TAC.

### ***Tenure of TAC Members***

While the law requires the Board to appoint the TAC members, there is no statutory provision for the tenure of the appointments. The Board approved one-year term limits on February 9, 1995. Prior to that date, the TAC members served at the pleasure of the Board. The Board appoints the TAC members each calendar year. Board Members or the Board's Executive Director will administer the oaths of office to the members at the first TAC meeting scheduled after their appointment by the Board.

### ***TAC Structure***

At its inaugural meeting, the TAC members elected two officers — a Chair and a Vice-Chair/Secretary. The Board's representative was selected to serve as the Chair at that meeting and has remained as such since that time. Over the years, several assessors have been selected to serve as Vice-Chair/Secretary. The TAC is free to elect new officers each year if it so desires.

### ***Compensation of TAC Members***

There are no provisions for compensating the TAC members. However, Government Code section 11009 does provide for the payment of "necessary expenses" for persons serving on boards, commissions, or committees without compensation. This allows for travel and per diem compensation for those members who do not receive reimbursement as part of their full time position(s). In order for members to receive travel expense reimbursement, the oaths of office must be filed with the Secretary of State each time new members are appointed. Board staff files these papers on behalf of the members.

Please note that further detail on the history of the TAC is available on the BOE website at <http://www.boe.ca.gov/proptaxes/pdf/tachistory.pdf>. If you have any questions, please contact Ken Thompson at 916-274-3300.

DG:lf

## HISTORY OF THE TIMBER ADVISORY COMMITTEE

The Z'berg-Warren-Keene-Collier Forest Taxation Reform Act, AB 1258, Chapter 176, Statutes 1976, changed the method of taxing timber in California by replacing the ad valorem tax on standing timber with a yield tax on harvested timber. The resulting *timber yield tax* is imposed on every timber owner who harvests timber or causes it to be harvested on or after April 1, 1977.

The Act also required the Board of Equalization (Board) to appoint a *Timber Advisory Committee* (TAC) with which to consult prior to adopting administrative regulations governing the assessment of harvested timber and underlying lands.

### AUTHORITY

Section 434.2 of the Revenue and Taxation Code<sup>1</sup> requires the Board to appoint the TAC members. Section 431(c) defines the TAC as "a standing committee appointed by the board composed of one representative of the Board of Equalization, one representative of the State Board of Forestry and Fire Protection, five assessors from the rate adjustment counties defined in Section 38105, and one member representing small-scale timber owners, and one member representing large-scale timber owners." Section 434.2 directed the Board to appoint the TAC within 30 days of the effective date of the section; thus, the first TAC was appointed in June 1976.

The original legislation provided that rate adjustment counties were those counties where property tax revenues on timber represented two percent or greater of the county's total property tax revenue. Subsequently, those counties were named in section 38105 as the "rate adjustment counties," as follows: Alpine, Del Norte, El Dorado, Glenn, Humboldt, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Yuba.

### DUTIES OF THE TAC

Sections 434, 434.1(a), 38109, 38116(a), and 38204 and Property Tax Rule 1023(c)<sup>2</sup> include reference to the duties of the TAC. The major role of the TAC is to consult with the Board every six months regarding the estimates of "immediate harvest value." In an opinion dated August 29, 1978 (No. 78-52), the state Attorney General stated that the duties of the TAC "... are advisory in nature and encompass no administrative responsibilities." The opinion further stated that "[t]he basic flow of information is from Committee members to the Board, not from the Board to the Committee. The Committee members can adequately perform their consultation function by providing information concerning valuation procedures and by applying their expertise to any questions raised by the Board."

The original language of the Z'Berg-Warren-Keene-Collier Forest Taxation Reform Act required that the Board complete the following after consultation with the TAC:

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<sup>1</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

<sup>2</sup> All rule references are to the California Code of Regulations, Title 18, Public Revenues.

- On or before September 1, 1976, prepare instructions setting forth temporary criteria and procedures for grading timberland on the basis of site quality and operability (section 434).
- Prior to December 31, 1976, and periodically thereafter, adopt regulations establishing a standard unit of measure for timber and conversion factors for converting other units of measure to the standard (section 38109).
- On or before December 31, 1976, designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values (section 38204).
- On or before March 1, 1977, estimate the immediate harvest values of each species or subclassification of timber within the "timber value areas" for timber to be harvested between April 1 and December 31, 1977. On June 30 and December 31 of each year thereafter estimate the immediate harvest values for timber harvested during the succeeding two calendar quarters (section 38204 and rule 1023).
- On or before March 1, 1977, adopt regulations setting forth the final procedures for grading timberland on the basis of its site quality and operability, replacing the instructions adopted on or before September 1, 1976 (section 434.1(a)).
- On or before January 1, 1980, and every three years thereafter, adopt schedules re-establishing the value of each grade of timberland pursuant to section 434 (section 434.5 (b)). (Section 434.5 was rewritten in 1984, establishing new values for timberland and implementing a formula for adjusting timberland values for subsequent years.)

In addition to the specific statutory duties listed above, the TAC performs other duties in support of the timber tax program, such as reviewing proposed amendments to statutes or administrative rules and generally advising the Board on timber issues. The following significant changes have been made by the Board, through the consultation and advice of the TAC, in the timber tax program since completing the initial statutory requirements:

- In 1997, the harvest values schedules were simplified from 27 pages to 10 pages. This included the allowance of adjustments in the form of deductions to the values in the schedules for logging systems, small total volume, and county locations.
- In 1998, rule 1024 was developed, exempting any timber from the timber yield tax if the tax on the timber would amount to less than the cost of administering and collecting the tax. The rule became effective April 8, 1999.
- In 2000, the timber yield tax was converted from a system using old growth and young growth classifications to a system based on average log size, removing much of the subjectivity of the previous system. Some species were consolidated, reducing the number of species' categories. This further simplified the harvest values schedules.

- In 2001, a firm criterion, based on historical data, was implemented for establishing the value of salvage species in Table S, Salvage Harvest Values, of the Harvest Values Schedules. Specifically, when there are not enough salvage sales in a species category to establish its immediate harvest value, the value is deemed to be 75 percent of the corresponding green values listed in Table G, Timber Harvest Values, of the Harvest Values Schedules.
- In 2010, rule 2010 was amended to address the changes in marketing conditions since the rule was last amended in 1977. The timber value areas were realigned to reflect the changes in marketing conditions. The amendment became effective November 17, 2010.

### **TAC MEETINGS**

There is no set schedule governing when or how often the TAC shall meet. When the yield tax system was being implemented, meetings were held on a frequent basis to address important issues and statutory requirements. Currently, the TAC meets twice a year, which enables the Board to consult with the members before meeting in open session to adopt harvest values schedules on or before June 30 and December 31 of each year. For these regularly-scheduled TAC meetings, Board staff provides suggested harvest values schedules that are developed from information collected statewide on the sale of logs and standing timber. Additional TAC meetings are occasionally held if issues arise that require the Board or its staff to consult with the TAC.

### **TENURE OF TAC MEMBERS**

While the law requires the Board to appoint the TAC members, there is no statutory provision for the tenure of the appointments. The Board approved one-year term limits on February 9, 1995. Prior to that date, the TAC members served at the pleasure of the Board.

The Board appoints the TAC members each calendar year (an historic listing of TAC members is included in Attachment A). Board Members or the Board's Executive Director will administer the oaths of office to the members at the first TAC meeting scheduled after their appointment by the Board.

### **TAC STRUCTURE**

At its inaugural meeting, the TAC members elected two officers — a Chair and a Vice-Chair/Secretary. The Board's representative was selected to serve as the Chair at that meeting and has remained as such since that time. Over the years, several assessors have been selected to serve as Vice-Chair/Secretary. The TAC is free to elect new officers each year if it so desires.

### **COMPENSATION OF TAC MEMBERS**

There are no provisions for compensating the TAC members. However, Government Code section 11009 does provide for the payment of "necessary expenses" for persons serving on boards, commissions, or committees without compensation. This allows for travel and per diem compensation for those members who do not receive reimbursement as part of their full time position(s). In order for members to receive travel expense reimbursement, the oaths of office must be filed with the Secretary of State each time new members are appointed. Board staff files these papers on behalf of the members.

**Attachment A - Historic Listing of Timber Advisory Committee Members**

Assessors	County	Large Timber Owners	Small Timber Owners	Board of Forestry	Board of Equalization	Start	End
Raymond J. Flynn	Humboldt					1976	1994
Dow Bettis	Plumas					1976	1982
Gerald Cochran**	Del Norte					1976	2006
Webb Brown	Mendocino					1976	1977
Babe Taylor	Siskiyou					1976	1977
					Walter Senini*	1976	1979
				Robert M. Maclean		1976	1983
			Wayne Miller			1976	1989
		Robert Barrett				1976	1986
Franklin Lew	Modoc					1977	1982
Robert Risberg	Tehama					1978	1987
					Robert Gustafson*	1979	1989
Duane Wells	Mendocino					1981	1990
Donald Carey	Siskiyou					1983	1990
				Bruce Bayless		1984	1996
		John Penney				1987	1996
					John Hagerly*	1989	1995
			Roy Richards			1989	2006
Ernest Eaton	Plumas					1990	1994
John Thorne	El Dorado					1990	1992
William Copren	Sierra					1991	1994
Charles Cliburn	Mendocino					1993	1996
Ray Jerland	Humboldt					1995	2000
John Winner	El Dorado					1995	2002
Richard Allen	Nevada					1995	1995
Carl Bontrager	Siskiyou					1996	2000
					James Speed*	1996	1997
		Tim Treichelt				1997	2002
				Jonathan Rea		1997	2000
William Copren	Sierra					1998	2000
					Richard Johnson*	1998	2001
				Tim Robards		2001	2003
Kenneth Bunch	Lassen					2001	2003
Marsha Wharff	Mendocino					2001	2007
Dave Peets	Alpine					2001	2004
					David Gau*	2001	current
Cris Andrews	Shasta					2003	2006
		Marty Olhiser				2003	current
Tim Holcomb	El Dorado					2004	2007
				Christopher Zimny		2004	current
Mike Mallory**	Siskiyou					2005	current
Linda Hill**	Humboldt					2007	2010
Charles Leonhardt	Plumas					2007	current
			George Belden			2007	current
Susan Ranochak	Mendocino					2008	current
Leslie Morgan	Shasta					2008	current
Mari Wilson	Humboldt					2011	current
* TAC Chair							
** TAC Vice-Chair/Secretary							