

Diane Conklin
Spokesperson
Mussey Grade Road Alliance
PO Box 683
Ramona, CA 92065

October 2, 2020

Ms. Caroline Thomas Jacobs
Director, Wildfire Safety Division
California Public Utilities Commission, Wildfire Safety Division
505 Van Ness Avenue
San Francisco, CA 94102

Transmittal via email: wildfiresafetydivision@cpuc.ca.gov and R.18-10-007 service list

RE: MUSSEY GRADE ROAD ALLIANCE COMMENTS ON THE WILDFIRE SAFETY DIVISION DRAFT WILDFIRE MITIGATION PLAN COMPLIANCE PROCESS AND WORKSHOP

Dear Director Thomas Jacobs:

The Mussey Grade Road Alliance (MGRA or Alliance) offers these comments on the Draft Wildfire Mitigation Plan Compliance Process¹ as per the instructions provided in the Wildfire Safety Division's September 18th, 2020 email.² As per that email and WSD-001, MGRA serves these comments on the service list for R.18-10-007. MGRA also provides the text of its presentation at the September 29th workshop held by WSD,³ and comments on presentations by WSD and other stakeholders.

The following Alliance comments were prepared by MGRA's expert witness, Joseph W. Mitchell.

¹ STAFF PROPOSAL FOR WORKSHOP AND PUBLIC COMMENT; Wildfire Safety Division; Draft Wildfire Mitigation Plan Compliance Process; September 18, 2020. (Draft Compliance Process)

² Wildfire Safety Division Compliance Workshop - September 29, 2020 – Update; Wildfire Safety Division; September 18, 2020.

³ Appendix A.

1. DRAFT COMPLIANCE PROCESS DOCUMENT

One general comment regarding the Draft Wildfire Mitigation Plan Compliance Process document is that it is short, very short, weighing in at only 6½ pages. As such, it must be considered as only an outline of a compliance process, more of a high-level vision statement. An advantage of adopting such a high-level overview is that it leaves WSD the flexibility to adapt the details of its compliance regime to the realities in the field without requiring it to return to the CPUC for approval. A potential disadvantage of this approach is that the vagueness of the document could be leveraged by the utilities in any challenges they may make to WSD requirements or findings. Only time will tell if WSD has adopted the correct course.

1.1. Coordination between the CPUC and the Wildfire Safety Division

The Wildfire Safety Division is highly constrained in its enforcement actions and processes by the public utility regulations introduced by adoption of Assembly Bill 1054. Specifically, Public Utilities Code 8389 lays out the following requirements:

8389(d) “By December 1, 2020, and annually thereafter, the commission, after consultation with the division, shall adopt and approve all of the following:”

8389(d)(3) “A wildfire mitigation plan compliance process.”

8389(g) “If the division determines an electrical corporation is not in compliance with its approved wildfire mitigation plan, it may recommend that the commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan.”

As is clear in Section 8389, WSD is entirely dependent on coordination with the Commission to ensure enforcement of the Wildfire Mitigation Plans. This is particularly problematic because of other provisions of the legislation, which provide utilities “safety certifications” which grant them legal privileges in avoiding wildfire liabilities:

8389(e) “The executive director of the commission shall issue a safety certification to an electrical corporation if the electrical corporation provides documentation of the following:”

8389(e)(1) “The electrical corporation has an approved wildfire mitigation plan,” along with other provisions not related to plan compliance.

Ideally, if a IOU were to systematically and egregiously ignore its Wildfire Protection Plan, if these plans were only “on paper”, it should be within the WSD’s power to withdraw approval, or to withhold approval of any subsequent plan updates, with resultant impacts to the utility’s safety certification. This would be a very powerful incentive for the utilities to seek to comply with their WMPs. Under PUC 8389, however, it appears that WSD’s only recourse is to work with the Commission to seek penalties through citations or investigations. In order to be effective, this will require tight alignment between the Safety and Enforcement Division and the Wildfire Safety Division, even after WSD is transferred over to the California Natural Resources Agency in 2021.

Recommendations:

- WSD and the CPUC must develop strong partnership and coordination mechanisms now, before the transfer of the Wildfire Safety Division to the California Natural Resources Agency is completed. Likewise, the CPUC should be actively working now with the California Natural Resources Agency to ensure that there is no interruption of oversight during WSD’s transfer.

1.2. Communication and Issue Tracking

The Compliance Process will consist of identifying issues, defects, and non-compliances through field inspections, audits, Independent Evaluator reports, customer complaints, and IOU reports in the utility execution of their WMPs, and issuing notice to the utilities of these issues.⁴ The IOUs will then be required to resolve the defect within a certain timeframe and report progress back to the WSD. If the utilities fail to resolve defects in a timely manner, the WSD may request that the Commission’s Safety Enforcement Division start an enforcement action.⁵

The Wildfire Mitigation Plans are extensive, as will be the potential for non-compliances, so it much be anticipated that there will be a substantial number of non-compliances active (under discussion or in the process of resolution) at any given time. It follows that it would be disadvantageous to both WSD and the IOUs for defects to be submitted simultaneously or in large batches, which due to tight timelines might strain the resources of both. Rather, defects should be reported as they are detected, and resolutions should be reported back by the utilities as they happen. This information should also be communicable to the CPUC and SED, and there should be

⁴ Draft Compliance Process; p. 4.

⁵ Id; p. 5.

public visibility into the status of utility non-compliances as well. In short, emailing large Excel spreadsheets will simply not work for this task.

Fortunately, there are a variety of enterprise-level issue tracking tools available on the market, many of which would suit the needs for defect information communication between the WSD, IOUs, and SED, and that would have the ability to generate public reports. WSD is already in the process of selecting an issue tracking tool, and this is a positive step.

Among my other activities, I spent over two decades in the software industry and had the opportunity to not only use issue tracking tools, but to obtain and to set up these tools for development teams, and to collaborate on teams working on enterprise-wide issue-tracking tool configuration. In my experience, I've seen such tools configured both well and badly, and would like to offer some observations and recommendations:

Recommendations:

- Because modern issue tracking tools are powerful and can handle complex business processes, there is a tendency to over-configure these tools so that they overburden the user with process. This can happen in two ways: The first is that the IT professionals configuring the tool have insufficient knowledge of the process that they'll be implementing, and force users into "out of the box" templates or patterns that the tool makes available. The second antipattern occurs when the project manager or architect has a vision of how the process should work that does not match how the process works in reality. In short, keeping the process as simple to the end-user as possible is advantageous, as is engaging with all stakeholders as the tool is adopted and deployed.
- A well-configured issue tracking tool will only present the information that a user needs at the point that they interact with the tool. Likewise, it will only request the information from them that they need to enter at that particular point in the defect lifecycle. Users should be able to access more information if they want it, but shouldn't have to search through irrelevant information to do simple tasks.
- Mandatory fields should be used judiciously. They should truly represent mandatory information and it should be clear to the user what is expected in them.

- A well-configured issue tracking tool will actually hide the complexity of the underlying issue-tracking process from the people using the tool and help them expedite their work.

1.3. Categorization and Definitions

Categories presented in the Draft Compliance Process need to be specified. Also, some terms used in the document need to be defined. Specifically, the following need additional work:

Severity Category

The Process should specify definitions for Category 1 – Severe, Category 2 – Moderate, and Category 3 – Minor defects, particularly since WSD envisions having significant differences in the permissible resolution time for each of these categories.

Recommendations:

- *Category 1 – Severe* might be defined as “Defect or non-compliance has a moderate to high probability of resulting in a significant wildfire event within the next six months.”
- *Category 2 – Moderate* might be defined as “Defect or non-compliance has a moderate to high probability of resulting in a significant wildfire event within the next 18 months.”
- *Category 3 – Minor* might be defined as “Defect or non-compliance deviates significantly from the utility’s Wildfire Mitigation Plan and has the long-term effect of degrading wildfire safety.”

Definitions:

The following terms have not been defined. Possible definitions are presented, but should be reviewed by stakeholders.

Immediate Resolution – Might be defined as “Must be resolved within 10 days unless resolution period is otherwise specified in the defect report.” This allows the WSD to specify a shorter timeframe in the case of a defect that poses an immediate threat to health and safety of residents, ratepayers, and workers. Also consider “Daily progress updates to be provided.”

Substantial Compliance - This is a major definition, in that utilities not in substantial compliance with their WMPs may be subject to an enforcement action. This term might be defined as “A utility is in substantial compliance with its Wildfire Mitigation Plan if all defects and non-compliances identified by WSD are resolved to the satisfaction of WSD within the allowed timeframe.”

1.4. Prioritization

The Wildfire Mitigation Plans and supporting data are very elaborate and expansive, and where at their best they are also highly detailed. It will be impossible for the Wildfire Safety Division staff and consultants to probe and validate the full landscape of the WMPs with the time and budget they will have available. How will they prioritize? Will they do a shallow look at everything (for instance, by requiring self-reporting from the utilities), or pick out areas for deeper investigation and audit? The Draft Compliance Process should provide a general overview of the prioritization process.

2. SEPTEMBER 29TH COMPLIANCE PROCESS WORKSHOP

MGRA presented at the September 29, 2020 Compliance Process Workshop, and its presentation is provided in Appendix A. The Wildfire Safety Division also gave presentations, as did a number of other stakeholders. Some of the points raised in these presentations are discussed below.

Some discussions centered around the general vision of the compliance process as “outcome-based” rather than “compliance-based”. According to the Draft Compliance Process, the WSD will engage both in ensuring compliance with regulations and Wildfire Mitigation Plans, as well as collecting outcome metrics to determine whether utilities are making progress in reducing wildfire risk.⁶ Some stakeholders expressed the concern that a utility could not be in compliance but still avoid, through luck, having severe wildfire outcomes. MGRA has stated in the past that some outcome metrics that are contingent on the occurrence of severe wildfires, such as acres burned and injuries/fatalities, are not effective metrics in the short term because they are subject to stochastic

⁶ Draft Compliance Process; p. 6.

external event drivers.⁷ Over a long period, one would expect these metrics to reflect safety, but a major goal of the Commission, WSD, and safety-conscious stakeholders is to identify other predictive metrics which can be used to measure potential wildfire risk without property damage or loss of life. Christopher Meyer of WSD's compliance group specifically stated that WSD would be looking at other metrics, not just wildfire data, to determine whether utilities were achieving safety goals. Meyer also stated that he wanted to enable utilities to go beyond their plans to adopt the most effective wildfire mitigation solutions.

Respectfully submitted this 2nd day of October, 2020,

By: /S/ **Diane Conklin**

Diane Conklin
Spokesperson
Mussey Grade Road Alliance
P.O. Box 683
Ramona, CA 92065
(760) 787 – 0794 T
dj0conklin@earthlink.net

⁷ R.18-10-007; MUSSEY GRADE ROAD ALLIANCE REPLY COMMENTS ON THE PROPOSED DECISIONS ON 2019 WILDFIRE MITIGATION PLANS; May 28, 2019; pp. 4-5.

Appendix A

Presentation by Joseph W. Mitchell, Ph.D. on behalf of the Mussey Grade Road Alliance; Wildfire Safety Division Workshop on the Draft Wildfire Mitigation Plan Compliance Process; September 18, 2020.

Good morning. I'm Joseph Mitchell, and I'm the expert witness for the Mussey Grade Road Alliance. MGRA has been active since 2007 on wildfire safety issues at the California Public Utilities Commission. My first career was as an experimental particle physicist, and I've been active in wildfire research since 2004, particularly in regard to utility-ignited wildfires.

I'd like to express our appreciation to the Wildfire Safety Division and Mr. Meyer for encouraging public comment. When the legislature first created the Wildfire Safety Division, we had concerns that the mechanisms for public input that exist at the CPUC might not be available for the new division, especially once it is transferred over to the California Natural Resources Agency next year. However, we have been very pleased by transparency of the new division and how it has actively solicited public input and participation. We look forward to doing all we can to help the new agency improve the safety of utilities in California.

Regarding the Draft compliance process, it is a high level document intended to lay out a general framework for compliance enforcement. How the agency does so is highly constrained by the details of the legislation that created and regulates the agency. Specifically, any sort of enforcement action still needs to go through the CPUC, which means that these two agencies are going to need to work in close coordination with each other. So for instance while the Wildfire Safety Division has the responsibility to approve fire protection plans and issue safety certifications, it does not apparently have the ability to withdraw or suspend them, which would be a powerful tool to enforce compliance. Instead, it will need to reach out to the Safety and Enforcement Division of the CPUC to do an investigation.

Clearly, there is going to need to be a mechanism for fast and accurate communication regarding utility defects and non-compliance. That means communication between the WSD and the utilities, between WSD and the Commission, and between the Commission and utilities. Emailing gigantic excel spreadsheets on due dates will not work. Successful and rapid tracking of

defects through their lifecycles will require the use of a specialized issue tracking tool. I understand that WSD is already working on acquiring such a tool from a major vendor.

Personally, I've had some experience with the use, setup and configuration of issue tracking tools, as I worked in the software industry for over two decades. If I can offer one bit of advice to WSD and its partners, it would be to keep it as simple for the end user as possible. Modern issue tracking tools are built to support very complex business processes. One side effect of this is that people implementing the tool will sometimes create complex processes where none existed before. A general observation is that if using the tool requires a training course you may have overdone it. A well-configured issue tracking tool will actually HIDE the complexity of a process from the person using the tool.

Some other observations of the Draft Compliance Process: It needs to have some additional definitions in place, and these definitions should be generally understood by utilities and SED. For instance, definition of defect severity categories, what "immediate resolution" means, and above all what is the definition of "substantial compliance". Another observation is that we think the very different response times for Tier 2 and Tier 3 of the High Fire Threat Districts don't represent the relative risks of these zones, and they should. There have been a number of severe and catastrophic wildfires originating in Tier 2 as well.

Finally, one general question that we would like to see addressed regards prioritization. The Wildfire Safety Plans and supporting data are very elaborate and expansive, and where at their best they are also highly detailed. It is going to be impossible for the Wildfire Safety Division staff and consultants to probe and validate the full landscape of the WMPs with the time and budget they will have available. How will they prioritize? Will they do a shallow look at everything (for instance, by requiring self-reporting from the utilities), or pick out areas for deeper investigation and audit? We'd like to hear more about how this will be addressed today.

So thank you once more for the invitation to speak today and we look forward to providing feedback on the draft.