



Memorandum

To : The Timber Advisory Committee

Date : November 21, 1977

From : Glenn L. Rigby
Assistant Chief Counsel

Subject:

At the November 2, 1977 meeting, you asked our opinion with respect to the following questions:

- 1) Can the individual members of the Advisory Committee appoint alternates? If they can, may the alternates exercise the voting privileges of their respective members if the member is absent?
- 2) What is the authority of the Timber Tax Advisory Committee, i.e., advisory, etc.?
- 3) What is the tenure of the individual members of the committee?

In regard to the first question, Section 7 of the Revenue and Taxation Code is controlling. This Section provides:

"Whenever a power is granted to, or a duty imposed on, any person or board by any provision of this code, it may be exercised or performed by any deputy or person authorized by the person or board to whom the power is granted or on whom the duty is imposed, unless it is expressly provided that the power or duty shall be exercised or performed only by the person or board to whom the power is granted or on whom the duty is imposed."

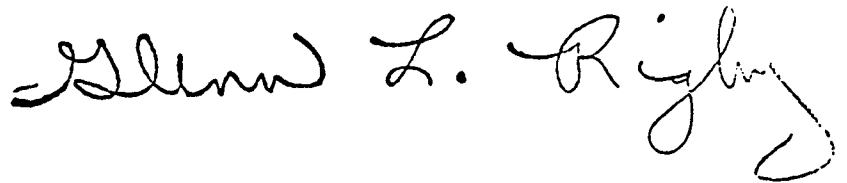
In view of the clear language of this statute it is our opinion, the members of the committee could appoint alternates and at their individual discretion could grant any powers they have to their alternates. Since this is a statutory right, the other committee members could not limit this right by majority vote or otherwise.

We next turn to the question of the authority of the "Timber Advisory Committee". As the name indicates, it is advisory. It has no power to bind the Board relating to the adoption of timber values. It merely acts as a fact finding and consultation body with regard to the establishing timber harvest values. (See

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Sections 434, 434.5 and 38204 of the Revenue and Taxation Code.)

The last question involves the individual members' tenure. Since the committee members are appointed by the Board under Section 431 of the Revenue and Taxation Code, and since there is no other provision within the Revenue and Taxation Code which specifies the tenure of their appointment nor has the Board formally adopted any rules in this area, it is our opinion the members' tenure continues so long as the Board desires. Termination of the membership by the Board would require a majority vote of the quorum present at a regular meeting.

A handwritten signature in cursive script that reads "Glenn L. Righy". The signature is written in dark ink and is positioned to the right of the typed text.

GLR:rl

cc: Mr. J. J. Delaney
Mr. Paul Crebbin
Mr. J. Kenneth McManigal