



Wildfire Safety Advisory Board  
Office of Energy Infrastructure Safety  
Attention: Wildfire Safety Advisory Board Staff  
715 P Street, 20th Floor Sacramento, CA 95814

1-29-24

Via e-mail

RE: Draft Policy Paper Updating UVM Practices and Regulations

Board Members & Staff:

To prevent wildfires, there must be no confusion about the objective of Utility Vegetation Management (UVM) *which is to prevent the interaction of vegetation with energized conductors and resulting fires - by using all means necessary.*

**Draft Policy Paper and Recommendations**

The draft policy paper and recommendations on updating UVM practices and regulations confuses the objective of UVM with unrelated ecological objectives.

Instead, the policy paper and any proposed regulations should unequivocally guide utilities to undertake UVM practices *necessary to prevent fires.*

Here are examples that provide conflicting guidance to utilities:

*Herbicide Use*

Herbicides, regulated by the California Department of Pesticide Regulation (DPR) are safe, economical and effective tools to use to control the amount and species mix of vegetation near

energized facilities. The draft paper seems to associate herbicide use with adverse consequences.

Proper herbicide use allows the utility to eliminate incompatible vegetation, reduce and maintain appropriate levels of vegetative fuels near energized facilities and promote native species that benefit local ecosystems.

#### *Forest Thinning and Fuel Reduction*

The draft paper confuses the reasons for, and results of, forest thinning and fuel reduction on utility ignition risk.

Forest thinning and fuel reduction *are appropriate* near energized facilities as long as *all* trees that can strike the facilities are removed during thinning because trees left behind may adjust to new microclimate conditions, and may fail.

Nonetheless, thinning should be encouraged because less fuel means less intense fire conditions, irrespective of the cause of the fire.

Less fuel near energized facilities means that less ignition risk occurs if an energized conductor contacts fuel, no matter what caused the conductor to contact it - e.g. car accident, animals, birds, engineering failure, wind or vegetation. Further, an electrical facility that has reduced fuel near it is less likely to be significantly damaged by an encroaching fire.

Utilities should be encouraged to undertake forest thinning and fuel reduction under their own initiative and support others conducting thinning and fuel reduction. It's to the utilities' benefit and results in ignition risk reduction and fire severity reduction and increased public safety.

#### *Right Tree Right Place*

Utilities have promoted Right Tree Right Place programs for at least 15 years, offering incentives to landowners to replace incompatible vegetation with something better - like a palm tree with a rose bush in Pasadena, for example.

While appropriate in an urban setting, replacing vegetation (fuel) in the Wildland Urban Interface (WUI) or on wildlands is wholly inappropriate where fuel conditions are already too dense and ripe for fire. Vegetation should be removed and discouraged from re-growing near energized facilities in these areas.

#### *Prescribed Burning*

The use of prescribed fire (burning) is a forestry and ecological tool appropriate for landscape level restoration and forest management work. It may be fine to include a utility right of way in a prescribed burn area, where appropriate, and as long as adversely affected trees within strike height are removed, because it leads to fuel reduction and ecological benefits.

However, utility rights of way should not be the focal points of introduced fire - as R'sOW are usually linear, geographically confined, and logistically difficult to burn.

Thus, while it is appropriate to acknowledge prescribed fire as a landscape/forestry tool, it should not become part of recommendations in a policy paper focusing on UVM and wildfire prevention.

#### *Trees Outside the Right of Way*

In the draft policy paper, staff seemingly characterizes utilities as not having the right to manage trees outside their rights-of-way, but this is generally not the case.

Whether a utility has a right to manage trees outside its ROW depends on easement documents which may give the utility broad rights to mitigate hazards to its infrastructure.

If the easement is silent on the matter, a utility can assert necessary rights and shift the burden of proof to the underlying owner. Or, the utility can assert that a hazard constitutes a public nuisance and/or it can point out that pursuant to regulations (Public Resource Code Sections 4292 and 4293, as well as California Public Utilities Commission General Order 95 Rule 35), it has *the duty* to abate hazards to its infrastructure, and in troublesome situations, utilities can solicit law enforcement support to conduct necessary work where appropriate. Or, a utility could simply ask for permission to abate a hazard.

The draft policy paper should provide utilities clear direction that utilities must exercise all their options to gain rights or permission to conduct hazard abatement work.

#### *ANSI A-300, GO95 Rule 35, PRC 4293*

Compliance with regulations or professional standards is not enough to prevent wildfires.

While on the one hand, reconciling the draft policy paper and recommendations with regulations such as PRC sections 4292 and 4293 and CPUC GO 95 Rule 35 along with the 2020 companion publication to the ANSI A300 Part 9: Tree, Shrub, and Other Woody Plant Management - Standard Practices (Tree Risk Assessment part a. Tree Failure) should be part of this process, the Wildfire Safety Advisory Board should develop policies, in conjunction with other agencies, that drive utility behavior to go beyond mere compliance and encourage utilities to undertake *all means* to prevent fires.

With regard to the ANSI-A300 Part 9, since *any tree* - not just "hazardous," trees - can fail at any time and with or without anyone having inspected it, the WSAB should endeavor to learn about work that provides effective wildfire risk reduction conducted along transmission facilities in El Dorado County, where all trees within strike height were removed.

**Recommendation**

In closing, I recommend that the WSAB withdraw this draft policy paper and its recommendations and work with the California Board of Forestry and Fire Protection and the CPUC to develop guidance that leaves no doubt about the objective of UVM - which is to *prevent* the interaction of vegetation and energized electric facilities and associated fires.

Thank you,

*s/s Niel E. Fischer*

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Bio: Niel is a forester and attorney with 38 years of forest and utility vegetation management experience. He is also a contributor to the 2020 "Utility Tree Risk Assessment," Best Management Practices, companion publication to the ANSI A300 Part 9: Tree, Shrub, and Other Woody Plant Management - Standard Practices (Tree Risk Assessment part a. Tree Failure). Niel also co-wrote *Lower Risk of Wildfires Along T&D Systems Long Term*, T&D World, Special Supplement - Wildfire Mitigation, May 2023.