

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL AFFAIRS

April 1, 2022

Appointments

Governor Newsom has appointed and reappointed the following members to the State Board of Food and Agriculture:

- Rachelle Arizmendi has been reappointed. She has served on the Board since 2017 and has been a Member of the Sierra Madre City Council and Mayor.
- Don Cameron has been reappointed, where he has served since 2014. Cameron has been General Manager and Vice President of Terranova Ranch Inc. since 1981
- Jenet DeCosta has been appointed to Board. DeCosta has been Chief of Staff at Driscoll's since 2016.
- Michael Gallo has been reappointed. Gallo has served since 2012 and is the Chief Executive Officer of Joseph Gallo Farms, maker of Joseph Farms Cheese and Co-Owner.
- Eric Holst has been reappointed and has served since 2012. Holst has been Associate Vice President for Natural Climate Solutions at the Environmental Defense Fund since 2021.
- Glenda Humiston has been appointed. Humiston has been Vice President of Agriculture and Natural Resources for the University of California since 2015.
- Bryce Lundberg has been reappointed to the California State Board of Food and Agriculture, where he has served since 2013. Lundberg has been Vice President of Agriculture at Lundberg Family Farms since 2000 and Partner and Owner at B&E Lundberg since 1984.
- David Mancera has been appointed. Mancera has been Director of Kitchen Table Advisors since 2018 and Principal Consultant of Mancera Consulting Group since 2014.
- Michelle Passero has been appointed. Passero has been Director of Climate and Nature Based Solutions at the Nature Conservancy since 2008.
- Frank Salazar has been appointed. Salazar has been President of Vencer Public Affairs and Strategy since 2020.
- Joy Anne Sterling has been reappointed, where she has served since 2013. Sterling has been Chief Executive Officer at Iron Horse Vineyards since 2006, where she was Director of Sales and Marketing from 1985 to 2006.
- Patricia Stock has been appointed to the California State Board of Food and Agriculture. Stock has been Dean of the College of Agriculture at California State University, Chico since 2021.

Climate

The California Air Resources Board held a workshop this week on the role of methane emission reduction projects and the low carbon fuel standard in California. The workshop included presentations from both the dairy and livestock sector, the Air Resources Board, community groups and environmental justice advocates. The hearing can be viewed [here](#). Staff: Taylor Roschen, troschen@cbbf.com or 916-446-4647.

Fertilizers

The Department of Food and Agriculture has announced a vacancy on the Fertilizer Inspection Advisory Board. The term of office for board members is up to three years and will fill an unfinished board term of service until October 14, 2022. Applicants must hold a current fertilizing materials license or be a representative of a licensed firm. Interested applicants should submit a resume and a completed Questionnaire that can be found [here](#) by April 15, 2022 to: Brittanie.Williams@cdfa.ca.gov or CDFA/ Feed, Fertilizer and Livestock Drugs Regulatory Services Branch/ Attn: Brittanie Williams/ 1220 N Street Sacramento, CA 95814. Staff: Taylor Roschen, troschen@cbbf.com or 916-446-4647.

Forestry and Wildfire

CalForests hosted its Annual Conference this week in Sacramento. The headlining session on Monday featured former Governor Jerry Brown and former CAL FIRE Chief Ken Pimlott discussing the Venado Declaration. Issued in November 2021, the Venado Declaration states that California must treat every forested acre and that forest health funding and investment needs to match that of suppression work. Governor Brown was contrite about the challenge faced to change the narrative inside the Capitol where forest health is thought of in an outdated modality of anti-logging, with an acknowledgment that it will be a challenge to overcome those mindsets, particularly with urban elected officials.

Tuesday's session featured a Legislative Panel attended by Assemblymembers Luz Rivas, Kelly Seyarto, and Jim Wood, and Senator John Laird. Following up on Governor Brown's thoughts, Assembly member Wood stated that he has been working on legislation to support the productive usage of biomass for energy and other product purposes but is routinely challenged by powerful environmental lobbying groups that oppose everything en masse. Senator Laird continued expressing the challenge that forest health and resilience efforts face in Sacramento but expressed optimism that a reliance on updated fire science have changed the nature of the discussion from a purely emotional one to a reasoned approach that relies on best science. Staff: Peter Ansel; pansel@cbbf.com; 916-446-4647

Gasoline Tax Relief

Assembly member Kevin Kiley's [AB 1638](#) passed from Assembly Transportation Committee on March 30, 2022 but came out of Committee as a very different bill than what he introduced. AB 1638 would create a six month moratorium on the collection of California gas tax, equal to \$0.51 per gallon. Last week, we reported on the Newsom Administration's \$9 billion strategy for high gas price relief strategy. Assembly member Kiley's bill rang popular with the general public that called into the hearing. However, unrelenting opposition from the building

trades and local government that rely on the gas tax to fund road maintenance programs proved influential, not in killing the bill but by basically achieving the same result.

While the bill was being heard, Assemblymember Alex Lee proffered an amendment to the bill, through an unusual motion to gut and amend the entire bill in the midst of being heard. The amendment gutted AB 1638's language and turned the bill into a tax on gasoline refiners. The bill passed out of Committee as amended by Assembly member Lee. It is not clear if Assembly member Kiley will re-amend or decline to proceed with the bill. Assembly member Kiley may take solace in the Committee analysis that was not particularly kind to whether the bill would actually meet its stated goals. The Committee noted that:

- *No Guarantee that Tax Break Would Result in Lower Consumer Gas Prices.* Available evidence suggests that lower excise taxes could result in lower retail prices. However, the exact effect on retail prices is uncertain, and it is unclear how much of the tax holiday, if any, would be passed through to prices at the pump and actually benefit consumers.
- *Does Not Address Larger Problems.* A tax holiday does not address larger problems such as price gouging by gas suppliers, ensuring money goes back to consumers, or making viable alternatives such as electric vehicles affordable to lower income people, or helping to improve the state's transit system.
- *Backfill Amount Would Not Entirely Cover Lost Revenues.* The projected amount of gas excise tax revenues that would be lost during a six month holiday is approximately \$4.04 billion. This bill proposes to backfill the lost revenues with General Fund dollars equivalent to one-half of the amount of gas tax revenues collected in 2020-21, which amounts to \$3.27 billion. This would leave a shortfall of nearly \$800 million—effectively reducing the amount of funding available for transportation projects.

As such, without the amendments, AB 1638 likely would have died at the Assembly Transportation Committee hearing, but Assembly member Kiley would have been able to state that Democrats voted against a tax cut. Assembly member Lee saved the bill from a defeat but also stole Assembly member Kiley's political thunder. Staff: Peter Ansel; pansel@cbbf.com; 916-446-4647

Insurance

Last week, the California State Senate Committee on Insurance held an Informational Hearing titled Wildfire Resilience: Innovation in Mitigation. The hearing focused on recent proposed rulemaking from the California Department of Insurance (CDI) that seeks to bring risk modeling into the rate approval process.

On February 25, 2022, CDI announced formal rulemaking regarding “Mitigation in Rating Plans and Wildfire Risk Models.” Among other things, these proposed regulations would require insurers to incorporate the mitigation factors identified by the Safer From Wildfire interagency partnership (discussed previously) into their rating plans. The hearing featured testimony from CDI staff, from insurers, and from Cal OES.

CDI staff testified that insurer-initiated non-renewals decreased 10% in 2020 over 2019. Also in 2020, under the authority of [SB 824](#) (Chapter 616, Statutes of 2018), the IC issued one-year moratoriums against non-renewal that covered 2.4 million homes due to the record breaking 4.3

million acre 2020 wildfire season. This brings the three-year total of homes protected by moratorium to over 4 million.

CDI also reports policies for the insurer of last resort, the FAIR Plan, which began growing sharply in the fall of 2018, has slowed. Despite growing in market share for the second straight year, the 241,466 FAIR policies in force were only 3% of the overall statewide residential property insurance market.

CDI reports commitments from Farmers, Allstate, and the California State Automobile Association – the #2, 3, and 4 biggest insurers in the state by market share – to increase the amount of new homeowner's policies written and cease or limit non-renewals. Further, progress is reported on providing discounts to homeowners that harden their homes. CDI reports that premium discounts of up to 20% for wildfire-hardened homes are now offered by several companies.

Next, the hearing detailed the three areas where CDI seeks to impact rates through mitigation measures, with the key witness from United Policyholders testifying about: Protecting the Structure, Protecting the Immediate Surroundings, and Community Mitigation.

- *Protecting the Structure.* (1) Class-A Fire rated roof, (2) a 5 foot ember-resistant zone around the home, (3) noncombustible exterior wall materials from the ground level to 6 inches high, (4) ember resistant vents, (5) double pane windows or added shutters, and (6) enclosed eaves (soffits).
- *Protecting the Immediate Surroundings.* (1) Cleared vegetation and debris from under decks, (2) Removal of combustible sheds and other outbuildings from the immediate surrounding of the home, to at least 30 feet, and (3) Defensible space compliance with state and local ordinances.
- *Community Mitigation.* (1) Clearly defined boundary and a local risk assessment done in consultation with a local or state fire agency, (2) an identified evacuation route clear of vegetative overgrowth, and evacuation contingency plans; (3) clear funding sources to implement community mitigation activities and meet risk reduction goals; and (4) integrated and updated local planning documents pertinent to community wildfire risk.

Also, witnesses from the insurers discussed the proposed regulations require rating plans and wildfire risk models be subject to public inspection, including records, data, algorithms, computer programs and other information as the IC may request. Insurers are concerned about trade secret and intellectual property protection, while the IC hopes to create more transparency in rate creation to afford opportunities for specific mitigation related premium discounts. Further, CDI aims to have insurers provide policyholders with their parcel risk scores, and an explanation that includes mitigation measures that could lower the score. The proposal would also provide policyholders an opportunity to contest their risk score.

Overall, the hearing provided an overview of the proposed actions that property owners and communities can undertake to impact their access to premium discounts through hardening activities. Testimony examined emerging technology to increase fire surveillance capabilities, with the goal of detecting wildfires sooner after ignition and bolstering the efforts of fire crews to respond to fires while they are small and before they reach communities. It also heard from a technology created to impact insurance product purchasing decisions to guard against wildfire risk:

Parametric insurance structures offer payouts to local or state agencies based on unique triggers such as the number of red flag warnings in a year or whether a fire burns within a certain designated geographic area, regardless of the losses it causes. You can view the March 17, 2022, Senate Insurance Committee hearing at the Senate Media Archives [here](#). Staff: *Peter Ansel*; pansel@cbbf.com; 916-446-4647

Nutrition

The Assembly Human Services Committee is hearing a Farm Bureau supported bill, [AB 2153](#) (Joaquin Arambula, D-Fresno) on Tuesday at 1:30pm. The bill would provide for enrollment of retail grocery outlets into the current Fruit and Vegetable EBT program managed by the Department of Social Services. The current program offers additional supplemental benefit funds to low income Californians if they purchase California-grown fruits and vegetables. Staff: *Taylor Roschen*, troschen@cbbf.com or 916-446-4647.

Pesticides

The Assembly Committee on Environmental Safety and Toxic Materials will meet on Tuesday, April 5th to hear [AB 2146](#) (Rebecca Bauer-Kahan, D-San Ramon). This bill would ban the use of all neonicotinoid materials in California. The bill currently provides an exemption for agricultural use and a very narrowly structured exemption for emergency residential applications. Farm Bureau has joined an oppose coalition with concerns about pests and plant diseases like Asian Citrus Psyllid carrying HLB in residential settings threatening commercial citrus groves. Staff: *Taylor Roschen*, troschen@cbbf.com or 916-446-4647.

Transportation

Last month, CABB joined a large coalition to support [AB 2406](#) (Aguiar-Curry – D). This bill would prohibit an intermodal marine equipment provider from imposing per diem, detention, or demurrage charges on an intermodal motor carrier and beneficial cargo owners. Under ordinary circumstances, these fees are designed to encourage the efficient use of containers. However, during our recent and ongoing port congestion crisis, late charges have been imposed on California businesses by international ocean carriers even when containers cannot be returned due to circumstances not within the control of the importer, exporter or trucker. While detention and demurrage fees have increased across the globe, ocean carriers are charging two to ten times the fees in Los Angeles and Long Beach versus other major ports worldwide. The bill would help alleviate the pressure that these fees put on California businesses and attempt to address one of the many issues facing our ports. The bill has not been assigned a hearing date, if you would like to urge the Chair to set this bill, please use [this link](#) and join our coalition efforts. Staff: *Katie Little*, klittle@cbbf.com or (916) 446-4647.

Water

Governor Newsom issued Executive Order N-7-22 this week to address the drought. Specific to agriculture the executive order prohibits a county, city, or any other public agency from approving a permit for a new groundwater well or altering an existing well without approval from the local Groundwater Sustainability Agency. The GSA must determine the new well or the alteration of an existing well would not be inconsistent with the GSP and would not interfere with

existing nearby wells. The executive order does not apply to domestic wells producing two acre feet per year, or public water supply systems.

Additionally, to facilitate groundwater recharge projects during high water flows, the executive order directs the State Water Resources Control Board and regional water quality control boards to prioritize water right permits, water quality certs., waste discharge requirements and conditional waivers.

Lastly, the Department of Water Resources is directed in the executive order to create and implement a multi-year water transfer program pilot project that would acquire water from willing partners to store and move water to areas of need. A copy of the executive order can be found [here](#).
Staff: Danny Merkley, dmerkley@cfbf.com or (916) 446-4647.

The Voluntary Agreements Memorandum of Understanding (MOU) signed this week will result in the loss of about 35,000 acres of rice. Signatories include water agencies supplying water to the Sacramento Valley, Westlands Water District on the Westside of the San Joaquin Valley, the city of Sacramento and surrounding suburbs, much of Southern California, and state and federal agencies. The MOU will leave more water in the rivers than the State Water Resources Control Board's Bay-Delta Water Quality Control Plan (Unimpaired Flows Plan), while helping fish. The "voluntary agreements" have been an ongoing process with water districts, some environmental organizations, and state agencies to come up with an alternative regime for fixing the fish problem in our rivers, which avoids the hard path of litigation and eventual hard flow numbers being doled out to most water users. Not asked to participate in the development or the signing of the MOU was San Francisco, the Modesto and Turlock irrigation districts. The MOU can be found at: https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf?utm_medium=email&utm_source=govdelivery
Staff: Danny Merkley, dmerkley@cfbf.com or (916) 446-4647.

A measure that would take a comprehensive approach to addressing California's chronic water shortage will be heard in the Assembly Water, Parks and Wildlife Committee next week. [AB 2078](#) (Heath Flora, R-Ripon) would take a balanced approach of providing flood protection and securing a safe and reliable supply of water for all Californians by expanding the Department of Water Resources Atmospheric Rivers research, mitigation, and climate forecasting program (AR Program) to include forecast-informed reservoir operations (FIRO) and integrate FIRO into the department's water supply operations and flood and hazard risk mitigation efforts. The bill would also advance the department's atmospheric river forecast capabilities and include refined climate projections for various environmental conditions. Farm Bureau is in support.
Staff: Danny Merkley, dmerkley@cfbf.com or (916) 446-4647.

A measure to implement a recommendation in a recent report by the Planning and Conservation League (PCL) will be heard in the Assembly Water, Parks and Wildlife Committee next week. [AB 2639](#) (Bill Quirk, D-Hayward) is one of several bills introduced to implement the PCL/water law professors' recommendations contained in a recent report entitled, "[*Updating California Water Laws to Address Drought and Climate Change*](#)." The measure would require the State Water Resources Control Board to adopt a final update to the Bay-Delta Water Quality Control Plan by December 31, 2023. The bill would prohibit the Water Board from

approving any new water right permits or extensions of time for existing permits that would increase diversions to surface water storage from the Sacramento and San Joaquin rivers watershed until the Bay-Delta Plan is complete. The proposed Sites Reservoir project is one example of an impacted water right. Farm Bureau opposes the measure unless amended to soften the date and remove the water rights moratorium language. *Staff: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

A measure that would require groundwater sustainability plans to address adverse impacts on domestic wells has been pulled from hearing by the author. [AB 2857](#) (Rebecca Bauer-Kahan, D-Orinda) would also require compensation of domestic well owners and water users for increased energy costs associated with deeper groundwater pumping and increased costs of water delivery from alternative water supplies. As previously stated, the California Water Code says that “sustainable groundwater management is best achieved locally.” Farm Bureau continues working with others to see that the Sustainable Groundwater Management Act is locally managed and that SGMA has the time necessary, and the time specifically spelled out in statute to succeed before amended and interfered with. *Staff: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

[SB 880](#) (John Laird, D-Santa Cruz) will be heard in the Senate Appropriations Committee this week. As previously reported, SB 880 would extend indefinitely the January 1, 2023, sunset of existing law authorizing those who divert 100 acre feet of water or more per year to be considered qualified to install and maintain their water diversion measurement devices if they take a course taught by the University of California Cooperative Extension and pass a proficiency test. Farm Bureau supports. *Staff: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

A measure that would provide the State Water Resources Control Board with authority to allow water diverters options to use remote sensing methodology to measure water diversion and use amounts will be heard in the Senate Natural Resources and Water Committee next week. [SB 832](#) (Bill Dodd, D-Napa) will receive technical amendments in Committee on April 5th. With these amendments Farm Bureau supports. *Staff: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*