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June 15, 2020

Ms. Marcie Edwards
Chair, Wildfire Safety Advisory Board
Members, Wildfire Safety Advisory Board

Cc: CPUC R.18-10-007 service list,

*Transmittal via email: wildfiresafetyadvisoryboard@cpuc.ca.gov,
wildfiresafetydivision@cpuc.ca.gov, CALFIREUtilityFireMitigationUnit@fire.ca.gov, and R.18-10-007 service list*

RE: MUSSEY GRADE ROAD ALLIANCE COMMENTS REGARDING THE WSAB DRAFT RECOMMENDATIONS ON THE 2021 WILDFIRE MITIGATION PLAN GUIDELINES

Dear Ms. Edwards and Members of the Wildfire Safety Advisory Board:

I am writing to you on behalf of the Mussey Grade Road Alliance (MGRA or Alliance) in response to the notice served on the R.18-10-007 service list, permitting the public to submit written comments regarding the WSAB's Draft Board Recommendations 2021 Wildfire Mitigation Plan Guidelines¹ by June 15, 2020.

The Mussey Grade Road Alliance, established in 1999, is a grass-roots citizen-based organization located on the wildland-urban interface in Ramona, California. The Alliance described our history of utility wildfire safety advocacy in our April letter responding to your draft recommendations to the Wildfire Safety Division with regard to the 2020 Wildfire Mitigation Plans (WMPs).² As the Board noted in its comments, there was little time for the Board, stakeholders, and the utilities themselves to adequately prepare a comprehensive WMP. Our comments focused on some of those gaps in the WMPs.

¹ RECOMMENDATIONS ON THE 2021 WILDFIRE MITIGATION PLAN GUIDELINES, PERFORMANCE METRICS, AND SAFETY CULTURE; CALIFORNIA WILDFIRE SAFETY ADVISORY BOARD; DRAFT FOR PUBLIC COMMENT; June 2, 2020. (Recommendations)

² RE: MUSSEY GRADE ROAD ALLIANCE COMMENTS REGARDING THE WSAB DRAFT RECOMMENDATIONS ON THE 2020 UTILITY WILDFIRE MITIGATION PLANS; April 13, 2020.

With the new proposed guidelines, however, the Board has had time to re-envision a future direction and begin to define what success will look like. The WSAB's 2021 Draft Board Recommendations are wide-ranging, comprehensive, and dive into the root causes of utility-caused wildfire. MGRA is pleased to support the Recommendations and urges the Wildfire Safety Division to adopt them.

We raise one substantive issue regarding power shutoff, otherwise our recommendations have to do with suggested technical improvements.

We again thank the Board for their efforts to improve California wildfire safety and for the foresight and effort put into the Recommendations.

Respectfully submitted this 15th day of June, 2020,

By: /S/ **Diane Conklin**

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**COMMENTS REGARDING THE WSAB DRAFT RECOMMENDATIONS
ON THE 2021 WILDFIRE MITIGATION PLAN GUIDELINES
ON BEHALF OF THE MUSSEY GRADE ROAD ALLIANCE**

The Mussey Grade Road Alliances' (MGRA or Alliance) comments on the Draft Board Recommendations 2021 Wildfire Mitigation Plan Guidelines are authored by MGRA's expert witness Joseph W. Mitchell, Ph.D.³

INTRODUCTION

The Wildfire Safety Advisory Board has done an excellent job of formulating recommendations for the 2021 WMP guidelines. The recommendations range over the spectrum of the utility wildfire problem and offer both short-term and strategic solutions. Some of the recommendations of particular merit are:

- Introducing additional scientific review of inputs and assumptions and the qualifications of experts.⁴
- Revisiting the High Fire Threat District (HFTD) maps to ensure that they can be easily updated with new data. MGRA was the original proponent of utility-specific fire hazard maps, and was involved throughout the course of their development. The updating process was a concern at the time of development, and it is appropriate and necessary that the WSAB flag this issue as needing attention.
- WSAB recognizes the unfinished work creating a fire wind map for engineering purposes and proposes requiring utilities to incorporate infrastructure risk assessment and mapping along with HFTD information.⁵
- Scientific review of vegetation management practices.⁶
- The Wildfire Safety Division should remain in the California Public Utilities Commission (CPUC).⁷ Keeping it there will enhance safety, transparency, and accountability.

³ M-bar Technologies and Consulting, LLC; <http://www.mbartek.com>; Email: jwmitchell@mbartek.com. Dr. Mitchell is also a board member of the Mussey Grade Road Alliance.

⁴ Recommendations; pp. 3, 7, 26.

⁵ Recommendations; p. 23.

⁶ Recommendations; pp. 7, 32.

⁷ Recommendations; pp. 44-45.

The remainder of these comments address some technical points.

MGRA COMMENT ON SPECIFIC RECOMMENDATIONS

INTRODUCTION

p. 2 – “thoughtful submission schedule for the WMP that sets utilities and regulators up for success”.

Numerous stakeholders were involved in the review of the 2020 WMPs and WSD utilized their input. The foreshortened schedule for review also affected their ability to effectively analyze the WMPs.

Suggestion:

“thoughtful submission schedule for the WMP that sets utilities, stakeholders, and regulators up for success”

p. 3 – “The Board urges the utilities to use wildfire mitigation planning and implementation as a springboard to improve their utility safety culture. New groups must be directed to study black swan events to help utilities prepare for future safety events outside of the standard areas of analysis.”

The first use of the term “black swan” should be defined in a footnote, since readers outside of the risk management community may not be familiar with the concept.

Footnote Suggestions:

A “black swan” is an event, often catastrophic, that was not predicted or predictable by existing statistical, engineering, or risk management models.

p. 5 – “The Board recommends the 2021 WMP Guidelines require the utilities to briefly describe the state and federal rules and proceedings that are associated with each wildfire mitigation program area in the narrative of the WMPs.”

If each individual utility is responsible for capturing and relaying applicable rules and statutes, it would be highly duplicative and wasteful of utility and stakeholder resources. Rather, the WSD itself, possibly with assistance from the CPUC, should lay out all applicable regulatory rules and proceedings.

Redline:

“The Board recommends the 2021 WMP Guidelines ~~require the utilities to~~ briefly describe the state and federal rules and proceedings that are associated with each wildfire mitigation program area ~~in the narrative~~ of the WMPs.”

Clean:

The Board recommends the 2021 WMP Guidelines briefly describe the state and federal rules and proceedings that are associated with each wildfire mitigation program area of the WMPs.”

p. 6 – “Instead, the 2021 WMP Guidelines should require utilities to factor into their RSE calculations the assumed risk and cost to customers that result from a PSPS event.”

This will be addressed in more detail in Section 4. Briefly, utilities cannot be trusted to correctly estimate customer harm, and there should be no expectation they would do this in a standard way. The following addition is suggested:

“Instead, the 2021 WMP Guidelines should require utilities to factor into their RSE calculations the assumed risk and cost to customers that result from a PSPS event, **based on methodology developed by WSD in conjunction with the CPUC and stakeholders.**”

1. STRUCTURAL RECOMMENDATIONS TO THE 2021 WMP GUIDELINES

1.3. Submission Schedules That Set All Parties Up for Success

p. 13 – “Therefore, the WSD recommendation on performance metrics, guidelines, compliance matters, and safety culture should be due in August and the CPUC should target an October final decision.”

An October target for a final CPUC decision is reasonable. However, it is critical that all stakeholders have a full opportunity to vet the proposed WSD guidelines so that some of the issues that were raised in the 2020 WMP reviews can be adequately addressed. Ideally, this would include (virtual) workshops where guidelines could be discussed. One process in common use at the CPUC has been to allow reply comments, so that stakeholders can address issues or problems that they see in the comments of others. It might be convenient and guarantee stakeholder rights if the proposed

guidelines were to be discussed under the rubric of Commission wildfire safety rulemaking R.18-10-007. A possible schedule incorporating these items while meeting the WSAB's goal would be:

- August 1 – WSD releases draft guidelines
- August 7 – Virtual workshop to discuss guidelines.
- August 21 – Public comments on draft guidelines. Alternatively, party comments under R.18-10-007.
- August 28 – Reply comments
- September 30 – CPUC Proposed Resolution/Decision + Revised guidelines
- October 20 – Comments on PD/PR
- October 27 – Reply comments on PD/PR
- October 30 - CPUC final Decision/Resolution

Redline:

“Therefore, the WSD recommendation on performance metrics, guidelines, compliance matters, and safety culture should be due ~~in~~ at the beginning of August and the CPUC should target ~~an October~~ a final decision at the end of October. WSD should host a virtual workshop to present and discuss the guidelines, and it should accept public and CPUC party comments and replies.”

Clean:

“Therefore, the WSD recommendation on performance metrics, guidelines, compliance matters, and safety culture should be due at the beginning of August and the CPUC should target a final decision at the end of October. WSD should host a virtual workshop to present and discuss the guidelines, and it should accept public and CPUC party comments and replies.”

2. RECOMMENDATIONS FOR 2021 WMP GUIDELINES THAT GENERALLY ALIGN WITH DRAFT GUIDANCE RESOLUTION WSD-002

p. 19-20 – “The Board recommends that the 2021 WMP Guidelines require the utilities to stop characterizing PSPS events as a solution to lower ignition risk of wildfire in the RSE analysis without considering its consequences. Instead, the 2021 WMP Guidelines should require utilities to factor into their RSE calculations the assumed risk and cost to customers that result from a PSPS event.”

It is very unlikely that utilities will have either the ability or inclination to calculate customer harm correctly, and they have no incentive to adopt a common approach. Why this is so is described in some detail in MGRA's comments on the WSAB's recommendations for the 2020 WMPs. This response is quoted below:

“MGRA has been involved in power shutoff proceedings since SDG&E's first application in 2008. We successfully advocated for the adoption of a cost/benefit analysis to determine whether shutoff was appropriate. D. 09-09-030 stated that: “The agreed-upon fire prevention program must be based on a cost-benefit analysis that demonstrates (1) the program will result in a net reduction in wildfire ignitions, and (2) the benefits of the program outweigh any costs, burdens, or risks the program imposes on customers and communities.” (p. 2) However, there was a loophole in this decision (which we supported), that would allow utilities to de-energize if they had reason to believe that their equipment was in immanent danger of igniting a fire. This exception became the rule, and the rule was codified for all utilities in ESRB-8. Since then, “emergencies” have become commonplace, and PSPS is becoming the go-to strategy for utility wildfire prevention.

The inclusion of risk and risk/spend efficiency analysis in wildfire prevention planning re-introduces the opportunity to return de-energization to its proper place in the utility toolbox, by identifying exactly what that proper place is. In order to do this correctly, the “costs” of shutoff, in added risk of both fire and other harm, the increased vulnerability of populations under fire threat without means of communication, lighting or traffic signals, and the harm of shutoff itself to vulnerable populations needs to be quantified. The WSAB recognizes this fact in its recommendation.

However, the utilities most certainly don't make this determination now, and almost certainly cannot be expected to do it properly. We know this because we (and other intervenors) have asked utilities this question and they have confirmed that customer harm (which they refer to as “secondary”) is not included in their risk or RSE analyses. (MGRA [2020 WMP] Comments, pp. 42-44)

The Board recommendation states that: ‘These costs and risks should be factored in the utility analysis. The utilities should consider whether the risks to customers outweigh the risk reduction of initiating a PSPS event.’

While we fully agree with this goal, the utilities cannot be expected to initiate this analysis and drive the process. The reason is that the utilities face a substantial moral hazard issue and

should not be put in the position of making this determination. Economist Paul Krugman has defined moral hazard as “any situation in which one person makes the decision about how much risk to take, while someone else bears the cost if things go badly.” Utility regulatory, criminal, and civil liabilities for PSPS are as yet undefined, and potentially limited in scope if they exist, whereas utility regulatory, criminal, and civil liabilities for wildfire are well-known and potentially catastrophic. Furthermore, if a utility were to fully explore and identify possible customer harm arising from shutoff, it is entirely possible that it could be held liable for harm that its own analysis had discovered. Utilities have a strong disincentive to do such an analysis properly.

The Commission has warned utilities that: “Under no circumstances may the utilities employ de-energization solely as a means of reducing their own liability risk from utility-infrastructure wildfire ignitions...” (D.19-05-042, p. 68) However, no admonition can undo the obvious inherent bias that would lead utilities to minimize their estimate of customer harm from shutoff.

If the utilities cannot be trusted to drive this analysis, then either the WSD or the Commission needs to. Currently the Commission is driving the de-energization proceeding, but we do not know if this will be true in the future.”⁸

Redline:

“The Board recommends that the 2021 WMP Guidelines require the utilities to stop characterizing PSPS events as a solution to lower ignition risk of wildfire in the RSE analysis without considering its consequences. Instead, the 2021 WMP Guidelines should require California utilities to factor into their RSE calculations the assumed risk and cost to customers that result from a PSPS event, **based on methodology developed by WSD in conjunction with the CPUC and stakeholders.**”

Clean:

“The Board recommends that the 2021 WMP Guidelines require the utilities to stop characterizing PSPS events as a solution to lower ignition risk of wildfire in the RSE analysis without considering its consequences. Instead, the 2021 WMP Guidelines should require California utilities to factor into their RSE calculations the assumed risk and cost to customers that result from

⁸ MGRA Comments on the draft WSAB recommendations for the 2020 WMPs; pp. 12-14.

a PSPS event, based on methodology developed by WSD in conjunction with the CPUC and stakeholders.”

4. RECOMMENDATIONS ON PERFORMANCE METRICS

p. 36 – “allows SDG&E to operate their electric system at higher sustained wind speeds of 85 miles per hour (MPH) and in some cases, up to 111 MPH.”

SDG&E’s engineering design standards are for gust speeds, not sustained wind speeds.

Redline:

“allows SDG&E to operate their electric system at higher ~~sustained~~ wind *gust* speeds of 85 miles per hour (MPH) and in some cases, up to 111 MPH.”

Clean:

“allows SDG&E to operate their electric system at higher wind gust speeds of 85 miles per hour (MPH) and in some cases, up to 111 MPH.”

p. 36 – “The question to be answered is: What portfolio of wildfire mitigation techniques can reduce the risk of ignition so that the utility is confident to continue serving customers at high wind events of 30, 40, 50, or 60 MPH, or whatever the appropriate threshold is, without having to deenergize. Each circuit requires risk reduction based on an analysis of the risks presented at each location.”

This is correct. Understanding the “risks presented at each location” necessitates that the utilities have an understanding of the “known local conditions” – in particular wind speed. Mitigation techniques may be significantly different in high wind and low wind areas, and generally high wind areas should be given higher priority for mitigation. It was for this reason that development “fire-wind” map was initially proposed. The utilities have in fact developed such maps for their own use, but using different vendors and techniques.⁹

Assumptions that go into development of a mitigation portfolio, including assumptions regarding wind speed, need to be made clear in the WMPs. Additionally, it would be in the interest

⁹ MGRA Comments on 2020 WMPs; pp. 68-71.

of Californians if WSD were to drive discussions on a common wind model for California utilities, possibly as part of any re-implementation of the HFTD maps.

Redline:

“The question to be answered is: What portfolio of wildfire mitigation techniques can reduce the risk of ignition so that the utility is confident to continue serving customers at high wind events of 30, 40, 50, or 60 MPH, or whatever the appropriate threshold is, without having to deenergize. Each circuit requires risk reduction based on an analysis of the risks presented at each location, *including wind conditions, vegetation, and the state of utility equipment.*”

Clean:

“The question to be answered is: What portfolio of wildfire mitigation techniques can reduce the risk of ignition so that the utility is confident to continue serving customers at high wind events of 30, 40, 50, or 60 MPH, or whatever the appropriate threshold is, without having to deenergize. Each circuit requires risk reduction based on an analysis of the risks presented at each location, including wind conditions, vegetation, and the state of utility equipment.”

5. RECOMMENDATIONS ON UTILITY SAFETY CULTURE

p. 39 – “The Board recommends that the CPUC, with WSD oversight, require the utilities to create engineering teams to surface and flag black swan events for further consideration and remediation.”

This is a sound proposal that could be improved by fitting it within existing CPUC proceedings and structures. Specifically, the S-MAP (Safety Model Assessment Proceeding) was initiated to identify top utility risks. Another iteration of this proceeding is due to begin soon,¹⁰ and might be an appropriate venue for this analysis. MGRA experience with this proceeding indicated, however, that utilities generally did not incorporate “tail-risk”, or black swan events in their analyses, which occurred prior to the 2017/2018 fires and the COVID-19 epidemic. Furthermore, during the course of that proceeding MGRA asserted that the statistical method for estimating risk adopted by the CPUC is ill-suited to events having a “fat-tail” (power law, fractal) distribution.¹¹

¹⁰ CPUC Decision D.18-12-014, Ordering Paragraph 5.

¹¹ CPUC; A.15-05-002-5; MUSSEY GRADE ROAD ALLIANCE COMMENTS ON THE SAFETY AND

Participation of additional technical experts with a knowledge of the statistical challenges of “black swan” events would be helpful if S-MAP is re-initiated.

One additional item not foreseen in the WSAB’s draft is that there are a number of “black swan” risks associated with utilities that have nothing to do with wildfire, and might therefore be outside of the WSD’s purview. For instance, as part of the initial S-MAP proceeding in 2014, MGRA suggested that utilities incorporate analyses of “black swan” events that could include pandemics and extreme geomagnetic storms.¹² Some black swans such as pandemics are outside of the engineering discipline and require a more holistic view of risk.

A modification of the WSAB draft to accommodate these points would be:

Redline:

“The Board recommends that the CPUC, with WSD participation oversight, require the utilities to create engineering and risk management teams to surface and flag black swan events for further consideration and remediation, possibly within the scope of an S-MAP proceeding.”

Clean:

“The Board recommends that the CPUC, with WSD participation, require the utilities to create engineering and risk management teams to surface and flag black swan events for further consideration and remediation, possibly within the scope of an S-MAP proceeding.”

6. RECOMMENDATION LIKELY NEEDING LEGISLATIVE OR GUBERNATORIAL ACTION TO IMPLEMENT

p. 45 – Observations.

WSAB’s justifications for recommending that the WSD remain in the CPUC and not be transferred to another agency are correct and sound. However, they do not fully address the potential impacts of moving WSD out of the CPUC.

ENFORCEMENT DIVISION EVALUATION REPORT; April 11, 2016; pp. 8-11.

and

A.15-05-002-5; COMMENTS OF THE MUSSEY GRADE ROAD ALLIANCE (MGRA) ON THE INTERVENOR SMAP WHITE PAPER; February 12, 2016; pp. 5-7.

¹² CPUC; A.13-11-006; MUSSEY GRADE ROAD ALLIANCE COMMENTS ON INCORPORATING RISK-BASED DECISION MAKING INTO GENERAL RATE CASES; January 15, 2014; p. 7.

Putting the responsibility for power line wildfire safety outside of the CPUC would have potentially severe and negative impacts on safety and transparency. In addition to the issues already noted in the WSAB draft recommendations, some other concerns are:

- The CPUC has a large body of regulatory law, case history, and defined practices and procedures that are designed to guarantee rights to all stakeholders. The California Natural Resources Agency has no such infrastructure in place. The Wildfire Safety Division has the ability to require utility safety changes that may have significant impact on utility rates, and neither ratepayers nor utilities would have any ability to intervene or appeal.
- By California statute, the CPUC enables and encourages public participation by allowing concerned stakeholders to obtain party status. Among the privileges granted to parties are the right to request evidentiary hearings and file motions before the Commission, to obtain data from utilities for evidentiary hearings, and to seek intervenor compensation. We are unaware of any equivalent rights under CRNA agencies. Moving the WSD and review of WMPs out of the Commission has the potential to eliminate transparency and enable regulatory capture.

Recommended Additional Observation:

“- The CPUC has statutory and procedural rules and regulations in place that guarantee transparency, ratepayer advocacy, due process for all stakeholders, and that support the right of public participation through intervention at the CPUC. These mechanisms were not provided for in the legislation that will move the WSD to the Office of Energy Infrastructure Safety (AB 111). Due process for stakeholders and transparency would be maintained by keeping WSD within the Commission.”