

PLANNING DEPARTMENT



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

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Alvin D. James  
Planning Director

November 17, 1998

Agenda: November 24, 1998

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: PUBLIC HEARING TO CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION REGARDING GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN AND IMPLEMENTING ORDINANCE AMENDMENTS REGARDING TIMBER HARVESTING

Members of the Board:

On June 2, 1998, your Board considered proposed Forest Practice Rules (FPRs) and zoning ordinance amendments related to timber harvesting (see Exhibit G of Attachment 12). At that meeting, your Board:

- ▶ Approved proposed Forest Practice Rules, with amendments as proposed by Supervisor Almquist; directed the Planning Department to submit these Rules changes to the Board of Forestry for processing, and directed the Planning Department and Supervisor Almquist to pursue the adoption of the proposed Rules;
- ▶ Approved in concept, and with amendments, two sets of proposed General Plan/Local Coastal **Program** and County Code changes to be considered by your Board following the completion of the Board of Forestry's review of the Forest Practice Rules changes; and
- ▶ Directed that a study be prepared of Special Use (SU) zoned parcels to determine if there was a way to correlate parcel size and land use for the purpose of establishing appropriate parcel size for timber harvesting in the SU zone district.

The matter before your Board at this time is the consideration of the Planning Commission's recommendation regarding the proposed amendments to the County General Plan/Local Coastal Program Land Use Plan and implementing ordinances regulating timber harvesting in the unincorporated areas of the County. This report will provide your Board with the detailed analysis that was presented to the Planning Commission as well as the additional information requested by the Commission in response to their discussion following the public hearing.

This report will also present your Board with the results of the Board of Forestry's action on the

Forest Practice Rules changes proposed by the County. Integral to your decision regarding the Planning Commission recommendations on policy and ordinance amendments is a determination by your Board as to the adequacy of the State Board of Forestry's action on the Forest Practice Rules. The report from the Planning Department on the Special Use (SU) zoned properties is presented as a separate item on today's agenda in a letter to your Board, dated October 14, 1998.

### PROPOSED POLICY AND ORDINANCE AMENDMENTS

Two sets of amendments were prepared for consideration by the Planning Commission. These sets of amendments include policy and ordinance amendments necessary to implement your Board's direction from June 2, 1998. Some of the proposed ordinance amendments are included in both sets of amendments because they clean up current language, are necessary to improve existing standards, or address issues that your Board felt had over-riding concerns such as helicopter logging.

The first set of policy and ordinance amendments were proposed to compliment the adoption of acceptable Forest Practice Rules. Each of the proposed policy and ordinance amendments in the first set are listed below with a brief description of the amendment (see Attachments 4 and 5 for the **bold/strike-over** version of these amendments). A more detailed analysis of these amendments is presented in Attachment 8 - the Analysis of Proposed Policy and Ordinance Amendments.

~ General Plan/Local Coastal Program (GP/LCP) Amendment, to revise Table 1-7 (General Plan Resource and Constraints Maps) to more clearly define Parcel Specific **Over-riding** Information as a means to affect the residential density determination only.

~ GP/LCP Amendment to add Policy 5.12.14, to **specify** that timber harvesting is allowed in the TP, PR, M-3, CA, A and SU (with Timber Resource) zone districts; including a reference to the General Plan consistency determination process for those SU zoned properties without the Timber Resource designation.

~ GP/LCP Amendment to revise Policy 5.13.5, to add timber harvesting as a Principal Permitted Use on Commercial Agricultural Zoned Land.

~ GP/LCP Amendment to revise Policy 5.14.1, to add timber harvesting as an Allowed Use on Non-commercial Agricultural Zoned Land, in those areas with a Timber Resource designation.

~ Amendments to County Code Section 13.10.3 12(b) - Agricultural Zoning Uses Chart, adding timber harvesting as an allowed use in the CA zone district, and in the A zone district in areas which are designated as Timber Resource in the General Plan Resource and Constraints Maps.

~ Amendments to County Code Section 13.10.322(b) - Residential Uses, to prohibit timber harvesting in the Residential zone districts.

~ Amendments to County Code Section 13.10.332(b) - Commercial Uses, to prohibit timber harvesting in the Commercial zone districts.

- ~ Amendments to County Code Section 13.10.342(b) - Uses in Industrial Uses, to prohibit timber harvesting in the Industrial zone districts, except for the M-3 zone district.
- ~ Amendments to County Code Section 13.10.342 - Industrial Uses Chart, to correct the current listing and to delete references to Chapter 16.52.
- ~ Amendments to County Code Section 13.10.362(b) - Allowed Uses in the Public and Community Facilities Zone, to prohibit timber harvesting in the Public and Community Facilities zone district.
- ~ Add County Code Section 13.10.378 - Timber Harvesting Related Helicopter Regulations, to state the limitations regarding the use of helicopters for timber harvesting operations in the County.
- ~ Amendments to County Code Section 13.10.382 - Special Use Zoning Uses Chart, specifically adding timber harvesting as an allowed use if consistent with the General Plan, either by designation (Timber Resource) or through a determination process (see below).
- ~ Add County Code Section 13.10.386 - General Plan Consistency Criteria for Timber Harvesting in the Special Use District, which creates the specific criteria to determine whether timber harvesting on an SU zoned property or portion of a property without a Timber Resource designation is consistent with the General Plan.
- ~ Amendments to County Code Section 16.20.180 - Private Road Standards, to upgrade the private road surfacing standards for all new private roads and driveways (proposed language is consistent with the recommended private road surfacing requirements proposed in the Forest Practice Rules).
- ~ Amendments to County Code Section 16.30.050 - Riparian Corridor Exemptions, to delete a reference to County approved timber harvests.

The second set of amendments were proposed for consideration in the event that the proposed Forest Practice Rules were not adopted by the Board of Forestry or, if adopted, were determined by your Board to be unacceptable. Each of these amendments is presented with a brief description (see Attachments 6 and 7 for the **bold/strike-over** version of these amendments). Again, please refer to Attachment 8 for a detailed discussion of these proposed amendments.

- ~ General Plan/Local Coastal Program (GP/LCP) Amendment to revise Table 1-7 (General Plan Resource and Constraints Maps) to more clearly define Parcel Specific Over-riding Information as a means to affect the residential density determination only.

- ~ GP/LCP Amendment to add Policy 5.12.14 to specify that timber harvesting is allowed in the TP, PR, and M-3 zone districts only.

- ~ Amendments to County Code Section 13.10.312(b) - Uses in Agricultural Districts, to prohibit timber harvesting in the Agricultural zone districts.
- ~ Amendments to County Code Section 13.10.322(b) - Residential Uses, to prohibit timber harvesting in the Residential zone districts.
- ~ Amendments to County Code Section 13.10.332(b) - Commercial Uses, to prohibit timber harvesting in the Commercial zone districts.
- ~ Amendments to County Code Section 13.10.342(b) - Uses in Industrial Uses, to prohibit timber harvesting in the Industrial zone districts, except for the M-3 zone district.
- ~ Amendments to County Code Section 13.10.342(b) - Mine Site Interim Uses, to clean-up the listing for timber harvesting in the M-3 zone and to reference the locational criteria in Section 13.10.695.
- ~ Amendments to County Code Section 13.10.352(b) - Parks, Recreation and Open Space Uses Chart, to add a reference to the locational criteria in section 13.10.695.
- ~ Amendments to County Code Section 13.10.362(b) - Allowed Uses in the Public and Community Facilities Zone, to prohibit timber harvesting in the Public and Community Facilities zone district.
- ~ Amendments to County Code Section 13.10.372(b) - Timber Production Zone Uses Chart, to add a reference to the helicopter yarding regulations.
- ~ Amendments to County Code Section 13.10.378 - Timber Harvesting Related Helicopter Regulations, to adopt specific limitations for the use of helicopters in timber harvesting operations.
- ~ Amendments to County Code Section 13.10.382 - Allowed Uses in the Special Use "SU" District, to prohibit timber harvesting in the Special Use zone district.
- ~ Amendments to County Code Section 13.10.695 - Locational Criteria for Timber Harvesting, to establish in the Zoning Ordinance specific areas, such as riparian corridors and residential buffers, where timber harvesting may not occur, outside the TP zone district.
- ~ Amendments to County Code Section 16.20.180 - Private Road Standards, to upgrade the private road surfacing standards for all new private roads and driveways (proposed language is consistent with the recommended private road surfacing requirements proposed in the Forest Practice Rules).
- ~ Amendments to County Code Section 16.30.050 - Riparian Corridor Exemptions, to delete a reference to County approved timber harvests.

An analysis of the proposed amendments, patterned after the analysis provided to the Planning Commission, is presented in Attachment 6.

#### CEQA Review

The proposed policy and ordinance amendments were considered by the Environmental Coordinator on July 16, 1998. A Negative Declaration was issued for the two sets of amendments (Exhibits H and I of Attachment 12). Since the review by the Environmental Coordinator, several changes to the proposed ordinances have been made, mostly at the direction of County Counsel. These changes are minor and do not affect the intent of the original amendments. These changes have been reviewed by the Environmental Coordinator and have been determined to be insignificant.

At the Planning Commission public hearing, oral testimony and written material was presented which challenged the validity of the CEQA documents prepared by the Planning Department. The Planning Commission directed that a response to this material be prepared for your Board's consideration (see below).

#### PLANNING COMMISSION RECOMMENDATION

On October 28, 1998, the Planning Commission considered the proposed policy and ordinance amendments at a noticed public hearing and directed that the proposed policy and ordinance amendment packages be forwarded the your Board. At the conclusion of the hearing, however, the Commission expressed its concern about several issues, including the process that required them to review two packages of amendments that will be considered by your Board following a decision by a third entity (Board of Forestry). They felt that they were being placed in a **difficult** position, attempting to provide your Board with a recommendation on very important County-wide policies when the Board of Forestry's actions will be the basis for the Board's ultimate decision.

The Commission expressed some concern over the potential impacts of the proposed amendments, but felt there was sufficient information to forward the amendments to your Board and adopted a Resolution recommending adoption of those amendments appropriate to the actions of the Board of Forestry's action on the proposed Forest Practice Rules changes (Attachment 11). In order to provide your Board with sufficient information on this matter, the Commission directed staff and County Counsel to prepare a response to a letter of Dennis Kehoe, attorney for Big Creek Lumber and Homer McCrary (Attachment 14), and to respond to the other environmental issues raised at the public hearing. The Commission also directed staff to provide your Board with additional analysis regarding the number of parcels affected by the proposed amendments and extent of the impact of the proposed amendment packages on timber harvesting in Santa Cruz County (see Planning Commission Minutes - Attachment 13). The following discussion will present the information requested by the Planning Commission.

#### Response to Letter of Dennis Kehoe

County Counsel and staff have prepared a response to the letter of Mr. Dennis Kehoe, dated October 22, 1998, as directed by the Planning Commission. The response is included as Attachment 15.

### Other Correspondence

The Planning Commission received a number of additional written comments. These comments are included as Attachment 16. Responses to these letters are addressed as follows:

Letter of the Environmental Council of Santa Cruz County: No response is necessary as this letter expresses **an** opinion.

Redwood Empire: This letter contains the same comments as those of Mr. Mike **Jani**, keyed to the Initial Study. **The** responses, therefore, are the same as those for Mr. **Jani's** material (see Attachment 15).

Sierra Club - This letter recommended some additions to the proposed amendments. The proposed amendments included correcting the designation of the bank full flow line (adding 'mean rainy season'), adding a 100-foot setback from wetlands, lagoons, etc. and restricting the density of development in the TP zone to the current coastal zone densities (160 acres, 40 acre maximum if units are clustered). The changes requested to the riparian corridor buffers are consistent with the Riparian Corridor and Wetland Protection Ordinance and could be added to the sections referenced in the letter. The density issue, also raised in another piece of correspondence, is a policy question that has not been presented to your Board or the Planning Commission. Currently, the maximum density allowed in the TP zone district, outside the coastal zone, is the same as in the RA zone district with a Mountain Residential land use designation.

Citizen's for Responsible Forest Management - This letter requested that the Planning Commission consider revising the allowed densities in the TP zone to the Coastal Zone densities (see above); amend the current minimum parcel size for rezoning properties to the TP from 5 acres to something between 40 and 160 acres; and to prohibit approvals of rezoning, subdivisions, or building permits for **more** than **one** dwelling until the end of the re-entry period following a harvest. The current minimum parcel size for rezoning to the TP zone is 5 acres, established by County Code at the time that the TP zone district was established to encourage as many property owners as possible to rezone to the TP zone. State law places a limit of 80 acres as the largest size that a County can establish as a minimum parcel size for rezoning to the TP. Again, the density issue is a policy question that has not been presented to your Board or the Planning Commission for review. Restricting development based on the re-entry period of timber harvests is probably possible but would not be necessary if timber harvesting is restricted to the TP zone and if the densities in the TP are modified.

Robert O. Briggs: This letter includes a copy of a study which assesses the relationship between water uptake by trees and streamflows in **Waddell** Creek. The study concludes that additional biomass, as would **result** from riparian no-cut zones and restricted cutting, will further reduce the groundwater supplies and therefore, should be considered as a significant impact. Staff has consulted with the **County** Hydrologist on this matter. According to the hydrologist, the increased biomass would only be a factor in the effective rooting depth (shallow) of riparian trees. The hydrologist believes that alterations to biomass in the riparian zone is not an issue relative to groundwater storage. He acknowledges a minor impact in the interface area of direct subsurface and surface stream flow and in the areas where the regional flow of shallow groundwater surfaces along the stream channel.

However, in no way will the increased biomass affect regional groundwater supplies.

Stephen R. Staub: This letter disputes the necessity for the Forest Practice Rules and discusses the author's viewpoints on the environmental and economic merits of the proposed ordinances. No response necessary.

William J. Earl: This letter discusses the benefits, responsibilities and trade-offs involved in living in a forest. No response necessary.

Elizabeth Knights: This letter expresses a concern for the potential increase in fire hazards to be caused by the adoption of the amendments. Fire safety is, of course, a great concern to everyone living in the rural areas of the County. CDF has an exemption that allows property owners to cut trees within a 1 SO-foot radius of an existing dwelling in order to maintain a defensible space around the home and accessory structures. This not only protects the home from fires but also provides better protection for the forest from the many ignition points inherent with residences.

#### Effects of the Proposed Policy and Ordinance Amendments

The Planning Commission directed staff to prepare an analysis of the number of parcels affected by the proposed amendments and the impact on the timber industry in the County. Staff has prepared the following analysis based on information from the Geographical Information System.

Staff has prepared an assessment of the timber harvesting that has occurred in the County since 1987. This assessment, summarized in Attachment 17, is based on an analysis of all of the timber harvests from 1987 through 1997 and presents the area of the harvest and the zone district within which the harvest occurred. Under the first set of ordinance amendments, timber harvesting would be allowed in the TP, PR, M-3, CA, and A zone districts, and in the SU zone with the timber resource designation. Timber harvesting in these zone districts during these years accounted for 76 to 99% of the area harvested. The average annual percentage of the area harvested was 92% of all lands harvested. Harvesting in the RA and RR zone districts accounted for 0.5 to 7% of the total land area harvested, with an annual average of 2.3%. Clearly, if the first set of ordinance amendments are adopted, with only the RA and RR zone districts restricted from harvesting, there will be a very minor overall impact on the forest industry. There will, of course, be impacts to individual property owners.

If the second set of amendments are adopted, limiting timber harvesting to the TP, PR and M-3 zones only, the effect on the timber industry will be somewhat greater. The analysis indicates that from 61 to 94% of the land area harvested in each year during that period was zoned TP (or PR). The eleven year average of harvesting in the TP/PR zone district is 79%. Timber harvests in the SU zone district in areas with the timber resource designation accounted for 4 to 25% of the lands harvested; lands without the timber resource designation accounted for 1 to 17% of the land area. The agricultural zone districts accounted for only 0.5 to 9% of the land area harvested. The restriction of harvesting in the SU and agricultural zones, as well as the RA and RR zones, does reduce the amount of land available for harvesting. Whether this will have a significant long-term effect on the industry depends on many factors, including the number of property owners who seek a rezoning to the TP zone district, the value of Redwood and Douglas fir, etc. Once again, there will be impacts to individual

property owners.

As proposed in both sets of amendments, there are three zone districts within which timber harvesting will be wholly or partially prohibited. Timber harvesting will be prohibited in the Residential Agriculture (RA) and the Rural Residential (RR) zones, and in the Special Use (SU) zone district where the portion of the property proposed for timber harvesting is outside the timber resource designation, unless specific criteria are met. Portions of SU zoned properties that are designated with timber resource can be harvested.

There are 9,104 parcels zoned RA, 833 parcels zoned RR and 6,952 parcels zoned SU. The breakdown of parcel sizes in these zone district are shown below:

Zoning	<5 acres	5- 10 acres	10-20 acres	20- 40 acres	>40 acres	Total
RA Parcels	<b>7, 578</b>	1,010	<b>356</b>	<b>107</b>	<b>53</b>	<b>9, 104</b>
RR Parcels	<b>797</b>	<b>20</b>	<b>14</b>	<b>2</b>	<b>0</b>	<b>833</b>
SU Parcels	<b>4, 372</b>	<b>963</b>	<b>916</b>	<b>387</b>	<b>314</b>	<b>6, 952</b>

As **shown** in the table, the majority of parcels zoned RA, RR and SU are less than 5 acres in size (RA = 83%, RR = 96%, SU = 63%). These parcels are not eligible for rezoning to the TP zone district due to the parcel size limitation of the County Code (5 acres), nor are they generally large enough, individually, to be feasible for a timber harvesting plan (of these less than 5 acre parcels, 63% of the RA, 80% of the RR and 34% of the SU parcels are developed with single family dwellings). Those parcels greater than 5 acres are eligible under the current ordinances for rezoning to the TP and, in the case of the SU zone district, for approval for timber harvesting if the harvest areas are located within the timber resource designation or can meet the criteria for General Plan consistency. It should be reiterated that timber harvesting in the RA and RR zone districts accounted for 2.3 % of the total area harvested on an average annual basis over the past eleven years, clearly an insignificant amount. In the SU zone district, the average annual percentage of the total areas harvested was about 11% in the timber resource area and 6% in areas outside the timber resource designation. A complete analysis of the SU parcels is presented in a separate report to your Board on today’s agenda.

FOREST PRACTICE RULES

The County, under the leadership of Supervisor Almquist, has been closely involved in the processing of the Forest Practice Rules by the Board of Forestry. The Forest Practice Rules changes approved by your Board and submitted for consideration by the Board of Forestry are included as Attachment 10 - the 15-day Notice of Revised Rule-making. Supervisor Almquist and/or staff have attended all five of the Forest Practice Committee meetings and the two public hearings before the Board of Forestry. Your Board has been presented with a number of status reports and requests for approval of various amendments to the proposed Forest Practice Rules in response to the rule-making process. The Forest Practice Rules have been the subject of scrutiny and extensive testimony by not only local foresters and residents, but also by state-wide forest industry and property owner organizations,



neighborhood and environmental organizations, numerous State agencies, and other local governments.

On November 3, 1998, the Board of Forestry conducted its final public hearing on the proposed Forest Practice Rules changes submitted by the County. The Board of Forestry, following the public hearing, approved about half of the submitted rules. Staff has annotated the Forest Practice Rule package, with the comments, discussion and actions of the Forest Practice Committee and Board of Forestry (see Attachment 9). The Rules have also been highlighted to indicate those that were approved, and those that were rejected, at least for the time being.

THE RULES APPROVED BY THE BOARD OF FORESTRY ARE THOSE THAT:

- require the Licensed Timber Operation (LTO) to submit a document to CDF which states that he understands the provisions of the Timber Harvesting Plan (THP),
- require that the plan submitter notify persons who are members of any road association affected by the proposed timber harvest,
- require notification of people living within 3,000-feet of a timber harvest where helicopters would be used (and re-notification of these people if the timber harvest doesn't occur in the same harvest season),
- require that a general information handout regarding timber harvesting be included in these notifications to better inform the public about the timber harvesting process,
- specify that a review team member has five working days (versus five calendar days) to file any notice of non-concurrence,
- allow a neighborhood group to designate one person who, with the property owners approval, could accompany the Review Team on their review of the proposed THP,
- reduce the hours during which timber harvesting activities may occur (and provide for exceptions),
- prohibit log hauling on private roads when it is also prohibited on public roads during weekends, holidays, and during certain school bus and commute hours,
- require the posting of warning signs on private roads regarding traffic hazards,
- require the flagging of the approximate property lines where any truck road, tractor road or harvest area is proposed within 100-feet of a property line,
- allow CDF to require bonding of up to \$5,000 per mile, up to a maximum of \$50,000, to repair damage caused by logging trucks on private roads,
- require that skid trails, landings and work areas be treated to prevent erosion,
- allow a County representative to participate in the final inspections of the THP to review erosion control measures that may become future County responsibility,
- require that the THP include information regarding the use of non-appurtenant roads (number of trucks, safety features, condition of the road, etc), the Assessors Parcel Numbers, a map of the flagged property boundaries along with the basis for the property line determination, and a notice regarding the use of roads and bridges approved as a part of the THP, and
- lengthen the re-entry period for timber harvesting, based on the percentage of timber cut.

THE RULES NOT APPROVED BY THE BOARD OF FORESTRY WERE THOSE THAT WERE SUBMITTED TO:

- address road construction and maintenance,
- require the abandonment of roads and landings unless permanently maintained,
- require residential buffer zones,
- require riparian corridor protection,
- attempt the eradication of non-native plants,
- restrict helicopter operations,
- limit the extent of emergency exemptions and
- allow inspections of THP's by a County representative.

Board of Forestry staff will be forwarding the actions of the Board of Forestry to the **Office** of Administrative Law (OAL) for processing. If the process and wording of the approved Rules meets the OAL's requirements, the new Rules will go into effect on January 1, 1999. Staff will provide an update to your Board on the OAL's review at your November 24 meeting.

This concludes the work by Board of Forestry and County staff on this package of Forest Practice Rules changes for **1998**. Even though many of the rules were not adopted, the County was encouraged by members of the Forest Practice Committee of the Board of Forestry to submit a new Rules package for processing in 1999. As reflected in the annotated summary of the Board of Forestry's action (Attachment 9), there was support for some of the objectives of the revised rules, even though the Committee was unable to support the specific language presented by Santa Cruz County. This Rules package could include re-submittal of the rejected rules, reworded rules and/or new rules. If your Board decides that additional rules should be pursued, the Planning Department should be directed to return in December with a proposed rule package for your Board's approval so that the review process can be commenced early in 1999.

#### DISCUSSION AND RECOMMENDATION

Your Board's direction, in June 1998, was to process two separate sets of ordinance and policy amendments in conjunction with the processing of amendments to the Forest Practice Rules (FPR) by the Board of Forestry for implementation by January 1, 1999 (outside the Coastal zone). Your Board directed that one set of amendments be prepared to complement the approval of the proposed Forest Practice Rules by the Board of Forestry. Your Board directed that the second set of ordinance and policy amendments be prepared in case the Board of Forestry did not approve the package of Forest Practice Rules changes, or approved a package that was not acceptable to your Board. As discussed in the report above, these two sets of ordinance and policy amendments have been prepared, as directed by your Board, and are now ready for your Board's consideration.

The Board of Forestry acted to approve approximately half of the requested Forest Practice Rules changes. The approved rules will improve notification to residents, require better documentation of property lines, allow CDF to require bonding for private and public roads, as well as a number of other minor changes. However, the proposed rules which were **crafted** to reduce residential/timber conflicts, protect riparian corridors, limit helicopter logging operations and reduce soil erosion, sedimentation and slope stability problems were not approved. In our opinion, these proposed rules were the heart of the proposed Rules package.

The failure of the Board of Forestry to approve a comprehensive set of rules that address the environmental and neighborhood compatibility issues puts the matter back before your Board. If your Board believes that the approved Rules do not adequately address the concerns expressed by yourself and the public at the numerous public hearings in 1997 and 1998, your Board should adopt the second set policy and ordinance amendments. If your Board were to take this action, the proposed Resolution and ordinances (Attachment 1) to approve this set of amendments are worded such that the policies would take effect immediately and the ordinances would be effective on January 1, 1999, outside the Coastal zone. Staff would immediately forward the amendments to the California Coastal Commission for processing and implementation inside the Coastal zone sometime in Spring 1999.

If, however, your Board believes that the Forest Practice Rules adopted by the Board of Forestry are sufficient to address your Board's concerns, adoption of the first set of policy and ordinance amendments would be appropriate. As discussed in the letter and in the attached materials, these amendments complement the Forest Practice Rules. As in the preceding paragraph, if your Board opts for this alternative, a Resolution and ordinances (Attachment 2) to approve this set of amendments is worded such that the policies would take effect immediately and the ordinances would be effective on January 1, 1999, outside the Coastal zone. Staff would submit the amendments to the Coastal Commission as soon as possible for processing.

Another option exists that your Board may wish to consider. This option would include the following:

- re-submittal of revised Forest Practice Rules, based on the Rules changes not approved by the Board of Forestry on November, to be approved by your Board on December 15, 1998, and
- Board adoption, in concept, of Amendment Set 2, with a direction that these amendments be referred to the California Coastal Commission for processing and to be returned to the Board of Supervisors on May 25, 1999, for final adoption of the amendments and certification of the environmental documents, and
- continuance of Amendment Set 1 to May 25, 1999.

This option is proposed based on several factors including the fact that the Forest Practice Committee of the Board of Forestry expressed a willingness to work with the County on further refining its rules, especially those regarding riparian protection, road maintenance and abandonment, invasive species control and helicopter operations. The Forest Practice Committee also indicated that they would like to visit Santa Cruz County in early 1999 to inspect various timber harvest locations to see first-hand the conditions which have prompted the County to proposed its Forest Practice Rules changes. In addition, with a number of expected appointees to the Board of Forestry, the County's submittal may be received somewhat differently than it has in the past. If additional Forest Practice Rules are adopted by the Board of Forestry in 1999, they take effect on January 1, 2000.

This option would allow your Board to adopt either set of policy and ordinance amendments in May 1999, depending upon the actions of the Board of Forestry. If the Board of Forestry does not adopt the newly submitted rules changes by early May 1999, Amendment Set 2 could be adopted in final form by your Board, along with the environmental documents and, because these amendments would

have already completed their Coastal Commission review, they could be in effect by the end of June 1999. If the Forest Practice Rules re-submission is adopted, your Board could adopt Amendment Set 1 and have it become effective outside the Coastal zone in 30 days, while processing of these amendments is conducted by the Coastal Commission. The majority of the timber harvesting occurs outside the Coastal zone. In the intervening period, now until your Board's action on May 1999, timber harvesting would continue to be allowed in the TP, PR, and M-3 zones and in the SU zone if the harvest area is either designated as timber resource by the Resource and Constraints Maps of the General Plan or has been found to be consistent with the General Plan through the criteria review process approved by your Board in April 1998.

Staff is recommending that you pursue the third option and has prepared a Resolution and ordinances for your consideration that would implement this option (Attachment 3).

It is, therefore, RECOMMENDED that your Board:

1. Conduct a public hearing on the proposed County General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance amendments, as recommended by the Planning Commission, and
2. Adopt the Resolution presented in Attachment 3, to approve, in concept, the General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance Amendments contained in Amendment Set 2 and refer these amendments to the California Coastal Commission for processing, and direct that these amendments be returned to the Board on May 25, 1999, for final adoption and certification of the environmental documents, and
3. Continue consideration of the General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance Amendments contained in Amendment Set 1 to May 25, 1999, and
4. Direct the Planning Department to prepare a package of Forest Practice Rules changes for your Board's review on December 15, 1998, for re-submittal to the Board of Forestry for processing in early 1999.

Sincerely,



Alvin D. James  
Planning Director

RECOMMENDED



Susan A. Mauriello  
County Administrative Officer

- Attachments:
1. Resolution Approving General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance Amendments Regarding Timber Harvesting - Amendment Set 2 (Most Restrictive; immediate implementation)
  2. Resolution Approving General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance Amendments Regarding Timber Harvesting - Amendment Set 2 (Least Restrictive; immediate implementation)
  3. Resolution Approving General Plan/Local Coastal Program Land Use Plan and Implementing Ordinance Amendments Regarding Timber Harvesting - Amendment Set 2 (Most Restrictive; delayed implementation)
  4. General Plan/Local Coastal Program Land Use Plan Amendments - Set 1 (**Bold/M** version)
  5. County Code Amendments - Set 1 (**Bold/~** version)
  6. General Plan/Local Coastal Program Land Use Plan Amendments - Set 2 (**Bold/M** version)
  7. County Code Amendments - Set **2** (**Bold/Over-strike** version)
  8. Analysis of Proposed Policy and Ordinance Amendments
  9. Forest Practice Rules, with annotations
  10. Forest Practice Rules, 1 S-day Notice of Revised Rule-Making
    - 1 1. Planning Commission Resolution
    12. Planning Commission Staff Report
    13. Planning Commission Minutes, October 28, 1998.
    14. Letter of Mr. Dennis Kehoe, dated October 22, 1998
    15. Letter of County Counsel, dated November 17, 1998
    16. Planning Commission Correspondence
    17. Chart of Zoning of Timber Harvest Properties

cc: C o u n t y C o u n s e l  
 California Department of Forestry, Central Coast Ranger Unit  
 Santa Cruz Farm Bureau  
 Big Creek Lumber  
 Mark Morganthaler  
 Steven M. Butler  
 Citizens for Responsible Forest Management  
 Sierra Club  
 Summit Watershed Protection League  
 Valley Women's Club  
 J. E. Greig, Inc.  
 City of Santa Cruz Water Department  
 Redwood Empire  
 Roy Webster  
 Central Coast Forest Association

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November 13, 1998

Mardi Wormhoudt, Chair  
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701 **Ocean St.**  
Santa Cruz, CA 95060

Dear Ms. Wormhoudt:

This letter is to be a part of the administrative record pertaining to the proposed Santa Cruz County zoning package addressing timber harvesting, to be heard on November 24, 1998, and is in response to the County's "justification" for the Forest Practice Rules it submitted to the State Board of Forestry. The County has submitted several of my THP's as justification for certain rules, and have submitted pictures of three of my THPs as further justification. The use of these THPs and the pictures as justification, are based on exaggeration, distortion, and falsehood.

1. Rule 926.2 (Timber Operator Certification): The County cites THP 1-94-353 in support of its justification. In that THP, each LTO involved had a pre-operational meeting explaining the plan and rules. I inspected the operation at least 2-3 times a week. The operators were thoroughly familiar with the THP. One violation was invalid based on the width of the road, due to extensive lobbying of the County, as the County had issue with a potential use of the road for development. One violation was issued for failure to immediately remove slash in the watercourses caused by the helicopter blowing limbs from the redwood trees. I had advised the LTO of the Rule. The LTO made a decision to remove the slash after the helicopter had finished operations, due to the cost of shutting the helicopter down. As a result, he received the violation. All slash was removed before any could wash downstream and adversely impact water resources,

2. Rule 926.9 (Hours of Work): THP 1-94-353 is again cited. There, since CDF made an arbitrary decision to limit the landing space for a helicopter operation, the LTO was forced to load trucks at night, so as to make enough room to fly logs during the day. A complaint was filed by a resident over ½ mile from the operation, who could hear the work, as the landing was on a chaparral ridge with no buffering vegetation available. The proposed rule does not even address the situation the County relies upon for its justification.

3. Rule 926.11 (Flagging of Property Lines): THP 1-96-5 18 is cited. In that THP, the property line that my clients' relied upon was described to the disputing neighbor prior to plan approval. The dispute was resolved in favor of the neighbor. The rule does not even address the situation which occurred, since there was no question that the neighbor knew where my clients contended the line was located. No trees were cut on the neighbor's property.

4. Rule 926.15 (Road Construction and Maintenance): THP 1-94-353 and 1-96-5 18 are again cited, as well as 1-98-063. In 1-96-5 18 a small section of new logging road was built. No erosion or sedimentation problems resulted, and no development proposal has been submitted based on this road. Picture #33 purports to show some problem associated with road construction or maintenance. The large amount of water discharging in the culvert shown (which was installed for road drainage purposes only in an existing road), was a result of plugging of a pre-existing (before operations) watercourse culvert above this location in the heavy El Nino storms of February, 1998. The watercourse then drained directly down the road in an unmade ditch into the road drainage culvert. Plugging of culverts during this event was common in many areas, beside those where logging occurred.

In THP 1-94-353, a logging road was built to access the only landing sites on the operation. Landing sites allowed to be built by CDF were actually inadequate to handle the volume involved. See #2 above. Because the County believed a development would follow, County Planning officials turned the operation into a personal vendetta against my clients, myself, and the LTO's involved. No development has occurred to this date. A minor amount of erosion into a Class 3 watercourse occurred on a fill face from the new road, due to a 10 inch rainstorm before the grass seed on the fill had a chance to germinate and stabilize the surface of the fill.

The County also says that 1-98-063 involved a constructed road which caused a debris flow. In fact, the alleged slide occurred in February, 1998, thus occurring before the recent logging. A prior logging operation in 1986 on the same site used the existing roads. No road was built on the property for logging. Further, the 1998 debris flow started high on a slope above the road, and flowed over the road. The road did not cause the slide. CDM&G inspected the site and did not believe the road was a factor causing this slide.

4. 926.23 (Contents of Plan): 1-96-5 18 is cited. See #3 above. The property line dispute resulted in placing the use of a 20 foot section of road in issue. The dispute over the use of the road was resolved in my clients' favor. Again, there was no issue in the pre-harvest discussions over lack of notice about the positions of the disputing parties regarding the property line.

5. 926.30 (Entry by County Representative for Inspection): 1-94-353 is cited: The County's alleged violations were dismissed by CDF as being false. One violation for excessive road width was invalidly issued by CDF, at the County's insistence. See #1 and #3 above.

6. Rule 926.26 (Watercourse and Lake Protection): THP 1-94-353 is cited. Due to the County's lobbying, the operation was inspected by many experts. Allegations of excessive

removal of stream canopy were dismissed as false by CDF biologist, Brad Valentine. The canopy was well in excess of 85%, as required by the 2090 Agreement. Pictures #8 and #9 which purport to show excessive canopy removal, are in reality overexposed so as to show the logs in the deep shade. The logs were a result of bucking on very steep slopes and are lying on large rocks, and did not interrupt stream flow. These were removed by helicopter yarding with no disturbance to the watercourse. This practice was allowed by CDF through a minor amendment. Picture #23 shows old logs fallen naturally into the stream prior to operations. The small amount of slash inadvertently resulting from timber falling was removed before it could flow downstream in heavy flows.

Pictures #16- 18 (Thompson THP) show the result of a natural debris flow occurring on adjacent property. The logged property did not slide at all. All the impact depicted was from the natural occurring slide.

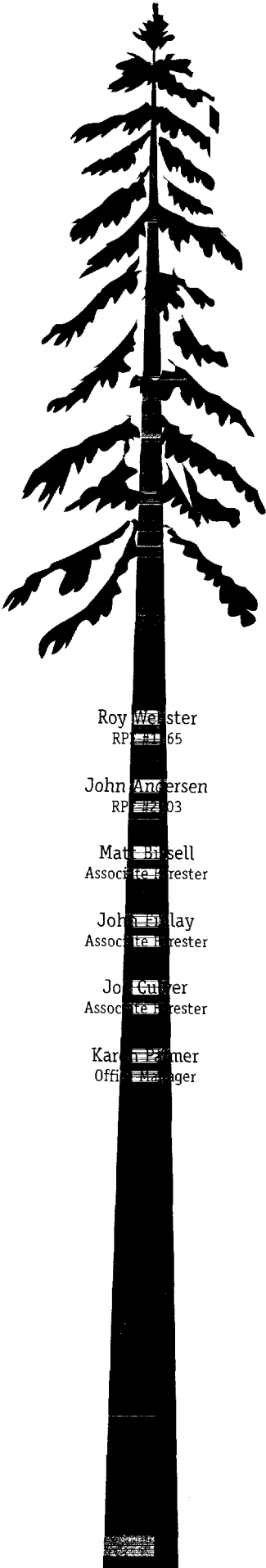
In summary, the County has attempted to justify the proposed rules package, by using a subjective and unscientific approach, and like the anti-logging activists who supported the package, it exaggerates, distorts and outright lies to support its position.

Yours truly,



Gary Paul





# Webster and Associates <sup>727</sup> PROFESSIONAL FORESTERS

512 Capitola Avenue, Suite 201 . Capitola, CA 95010 . Phone 408-462-6237 . Fax 408-462-6233

November 13, 1998

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: Santa Cruz County Proposed Amendments to Forest Practice Rules

Dear Board of Supervisors,

We would like to comment on the latest information supplied by the County of Santa Cruz titled "Santa Cruz County Proposed Rulemaking". Let me preface our discussion here by stating that, as professional foresters, we are interested in identifying environmental problems associated with timber harvesting. The Timber Harvest Plan review process is open and public. Our plans are subject to extensive review by agency environmental specialists and the public. We welcome any information critical of our current practices that is credible and scientifically based; and that will lead to improved management of the timber resource, protection of the forest ecosystem and beneficial uses of water.

This document purports to provide requested documentation of problems that serve to justify the need for additional county rules. There are several Timber Harvest Plans discussed in this information whereby I was the RPF on record. Our reading of this lengthy document has raised many questions as to the veracity of this supposed "documentation of problem THPs". Is the information they provided based on site visits and photographs taken by Santa Cruz County employees? Or is this "documentation" based on complaint calls from neighbors, letters of concern from the general public, or site visits and photographs taken by trespassing anti-logging activists (and then apparently collated, unsubstantiated, by Santa Cruz County employees)? Our experience has been that these types of complaints or letters rarely constitute an actual problem on the ground. In fact, as near as we can determine, none of the perceived problems discussed by the County in this document constitute a significant adverse impact, to the environment, or a threat to the health and safety of the public. Moreover, many of these problems may not exist on the ground of these cited THPs. If this is the County's **only** justification for the proposed amendments to the Forest Practice Rules, it

Roy Webster  
RPF # 165

John Andersen  
RPF # 103

Matthew Bell  
Associate Forester

John D. Day  
Associate Forester

John Guerber  
Associate Forester

Karen Palmer  
Office Manager

is seriously deficient. The County has not investigated these plans thoroughly enough to know the outcome of the harvests which I was the forester. I will explain in detail below as they relate to the twenty-one proposed rule amendments or new rules.

**2. 926.2 Field Review and Timber Operator Certification**  
1-96-247 SCR, Fritch Creek

For this timber sale, the RPF or his designee was on-site at least 3 days a week to supervise the LTO during the time period when Roy Webster was the RPF on record. Mr. Chris **Hipkin** was also a forester on this plan for a brief time period. During this period of time, he visited the plan area approximately 1.5 days per week. **Eel River** Sawmills forester, Larry Holmgren, also spent a significant period of time inspecting the plan area. While this does not ensure that all jobs have this type of supervision, this particular plan was thoroughly inspected by the RPF or his designee and others. Therefore, the County cannot use this THP as an example of a job where the Forest Practice Rules were not known and followed.

**3. 926.3 Plan Submittal and Notice of Intent**  
1-98-009 SCR, Big Basin Water Company

While helicopter noise cannot be mitigated, it remains one of the most environmentally sensitive methods to harvest timber. While comments were received regarding the noise, comments were also received about the sensitive nature of the harvest. The proposed 3,000 foot radius for noticing is an extreme burden in Santa Cruz County where very small parcels are found throughout the county. In many cases, hundreds of parcels would need to be notified requiring a significant financial burden on the landowner.

1-97-493 SCR, Lands of GSM  
1-94-299 SCR, Lands of Anguiano  
1-94-3 12 SCR, Lands of Prack

The above **THPs** were legally noticed as required under the Forest Practice Rules. The conflict arose **from** these **THPs** when neighbors did not want trucks down a road where the timber/timberland owner had legal rights-of-ways. In most of these instances, the timber/timberland owner agreed to leave roads in as good or better condition, or pay a per-truck fee to a road association.

**4. 926.7 Review Team Field Review**  
1-97-057 SCR, Wildwood  
1-98-009 SCR, Big Basin Water Company  
1-9 - SCR, Benbow  
1-94-42 1 SCR, Koppala-Bear Creek  
1-9 - SCR, Redwood Christian Camp

This proposed rule amendment involves allowing a neighborhood representative to attend the Preharvest Inspection and the Review Team Meeting if the harvest uses private roads or is located adjacent to a neighborhood. If this rule passed, neighborhood representatives would be present on just about every Preharvest Inspection in Santa Cruz County as more and more people move into areas which have been historically managed for timber production. Our experience has shown us that Preharvest Inspections and Review Team Meetings are not the proper avenue to hear neighborhood issues or complaints. When they do attend, the Preharvest Inspections and Review Team Meetings turn into public hearings. On one of the **THPs** above, Webster and Associates held a meeting on our own where we invited the neighborhood to tour the harvest area before and **after** the harvest. Where this is appropriate, it is a good tool in working towards a mutually agreeable plan regarding the conduct of operations during a timber harvest. In other situations, neighbors will not like anything a forester suggests, so it is a waste of time. At any rate, the public hearing is the appropriate forum to hear neighborhood suggestions. The Preharvest Inspection and the Review Team Meeting should be reserved for the agencies to review the environmental aspects of the plan.

**5. 926.9 Hours of Work**

1-96-247 **SCR, Fritch Creek**

1-94-201,202 **SCR, Withrow** and Holmes/Lee

Our **office** has received calls on the above plans in regards to the hours of operation. On some **THPs** the hours of operations are limited to reduce noise impacts, reduce traffic of public roads during commute times, etc. It is explained to adjacent landowners, however, that when hours of operations are limited, the job as a whole takes longer to complete.

**7. 926.11 Flagging of Property Lines**

Z-94-202 **SCR, Holmes/Lee**

1-97-493 **SCR, GSM**

1-94-202 **SCR** did have a complaint from a neighbor regarding the property line location. As an **RPF**, it is prudent to ensure property line locations are accurate. In the case of this **THP**, a licensed surveyor was hired because of the dispute. The issue was over one redwood tree.

1-97-493 **SCR** also had a complaint **from** a neighbor regarding the property line location. The individual who tiled the complaint does not have a common property line with the parcel where the harvesting is occurring. No adjacent neighbors to the **THP** filed complaints in regards to the property line location.

**8. 926.13 Performance Bonding**  
1-96-247 SCR, Fritch Creek

The Fritch Creek **THP** used a private road, Fritch Creek Road, to access a county, public road over which the timberland owners have a right-of-way. The **RPF's** designee, the LTO, and a representative of the timberland owners, met with the neighbors who use the road during plan review. At that point in time, Fritch Creek Road was a series of broken oil and screen, pot holes, and dirt. The road was so narrow that one of the homes burned to the ground because a fire truck could not get up the road to put the **fire** out. At conclusion of the neighborhood meeting, a Road Use Agreement was made between all parties. In the agreement, the timberland owners agreed to widen the road and install a chip seal surface at completion of operations. The cost to the timberland owners for the chip seal alone is \$24,000, well above the \$1,000 per 300 feet of paved road used for a harvest suggested by the County. The new road for the neighbors is being installed as this letter is being typed. The County knew of the plans for surfacing of the road under this THP because Dave Hope, County of Santa **Cruz** Public Works Dept., reviewed it in the **field**. Therefore, the County cannot reference this THP as one where problems occurred and performance bonding was needed.

**9. 926.15 Road Construction and Maintenance**  
1-97-367 SCR, Anderson  
1-95-175 SCR, Mathias  
1-90-384 SCR, Moleti-Koppala

The Anderson property did have non-maintained roads which were in need of erosion control work prior to plan preparation. The THP was the very vehicle used to mitigate roads and close out of roads from **further** use. Without a **THP** on the property, past erosion control problems would still exist. The file at the CDF **office** in **Felton** details the close out work conducted under the **THP** and maintenance of roads.

The Mathias and Koppala properties also had provisions to block **and/or** install erosion control structures on all roads, landings, and skid trails. A Work Completion Report has been submitted for each plan and approved by CDF.

1-96-397 SCR, **Koppala** (Fern Flat)  
1-89-144 SCR, Mills  
1-95-175 **SCR**, Mathias

The County states that the above **plans** contained road construction on steep slopes which failed into watercourses, causing the county considerable expense. The Koppala plan contained some road segments where reconstruction occurred on steeper slopes. Because of the steepness of the slopes, an engineering geologist was hired by the timberland owner to ensure the stability of the reconstructed roads. None of these roads

have failed after this work has been completed. The engineering geologist has inspected the site before, during, and **after** the reconstruction work.

The Mills THP contains no slides or failed roads known to the RPF in the harvest area. The RPF is aware of a slide upstream from the harvest area. The County does not give enough detail as to where the problem is.

The **Mathias** property used existing roads only. No failures of these existing roads on the Mathias property are known to the RPF.

1-95-175 SCR, Mathias  
1-94-421 SCR, Koppala (Bear Creek)

The County states that the above plans caused log jams which the County had to spend a considerable amount of money to remove. The Mathias property had no log jams known to the RPF which were caused by the operation or otherwise. The County presents no evidence that any of the mentioned plans caused the log jams.

The log jam associated with the Koppala plan occurred as a result of a slide which occurred prior to harvesting operations. Attached is a copy of a letter from Webster Associates to an adjacent landowner regarding the slide, dated April 13, 1998. CDF's Inspection Report #2, dated July 25, 1995 (also attached), states that a Pre-Operational Meeting was held. Therefore, it is obvious that the slide occurred prior to operations on this THP.

**14. 926.23 Contents of Plans**  
1-94-202 SCR, Koppala, Holmes/Lee

This THP did not use a non-appurtenant private road for log hauling as claimed by the County. There was a dispute over use of a road which formed a property line. Rather than end up in a legal dispute with the neighbors, the timberland owner chose to skyline cable yard the timber in the area of the road. The timber was then hauled down a private road which the timberland owner also had a right-of-way over. Therefore, the County cannot use this THP as an example of use of a road which is controversial.

**17. 926.26 Watercourse and Lake Protection**  
1-96-247 SCR, Fritch Creek

Violations did occur which involved the WLPZ on this plan. The violations were minor and did not reduce the canopy to levels below those spelled out in the approved THP.

**18. 926.28 Helicopter Operations**  
1-98-009 SCR, Big Basin Water Company

The County uses this THP as an example where landing zones were not located on **TPZ-**zoned parcels and which used a helicopter in close proximity to homes. Nothing is

further from the truth. All helicopter service and log landing zones were sited on TPZ parcels within the THP boundaries. Therefore, this THP cannot be used as an example of a plan where a problem existed. Furthermore, the landing areas were also situated at least 3000 feet **from** most homes. The restrictions proposed in the County regulations would limit landowners **from** harvesting timber in this environmentally sensitive manner or force them to use ground-based equipment where helicopters would be more appropriate.


**21. 926.30 Entry by County Representative for Inspection**  
1-96-247 SCR, Fritch Creek

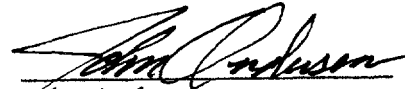
Again the County of Santa Cruz uses this THP as an example of a plan where enforcement and monitoring did not occur. CDF, **Felton**, has in the file for this Timber Harvest Plan 23 (twenty-three) Inspection Reports. As mentioned earlier, the RPF or his designee was on-site at least 3 days a week to supervise the LTO during the time period when Roy Webster was the RPF on record. Mr. Chris **Hipkin** was also a forester on this plan for a brief time period. During this period of time, he visited the plan area approximately 1.5 days per week. Eel River Sawmills forester, Larry Holmgren, also spent a significant period of time inspecting the plan area. It is obvious that this plan was thoroughly inspected by CDF and consulting foresters involved with the plan.

We would also like to comment on one of the photographs brought up in the County's letter to the Board of Forestry. Photograph #3 1 shows an inside ditch on a road on the Fritch Creek Timber Harvest. The inside ditch runs for approximately 50 feet to a watercourse (hardly a long stretch of road which could erode into the watercourse). What this picture does not show is the fact that this is not new road construction (as claimed by the County) it was an existing road. This picture also does not show that the old road contained -20 cu.yd. of soil in the stream bed which was actively eroding. This material was removed at completion of the harvest operation and the stream channel restored. This picture also does not show that the entire road system, including this crossing, was seeded with annual rye grass as an erosion control measure. This picture also does not show that a Certified Engineering Geologist inspected the site (and many other sites in this THP) to ensure the stability of the road. It was approved by him. How a non-geologist from the County can take this picture (or receive it from a trespassing, anti-logging neighbor) and claim that this is a bad practice is absurd.

This information clearly shows that the County of Santa Cruz did not do their homework when attaching these plans as examples of problem sites. They recall when maybe a neighbor sent a letter in on a plan in regards to an issue, They did not follow up to see how it was resolved or if the letter had a legitimate complaint. We would be pleased to comment in more detail if the County of Santa Cruz can show where these problems have actually occurred.

Sincerely,

  
\_\_\_\_\_  
Roy Webster  
RPF#1765

  
\_\_\_\_\_  
John Andersen  
RPF# 2503

734

642 Hazel Dell Road  
Corralitos, CA 95076  
November 18, 1998

Santa Cruz County Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

Via Fax (83 1 ) 454-3262

Mr. Almquist, Ms. Beautz, Mr. Belgard, Mr. Symons, and Ms. Wormhoudt,

As timberland (TPZ) owners and residents of Santa Cruz County, we would like to bring to your attention the following information.

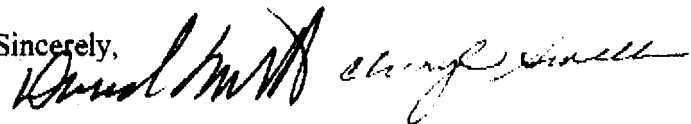
At the October 28, 1998 Planning Commission meeting, none of the commission members claimed to know whether or not timber harvesting is classified as an agricultural pursuit. In the 1870's, Congress created a forestry division in the Department of Agriculture, and thirty years later organized the U.S. Forest Service (also under the USDA) to assure the nation's supply of wood fiber products. To this day, the USDA funds programs for small timberland owners to promote timber productivity. These programs are administered locally by the Natural Resources Conservation Service (a USDA subsidiary).

At recent public meetings, Grizzly Flats and Gamecock Canyon have been criticized by anti-logging groups as being areas devastated by timber harvesting. Since 1981, we have lived in Gamecock Canyon directly below the Redwood Empire property, our house located next to Browns Creek. If an ecological disaster were to occur in Gamecock Canyon due to the Redwood Empire timber harvest, we would be the first to know of it! Also, our property, which was logged in 1988, has at least four times as many new trees, the majority of which are already thirty- to forty-feet high and eight- to ten-inches DBH (diameter breast high). We've seen no adverse ecological effects.

As 1900 feet of our property share a common line with Redwood Empire, we observe the canyon area on a regular basis, Gamecock Canyon is surviving the Redwood Empire timber harvest with remarkable resilience, producing as much or more water than in prior years due to decreased arboreal demand as a result of the cut. Redwood and hardwood new growth abound, Most of the redwood new growth is already three- to four-feet high. Wildlife is reestablishing itself with deer, bobcat, mountain lion, and other species (including feral pig) being well represented. The controversial yarder road has been well water barred and seeded with rye grass, has sustained minimal erosion damage, and has become a major route for wildlife (and illegal trespassers).

As property owners, we wish to continue to harvest timber on our land, guided by good logging practices and common sense, rather than constrained by over-regulation due to a lack of thorough understanding of the subject matter,

Sincerely,



David and Cheryl Smelt  
Assessor's Parcel No. 106-201-03

03



November 16, 1998

Santa Cruz County Board of Supervisors  
701 Ocean St.  
Santa Cruz, CA 95060

Dear Madams and Sirs:

I am writing to state my opposition to the County's proposed forestry zoning ordinances. The following reasons are a few of the many problems with the proposal.

First there is the arbitrary and unreasonable nature of the proposal. It would deny a long-standing use of certain private properties while ignoring identical parcels with no reason being given. When the County of Santa Cruz first made their zoning assignments for the lands of Santa Cruz County, they did not survey to establish just what was on each parcel before assigning its zoning. Thus, a large amount of the County was miszoned. We have inherited a set of zoning assignments where fully forested lands are designated as orchards and so called forests are actually pastures. The County now wants to compound this problem by pretending the zoning designations actually have some basis in fact. We need rules that allow owners to use what is actually on the land, not what some bureaucrat decided was there many years ago without even looking.

This proposal is contrary to the County's own General Plan and the Local Coastal Program which both state that forest management is a priority use needed for the public good and is essential to enhance natural timber resources. We need to be able to allow the current owners of these properties to use them as forest land to prevent the development of these lands for other uses. People expect to be able to get some gain out of their property; if they can't realize any use of their land as forests, they will convert it to other uses. The continued urbanization of our mountains is threatening this open space. The only way for the public to cheaply maintain open space is to allow those industries that use open space renewably to operate. This balkanization of our open spaces into housing tracts is what is causing the bulk of our environmental problems. The number of roads and wells multiply in these situations, dramatically increasing erosion and depleting the water tables. The people owning these properties do not have the resources or inclination to handle their lands as a part of a large scale environmental system. As a consequence these small parcels are becoming tinderboxes just waiting to explode. The public good of all the people living in the woods demands mitigation of the fire hazard so we don't get into an Oakland Hills situation. Controlled burns are just too dangerous around all those houses; this leaves only cutting to reduce the danger. Let me restate what should be obvious: our forests were accustomed to frequent burning in the past. Our current conditions with all of the houses and so forth within the woods make the old methods of forest maintenance socially impossible. The only safe way to simulate effects of fire is to cut the forest periodically.

The State of California and even the federal government classify forestry as an agricultural endeavor, whether or not the County of Santa Cruz sees fit to recognize this. Under state law, forestry is covered under the **same rules** and protections as other agricultural concerns, including right-to-farm laws an open space preservation

laws.

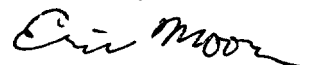
Next, the proposed road standards are at a much higher standard than that of many of the County roads. The County appears to have no intention of upgrading their roads to these standards. Does it make sense to apply these standards to a logging road which sees use for a short period every ten years and not apply the same or more stringent standards to those roads which support daily use?

Furthermore, the County has no competent experienced registered professional foresters or any others with the scientific expertise to recommend a negative declaration on this project which will have massive environmental impacts and greatly increase subdivision and development of forest lands. This project needs an Environmental Impact Report and any claimed forest science from County staff must be subject to a peer review before it can claim any validity.

Finally, these zoning ordinances are unconstitutional. The Fifth Amendment of the United States Constitution plainly states that no property may be taken from its owner without just compensation and due process of law. The provision in these proposed ordinances that prohibit an owner from managing his land within 300 feet of a neighboring dwelling does just that. As far as ownership rights go, his property line has just been moved without his consent. He remains liable for all the responsibilities, like taxes, but can now gain no benefit from his own property. I would demand equal protection so that I must first approve the construction of a dwelling within 300 feet of my property line before it can be constructed. The Fifth Amendment also states that property may not be seized without due process. The County itself has set the standard for what "due process" should constitute. If a landowner wishes to harvest timber, the County proposes that he must "direct the notice to both owners and residents of properties lying within the 3,000 foot notice area" and "post a copy of the Notice with a map as described in 14 CCR 1032.7 (d) (8) at a conspicuous location on the private road where a majority of the road association members can view the notice and . . . at a minimum of one conspicuous location every half mile on all public roads within a 2 mile radius of the proposed operations. The posted Notice of intent shall be on colored paper or identified with colored flagging so as to be easily visible to the public". I'm still waiting for my personal Notice of Intent with map showing how I am going to be affected by this proposed zoning change.

As the County has put forth NO valid scientific reason for these rules and seeks to justify them with a document that lists the damage that was caused by timber harvests that have NOT YET OCCURRED, it leaves the only possible motivating factor for these rules to be certain individuals' deepest personal philosophical ideals of what a cathedral-like forest should be, a violation in the spirit if not the letter of the First Amendment to the Constitution.

Yours truly,



Eric Moore  
10020 Creekwood Dr.  
Felton, CA 95018

CC: Central Coast Forest Association  
Forest Landowners of California

-f 737

642 Hazel Deli Road  
Corralitos, CA 95076  
November 18, 1998

Santa Cruz County Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

Via Fax (831) 454-3262

Mr. Almquist, Ms. Beautz, Mr. Belgard, Mr. Symons, and Ms. Wormhoudt,

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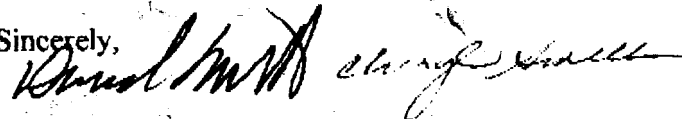
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Sincerely,



David and Cheryl Smelt  
Assessor's Parcel No. 106-201-03

738

Carl Washburn  
367 Summit Rd.  
Watsonville, CA 95076

November 18, 1998

Board of Supervisors, Santa Cruz County  
701 Ocean St.  
Santa Cruz, CA 95060

Dear Board of Supervisors, Santa Cruz County,

**SUBJECT: NOVEMBER 24TH HEARING; ZONING ORDINANCES**

The zoning ordinances you will consider on November 14, 1998 are arbitrary, unreasonable and a very poor way to administer the stewardship your chamber has over Santa Cruz County. The new proposed ordinances unreasonable restrict timber harvesting in Santa Cruz County because of your failed effort with the Board of Forestry

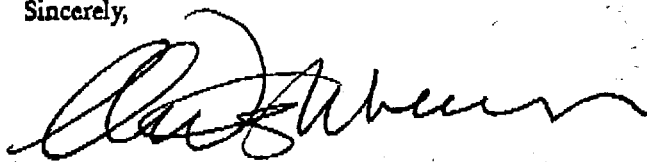
I have lived in rural Santa Cruz County for twenty years. My neighbors and I have participated in one timber harvest, with a local company, which made a positive impact on the environment and habitat of our area. I live on rural land that had suffered from vacant ownership for years. The property was neglected and suffered from overgrazing, erosion, and vandalism. Ten years after we moved to the land, adjacent landowners, and we contracted with a local timber harvesting company. We used the more expensive cable logging method and restricted logging times. We implemented extra dust control procedures and worked well to address the concerns of our non-logging neighbors. Specific care was used to protect hardwoods. A selective harvest was performed that removed a high percentage of defective trees and retained the better specimens; When the logging was finished, all owners extensively replanted. We planted over 10,000 redwoods on our property alone. Without harvesting, with a company that would accept the high defective wood percentage, we could not have afforded the improvements the logging made to the land.

This type of harvesting may be unique in other forest areas but this is typical of the plans in Santa Cruz County. Your proposed zoning changes will do damage to the good logging practices in Santa Cruz County. The County needs to work with the Board of Forestry to showcase these good practices. Your current approach is not based on reason or advice of experienced, competent professional foresters. The County does not have the expertise to recommend a negative declaration in place of an EIR, for these zoning changes, without that level of input to the plan.

More divisiveness is not needed in Santa Cruz County. The majority does not support your proposed use of zoning, to restrict timber harvesting. Do not force timberland owners to go to court to protect their rights. You were instrumental in making changes to the Board of Forestry regulations. Do not take a backward step with these zoning ordinances.

The most difficult job for a public servant in a democracy is to hold the minority opinion, Use this opportunity to shine not self-destruct.

Sincerely,



Carl Washburn  
cc: C.C.F.A.  
La Cima Homeowners Association

Law Offices of

**DENNIS J. KEHOE**

Law Corporation

311 Bonita Drive  
Aptos, California 95003  
(831) 662-8444 FAX (831) 366-2427

November 17, 1998



BOARD OF SUPERVISORS  
COUNTY OF SANTA CRUZ  
701 Ocean Street  
Santa Cruz, CA 95060  
(Hand Delivered)

Re: November 24, 1998, Board of Supervisors Public Hearing on Each of the Following Projects:

1. Amendments to the Santa County Code to Limit Timber Harvesting to the Timber Production, Parks, Recreation and Open Space and the Mineral Extraction Industrial Zone Districts; to Established Improved Surfacing Standards for Private Roads; to Delete Timber Harvesting as a Riparian Corridor Exemption; to Establish Helicopter Regulations Related to Timber Harvesting and to Establish Locational Criteria for Timber Harvesting in the County; Amendments to the County General Plan/Local Coastal Program LUP and County Codes Relating to the Regulation of Timber Harvest

PROJECT ONE:

2. General Plan/Local Coastal Program Amendment to Policy 5.13.5 to add Timber Harvesting as a principal permitted use on Commercial Agricultural zoned land and to policy 5.14.1 to add Timber harvesting as an allowed use on noncommercial zoned land; and ordinance amendments to the County Code amending Sections 13.10.170(d) - Zoning Implementation, 13.10.312(b) - Agricultural Zoning Uses Chart, 13.10.382 - Special Use Zoning Uses Chart, 16.20.180 - Private Road Standards and 16.30.050 - Riparian Corridor Exemptions, and adding County Code Sections 13.10.378 - Timber Harvesting Related Helicopter Regulations and 13.10.3 86 - General Plan consistency criteria for timber harvesting in the Special Use District.

PROJECT TWO:

3. PROJECT THREE: Current staff proposal to the Board.

Dear Supervisors:

Please be advised that the undersigned represents Big Creek Lumber Company and Homer T. (Bud) McCrary in connection with the above described PROJECTS. The PROJECTS

are more particularly described in the attachments, especially those of Mr. Jani, a Registered Professional Forester and a Certified Professional in Erosion & Sedimentation Control; Jeffrey Redding, AICP, an urban planner; and Mark Foxx, Certified Engineering Geologist and a Certified Professional in Erosion & Sedimentation Control. PROJECT Three, a new project, is now being proposed to you by the Planning staff. It was **not** considered by the Planning Commission nor was it reviewed as required by CEQA. There are various legal bases of objections to these PROJECTS including, but not limited to, (1) the California Environmental Quality Act (CEQA) requires that an Environmental Impact Report (EIR) must be prepared on each of the above PROJECTS; (2) the Board of Supervisors cannot, legally, adopt these PROJECTS in that there has been a pre-commitment by the public agency prior to the review of the necessary environmental information required under CEQA; (3) the proposed PROJECTS are in violation of state planning laws; (4) to approve the proposed PROJECTS would be arbitrary, unreasonable, and promotes no reasonable public purpose; (5) the PROJECTS, if adopted, will violate the Federal and State Constitutional rights of my clients and the Federal Civil Rights Act; (6) the subject matter of the PROJECTS has been preempted by the State of California; and (7) the County's remedy against the State Board of Forestry is pursuant to Government Code §11350; rather than the proposed PROJECTS.

I.

BACKGROUND.

A. Timber Harvesting is an Integral Part of The Economy and History of Santa Cruz County and The State of California.

Timber harvesting has been an integral part of the economy and history of Santa Cruz County for the past century. Timber harvesting still provides many jobs for County residents, both directly and indirectly, and it will continue to do so as the need for forest products continues to grow to meet the needs of a growing population.

Timbering is a primary natural resource which must be promoted and encouraged in accordance with State laws. ". . .The production of trees shall be considered a branch of the agricultural industry of the State for the purpose of any law which provides for the benefit or protection of the agricultural industry of the state." Food & Agricultural Code §22 Moreover, the Legislature has determined that California agriculture helps to feed the world and fuel our economy. Agriculture provides one (1) out of every ten (10) jobs in California and our State has led the nation in total farm production every year since 1948. Food & Agricultural Code §561(a) Furthermore, the public has an interest in permitting agricultural producers to bring their industry to the high degree of efficiency and merchandizing skill evidenced in the manufacturing industries. Food & Agricultural Code §54032(b) Also, "agricultural commodities" includes forest products. Food & Agricultural Code §58554

B. Big Creek Lumber Company.

Big Creek Lumber Company (Big Creek) is a long-time timberland owner and operator in Santa Cruz County. It employs many County residents and provides financial benefits to land owners with timber resources, local employees, and the County through the payment of timber yield taxes and property taxes. Most of the timber harvested by Big Creek in the County is processed locally in Big Creek's mill, with much of the lumber being used for various purposes throughout the County. Big Creek, locally owned, has been in business for more than half a century in Santa Cruz County. Big Creek and Mr. McCrary have a great interest in the vitality of and access to the forest resources in Santa Cruz County.

As a matter of background, Mr. McCrary has served on a number of public commissions and committees including the Planning Commission and Timber Technical Advisory Committee for this County and the California District Timber Advisory Committee. He has also received a number of public awards including Farmer of the Year, San Mateo County, 1998; the Wildlife Conservation Award, by the Resource Agency California Department of Fish and Game, 1995; and the Forester of the Year Award by the Department of Forestry, 1991. (See attachment re Mr. McCrary.)

Historically, Santa Cruz County has allowed commercial timber harvesting in zones such as A, RR, RA, and SU. Currently there are tens of thousand of acres of non-TPZ timberland lands available for and capable of growing trees for timbering for commercial usage. This is confirmed in your own administrative records by a review of previously approved timber harvest permits and existing timber harvesting plans and by the thousands of areas of standing timber resources, some of which are identified in the General Plan. Many land owners in Santa Cruz County including my clients acquired their properties in such areas with the reasonable investment backed expectation of being able to harvest their timber resource. Also, Big Creek has entered into and would, otherwise, enter contracts for timber with such land owners. Further, your General Plan encompasses significant timber resources in zones in which you are now proposing to prohibit all timbering.

## II.

**THE COUNTY OF SANTA CRUZ IS REQUIRED TO LITIGATE ITS DIFFERENCES WITH THE STATE BOARD OF FORESTRY PURSUANT TO GOVERNMENT CODE 911350. THUS, THE PROPOSED ACTION OF THE BOARD OF SUPERVISORS IS CONTRARY TO LAW.**

The Z-berg Nejedly Forest Practice Act (FDA) was adopted by the Legislature in 1973. Public Resources Code §§4511 et seq. Furthermore, the State Board of Forestry was authorized to promulgate regulations with respect to timber operations. Such regulations are contained in Title 14 of the California Code of Regulation (CCR). State agencies including the State Board of Forestry are authorized to adopt such rules and regulations pursuant to Government Code §§11340 et seq.

Under Public Resources Code §4516.5(a) and (b), Santa Cruz County is authorized to "recommend" additional rules and regulations for the content of timber harvest plans and the

conduct of timber operations to take account of local needs.

“For purposes of this section, ‘timber operations’ includes, but is not limited to, soil erosion control, protection of stream character and water quality, water distribution systems, flood control, stand density control, reforestation methods, mass soil movements, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond or other reasonable assurity requirements for on-site timber operations and for protection of publicly and privately owned roads that are part of the haul route. . . .” (Public Resources Code §4516.5[a])

Pursuant to Public Resources §4516.5(a) and (b), the County of Santa Cruz submitted recommended amendments to the Forest, Practice Rules to the State Board of Forestry. The State Board of Forestry held several public hearings including those on September 2, 1998, and November 3, 1998. County representatives were in attendance at both of the meetings of the State Board of Forestry. The recommendations of the County concerning timber operations included proposed modifications regarding Notice of Intent, log hauling, flagging, abandonment of roads and landings, timber operations certification, review team field reviews, hours of work, flagging of property lines, performance bonds, road construction and maintenance, erosions control maintenance, contents of plan, residential buffers, special harvesting methods, water courses protection, non-native plants, stream crossing regulations, riparian buffers, and helicopter operations. After due consideration and public input, the State Board of Forestry adopted, on November 3, 1998, some but not all of the recommendations of Santa Cruz County.

The Board of Supervisors questions the validity of the actions of the State Board of Forestry concerning the regulations since some, but not all, of County’s recommendations were adopted by the State Board of Forestry. The proper manner for the Board of Supervisors to object to the partial, but not total, adoption of its recommendations by the State Board of Forestry is set forth in the Government Code. Government Code §11350 states that the Board of Supervisors may file a declaratory relief action against the State Board of Forestry to determine whether the State Board of Forestry should have adopted all rather than some of the recommendations made to it by the County of Santa Cruz. The County of Santa Cruz has previously litigated with the State Board of Forestry concerning the regulations. See County of Santa Cruz v. State Board of Forestry (1998) 64 Cal.App.4th 826 Thus, the County, if it wishes to contest the validity of the action of the State Board of Forestry concerning the regulations, must follow the law as set forth Government Code §11350 rather than attempt to adopt the proposed PROJECT now before the Board of Supervisors which contains many of the same “recommendations” to the State Board of Forestry but now set forth in proposed County Ordinance/General Plan text amendments.

The regulations in Title 14 of the California Code of Regulations applicable to Santa Cruz County are the most restrictive Forest Practice Rules in the State of California. Furthermore, the County in its recommendations to the State Board of Forestry failed to present substantial evidence supporting all of its recommendations including an analysis of the adverse effects on land owners, timber operators, and the County, itself. (See attachments including letter of



California Farm Bureau Federation dated October 30, 1998, and the California Forestry Association letter of November 2, 1998.) Nevertheless, the issues now pending are between the County and the State Board of Forestry and must be handled accordingly.

### III.

#### THE COUNTY IS PREEMPTED BY STATE LAW.

The County is preempted by State law. The Forest Practice Act was adopted in the early 1970s. The purpose of the Forest Practice Act was to create and maintain effective and comprehensive systems of regulation and use of all timber lands. Public Resources Code §4513. Preemption arises by direct mandate of the State and also, by implication. Deukmejian v. County of Mendocino (1984) 36 Cal.3d 476, 485. With this legislation, State general laws on this subject matter prevail and County imposed laws on the same subject matter are void. Deukmejian v. County of Mendocino (1984) supra, 484-485.

Although this preemption does not apply to operations on any land area of less than three (3) acres and which is not zoned timber land production, this State preemption of the County does apply to all other timber resource lands in Santa Cruz County, especially since substantial acres are designated as Timber Resources by the County's own General Plan. Public Resource Code §4516.5(f); Westhaven Community Development Council v. County of Humboldt (1998) 61 Cal.App.4th 365, 369; 14 CCR §926.21 & 1038.

"Moreover, the plain language of §4516.5 prohibits local attempts to impose permit or license requirements when the land area is three (3) or more acres" Westhaven, Ibid, pg. 371

A reading of the proposal contained within ~~the~~ documents of all County PROJECTS clearly indicates that the County is attempting to restrict, regulate, control, and economically eliminate timber operations contrary to, inter alia, Public Resources Code §4516.5 and the Forest Practice Act, in general. (See attachments) As just one example, the Forest Practice Act specifically includes haul routes, both on the property being timbered and privately owned roads that are part of the haul routes. e.g. Public Resource Code §4516.5(a)(e); see also 14 CCR §§895.1 & 926 et seq. The County now proposes to regulate timber operations by imposing highly restrictive and unreasonable requirements on such private roads that, in all probability, were logging roads at the mm of the century'. In addition, the County is attempting to regulate timber operations with respect to the use of helicopters and restriction of timbering in riparian corridors. The State has preempted the County. Thus, the PROJECTS must be denied because of State preemption.

The County is proposing to adopt these PROJECTS because it does not like the current rules of the State Board of Forestry. Had the State Board of Forestry adopted all the rule amendments recommended by the County, the staff PROJECT recommendations to the Board would not be scheduled for hearing. Essentially, the County is a disgruntle suitor of the Board of Forestry and, therefore, it is attempting to illegally evade the State law preemption. It is

quite clear that Santa **Cruz** County has entered into the business of attempting to regulate timber operations and such an entry is the significant factor (legal cause) for the proposed Board action on November 24, 1998. The primary legal cause and the significant element in this entire process is that the Board of Supervisors of Santa **Cruz** County wanted to force the State Board of Forestry into adopting all of the County's recommendations. Consequently, the proposed PROJECTS now before the Board of Supervisors have been, clearly, preempted by State law. e.g. Public Resources Code § 45 16.5 et seq. (See attachments including letter of California Forestry Association dated November 2, 1998.)

Iv.

THE COUNTY HAS "PRE-COMMITTED" IN VIOLATION OF CEQA,  
DUE PROCESS, AND CONTRARY TO THE PUBLIC INTERESTS.

The Board of Supervisors has "pre-committed" to these PROJECTS, which pre-commitment is in violation of CEQA, the State and Federal Due Process rights of my clients, and contrary to the public interests. A review of the actions taken previously by this Board of Supervisors clearly affirms that the Board was going to adopt this PROJECT if the State Board of Forestry did not adopt all of the County's recommendations for amendments to the regulations, namely--the Forest Practice Regulations. Our Supreme Court in Laurel Heights Improvement Association v. University of California (1988) 47 Cal.3d 376, at 392-384 states:

" . . . CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, before it approves that project.(citations) This requirement is obvious in several sections of CEQA. For example, section 21081 refers to approval of a project for which an EIR 'has been completed,' and section 21151 requires an EIR for a project an agency **intend[s]** to carry out or **approve**' (*Italics added.*) The Guidelines provide even more explicitly that 'Before granting any approval of a project subject to CEQA, every lead agency . . . shall consider a final EIR . . . '(citation) A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If post approval environmental reviews are allowed, EIR's would likely become nothing more than post hoc rationalizations to support action already taken. We have expressly condemned this use of EIR's. (citation) " (emphasis in original)

V.

CEQA REQUIRES AN EIR FOR EACH OF THE COUNTY'S PROJECT.

- A. (1) Under Public Resources Code §21177, grounds for non-compliance with

the California Environmental Quality Act (Public Resources Code §§21,000 et seq.) may be raised by any person prior to the close of public hearing on the project. See also Galante Vineyards v. Monterey Peninsula Water Management District (1997) 60 Cal.App.4th 1109, 1120-1121 Furthermore, no Notice of Determination has been filed with the Office of Public Plan and Research and/or the County Clerk of Santa Cruz County. (See attachment from Clerk.) Also, PROJECT Three has never had any CEQA assessment or Planning Commission review.

In addition, the undersigned hereby requests the copies of all Notices of Determination made in connection with these PROJECTS. The same can be transmitted by U.S. mail to the undersigned at the above address and faxed to my office at 662-0227.

(2) In addition, the Environmental Coordinator attempted to issue a NOTICE OF ENVIRONMENTAL DETERMINATION and CERTIFICATE OF EXEMPTION with respect to each PROJECT. The same was fatally, legally flawed. Although not all inclusive, the environmental review check-list was improperly marked and **not** supported by any substantial, credible evidence. Moreover, there is substantial, credible evidence clearly indicating that there will be significant adverse effects caused by each PROJECT. Consequently, the County of Santa Cruz is required to have prepared an Environmental Impact Report (EIR) and comply with the law under CEQA and the applicable guidelines in the California Code of Regulations, (CCR). (See attachments of Messrs. Mark, Jani, Redding, Rice, and Foxx.)

(3) Also, there was lack of the required personal notice preceding each tentative Negative Declaration. As staff well knew, my clients and other members of the public had requested personal notices of actions to be taken in connection with the above PROJECTS including any notice to determine whether the PROJECT may have a potential impact to the environment. No such required notice was provided to my clients or, for that matter, other members of the public. My clients demand that the County have prepared and properly circulated for public review a Draft Environmental Impact Report (DEIR) for each PROJECT.

(4) An EIR is required whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. Even if other substantial evidence supports the opposite conclusion, the public agency must prepare an EIR. Friends of B Street v. City of Hayward (1980) 106 Cal.App.3d 988, 1000-1003 The "fair argument" standard creates a low threshold for requiring the preparation of an EIR. Sundstrom v. County of Medocino (1988) 202 Cal.App.3d 297, 310 A Negative Declaration is disfavored in that it has a "terminal effect" on the environmental review process. An EIR is necessary to resolve uncertainty created by conflicting assertions. In Sierra Club v. County of Sonoma (1992) 6 Cal.App.4th 1307, 1317-1318, the court stated:

"A court reviewing an agency's decision not to prepare an EIR in the first instance must set aside the decision if the administrative record contains substantial evidence that a proposed project might have a significant environmental impact; in such a case, the agency has not proceeded as required by law. (citation) Stated another way, the question is one of law, i.e. 'the sufficiency of the

evidence to support a fair judgment.' (citation) Under this standard, deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. " (emphasis added)

B. Substantial Evidence Exists **Requiring** the Preparation of **EIRs**.

With respect to the foregoing proposed PROJECTS, there has already been substantial testimony and evidence submitted to the Board of Supervisors and the County that there will be significant, adverse impacts caused by the PROJECTS. Further, each PROJECT has generated a substantial amount of public input, already. Thus, the administrative record, even as it existed prior to the determination of the County Environmental Coordinator, contained substantial evidence of the significant adverse impacts that will be caused by each of these PROJECTS.

Moreover, the enclosures with this letter further substantiate that these PROJECTS will, indeed, have significant adverse environmental impacts on the environment. The enclosures include, but are not limited to:

- (1) Letter dated September 23, 1998, by Dr. Walter R. Mark, Director of the Swanton Pacific Ranch, owned by Cal Poly State University, San Luis Obispo.
- (2) A packet prepared by Michael Jani, Registered Forester with respect to each PROJECT. The curriculum vitae of Mr. Jani is attached to each report.
- (3) Report of Mark Foxx, Engineering Geologist No. 1493, and a Certified Professional in Erosion and Sediment Control No. 857 dated September 17, 1998.
- (4) Letter of Jeffrey Redding, AICP, dated October 15, 1998.
- (5) Letter dated October 12, 1998, of Raymond M. Rice, Hydrologist, Registered Professional Forester, No. 394.
- (6) Letter of California Farm Bureau Federation dated October 30, 1998.
- (7) Letter of California Forestry Association dated November 2, 1998.

In addition, you are referred to the MEMORANDUM transmitted by the Department of Conversation, Office of Governmental and Environmental Relations, dated August 21, 1998, to Kim Schantz, Project Coordinator.

The PROJECTS proposed by the County of Santa Cruz are unreasonable, arbitrary, and capricious. Timbering must be permitted on the timberlands where the natural timbering resources exist. The basic thrusts of the PROJECT is to control and restrict timber operations, relegating timber operations and timber natural resources to other uses such as urban development. (See attachments)

C. The Project Now Proposed To The Board of Supervisors on The November 24, 1998, Agenda Is a New **Project Requiring CEQA Review and Au EIR**.

The staff and the Planning Commission reviewed PROJECTS ONE and TWO. Now, staff is proposing a **new** project (PROJECT THREE) significantly different from PROJECTS ONE and TWO. Thus, CEQA requires an environmental assessment and, ultimately, an EIR. The Board is now considering a project **not** considered, discussed, or even known earlier by either staff or the Planning Commission. Nevertheless, the current proposal to the Board is as objectionable as PROJECTS ONE and TWO for the reasons previously provided and also set forth in this letter together with the attachments hereto.

VI.

**IF ADOPTED, THE ACTION OF THE BOARD OF SUPERVISORS IS UN-REASONABLE, ARBITRARY, AND NOT RELATED TO THE PUBLIC GOOD.**

As indicated above, State policy requires the enhancement and furthering of timber resources and the timbering of the same. Further, selective harvesting of these timber resources promotes vigorous forest growth. Failure to allow timbering or highly restricted timbering creates hazardous fire zones and is detrimental to the healthy forest growth. (See attachments) Moreover, the proposed action of the Board is without any substantial, reasonable relation to the public health and welfare; and such proposed County conduct is unreasonable and arbitrary. (See attachments)

Also, the proposed action to the Board is inconsistent and contrary to State law including the Santa Cruz County General Plan and Local Coastal Program. Your own Santa Cruz County General Plan and Local Coastal Program have designated some of the areas of the timber natural resources on the County Resource Map. Nevertheless, the PROJECTS before the Board of Supervisors dictate that no timbering of these **natural** resources can occur in many of the timber resource areas so designated on the Resource Map including, but not limited to, properties owned my clients. Therefore, the proposed zoning and land use changes are in direct conflict with State law, common sense, and the natural resources designated on the Resource Map. Further, the proposed amendments creating internal conflict within the General Plan and Local Coastal Program. Thus, the proposed PROJECTS are contrary to the State and Federal Constitutions and my clients' rights guaranteed thereby. Moreover, the PROJECTS are inconsistent with State law. Leshar Communications v. City of Walnut Creek (1990) 52 Cal.3d 531, 541

VII.

**THE PROJECTS VIOLATE THE FEDERAL AND STATE CONSTITUTIONAL RIGHTS OF MY CLIENTS.**

Both of my clients have guarantees and rights under, inter alia, the State and Federal Constitution to Due Process, Equal Protection, and Just Compensation for the taking or damaging of property. Further, there is a fundamental inter-dependence between the personal rights of liberty and property rights. Property rights are basic civil rights that have long been

recognized and protected. Lynch v. Household Finance Corporation (1972) 405 U.S. 538, 552 Furthermore, these Federal Constitutional rights are protected under the Federal Civil Rights Act 42 U.S.A 1983 et seq. Moreover, the Due Process Clause, including the Fifth Amendment of the United States Constitution expresses a principal of fairness and not a technical rule or procedure. United States v. Dickenson (1947) 33 1 US. 745, 748 The courts consistently have placed substance over form and are guided in their decisions by consideration of common sense, justice, and fair play. Machine v. Davis (1937) 301 U.S. 548, 590 Moreover, a citizen has the right to expect his government to deal fairly with him. Shoban v. Board of Trustees (1969) 276 Cal.App.2d 538, 543

**The PROJECTS**, if adopted, singularly or in combination, by the Board of Supervisors will violate the above constitutional rights and the Federal Civil Rights Act. Furthermore, the Board of Supervisors is, essentially, angry with the State Board of Forestry because the State Board did not adopt all of the recommendations of the County for timber operations. Now, the County Board is proposing to take out its vengeance on many local people including my clients rather than pursuing the necessary court review of the actions of the State Board of Forestry pursuant to Government Code §§11350 et seq. Such proposed actions by the County Board of Supervisors are a violation of, ~~inter alia~~, basic fairness (due process) guaranteed under the constitutions.

Very truly yours,

  
DENNIS J. KEHOE

DJK:jlc

Attachments: (See pg. 11)

- c: County Counsel, County of Santa Cruz, Attn: Dwight Herr, (Hand Delivered)
- Santa Cruz County Planning Department, (Hand Delivered)
- Clerk, Board of Supervisors, County of Santa Cruz, (Hand Delivered)
- State Board of Forestry
- California Department of Forestry
- The Office of the Attorney General
- Santa Cruz Farm Bureau
- California Coastal Commission, (Hand Delivered)
- California Forestry Association, Attn: Mark S. Rentz, Esq.  
Vice President, Environmental and Legal Affairs

ATTACHMENTS:

1. Letter dated September 23, 1998, by Dr. Walter R. Mark, Director of the **Swanton** Pacific Ranch, owned by Cal Poly State University, San Luis Obispo.
2. A packet prepared by Michael Jam, Registered Forester with respect to each PROJECT. The curriculum vitae of Mr. Jam is attached to each report.
3. Report of Mark Foxx, Engineering Geologist and a Certified Professional in Erosion and Sediment Control dated September 17, 1998.
4. Letter of Jeffrey Redding, AICP, dated October 15, 1998.
5. Letter dated October 12, 1998, of Raymond M. Rice, Hydrologist, Registered Professional Forester.
6. Letter of Clerk of the Board dated September 21, 1998.
7. Public recognition and awards of Homer T. (Bud) **McCrary** .
8. Letter of **Salesian** Society dated August 16, 1998.
9. Letter of Redwood Christian Park dated October 14, 1998.
10. Letter of California Farm Bureau Federation dated October 30, 1998.
11. Letter of California Forestry Association dated November 2, 1998.

ATTACHMENTS

**Swanton Pacific Ranch**  
299 Swanton Road  
Davenport, CA 95017  
(408) 427-1718 / Fax (408) 459-6956

September 23, 1998

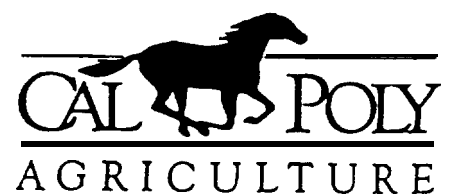
Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

Dear Board of Supervisors:

I am writing this letter to point out some **significant** environmental impacts of the proposed forest practice rules for Santa Cruz County and the proposed zoning alternatives modifying the zoning designations where timber harvesting is allowed. These proposals will cause an environmental problem where stands of Monterey pine exist in the northern portion of Santa Cruz County along the coast. This portion of the County contains portions of the native Ano Nuevo stand of Monterey pine. Many of these stands occur on parcels zoned, CA, A, and SU.

As you are aware, Monterey pine and other species, such as knobcone pine, are affected by pitch canker. This disease poses a very serious threat to the native Monterey pine stands, which are limited in distribution. Monterey pine shows a very low resistance level, in terms of the proportion of individuals resistant to the disease. One of the best ways to protect the future stands is to harvest selectively and to obtain large numbers of seedlings as natural reproduction. This allows the disease to work in the reproduction and to have resistant individuals that survive form a new stand.

Without the disturbance from logging or other factors, such as fire, to provide an adequate seed bed, the Monterey pines do not reproduce well. With the death of large numbers of trees in the existing stands and the lack of disturbance to provide for a seed bed, reproduction in natural stands does not normally occur, and the stands will ultimately be replaced by brush and hardwood species. The ability to manage these stands to obtain natural regeneration appears to be important to their continued survival.





Board of Supervisors  
September 23, 1998  
Page Two

I am a member of the Pitch Canker Task Force and have a doctorate in plant pathology. I am the manager of Swanton Pacific Ranch, which includes a large stand of native Monterey pine on CA zoned land. We had planned a timber harvest in this stand in 1998 to reduce the level of pitch canker and to obtain regeneration while an adequate seed source is still available. This harvest was precluded by the actions of the Board of Supervisors to modify the forest practice rules and the zoning.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter R. Mark", with a long horizontal flourish extending to the right.

Walter R. Mark  
Director

SANTA CRUZ COUNTY MUST PREPARE AN ENVIRONMENTAL IMPACT  
REPORT BECAUSE THIS PROPOSAL WILL CAUSE SIGNIFICANT  
ENVIRONMENTAL EFFECTS

The following will show that Santa Cruz County failed to adequately analyze the environmental effects of this proposal. This led to inappropriate and misleading responses in the Initial Study's Environmental Checklist. A Negative Declaration on the part of planning staff cannot be substantiated by any competent substantial evidence.

PROJECT DESCRIPTION

Amendments to the Santa Cruz County code to limit timber harvesting to the Timber Production Parks, Recreation and Open Space and Mineral Extraction Industrial Zone Districts; To establish improved surfacing standards for Private roads; to delete timber harvesting as a riparian corridor exemption; to establish helicopter regulations related to timber harvesting and to establish locational criteria for timber harvesting in the county. Proposal includes amending County Code Sections 13.10.170(d)-Zoning: Implementation, 13.10.312(b)- Uses in Agricultural Districts, 13.10.322(b)- Residential Uses, 13.10.332(b)- Commercial Uses, 13.10.342- Uses in Industrial Uses, 13.10.342(b)- Mine Site Interim Uses, 13.10.352(b)- Parks, Recreation and Open Space Use Chart, 13.10.362(b)- Allowed Uses in the Public and Community Facilities Zone, 13.10.372(b)- Timber Production Zone Uses Chart, 13.10.382- Allowed Uses in the Special Use "SU" District, 16.20.180- Private Road Standards, 16.30.050- Riparian Corridor Exemptions, and Adding County Code Sections 13.10.378- Timber Harvesting Related Helicopter Regulations and 13.10.695- Locational Criteria for Timber Harvesting

PROJECT EFFECTS

GEOLOGIC FACTORS

In Section XII (add Section 13.10.695 to County Code) of the Project under "Locational Criteria for Timber Harvesting", the County proposes that "timber harvesting and associated activities shall not occur within areas identified as active or recent landslides, as determined by a registered Geologist or Engineering Geologist, based on the most current mapping, photo-interpretation, and/or surface observation".

In the Environmental Review Checklist (ERC, hereafter), Geologic Hazards #1, the County contends that this portion of the Project will have "no impact" on "landslides, mudslides or other slope instability".

\* Prohibition of timber harvesting on active landslides can and will cause further landsliding, mud flows and slope instabilities by eliminating the ability to remove trees from active slide areas. It is a common practice, often suggested by geologists from State Division of Mines during harvest plan review, to remove trees from unstable areas in order to decrease surface weight and to reduce the negative

torsional effects that partially uprooted trees have on active slides. (see attached letter, Mark FOXX, Engineering Geologist) This portion of the Project will cause significant environmental impact.

In the ERC, Geologic Hazards #8, the County contends that the Project will have “no impact” on possible increases of erosion of soils, either on or off site”.

\* Failure to remove tipped and **unstable** trees from active landslides often accelerates further sliding and increases instability. This will increase both short and long term soil erosion in these affected areas. This portion of the Project will cause significant environmental impact unless very specific mitigation measures are provided.

## HYDROLOGIC FACTORS

In Sections: II (13.10.3 12-Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber **from** a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria.

In the ERC, Hydrologic Factors #2 the County contends that the Project will have “no impact on private or public water supply”.

\* When landowners are faced with the prospect of a prohibition of timber harvest on their property, there is a high likelihood that they will turn to some type of development of the parcel so as not to be entirely excluded from some form of reasonable use. In the initial study, this possibility is never discussed yet it is such a potential likelihood, that the failure to **analyze** the potential impacts is both inadvisable and misleading. Public and private water supplies **will** be threatened by increased development in the watersheds.

\* Prohibitions of timber harvest will cause an increase of forest biomass which will lead to much higher water uptakes and a decrease in ground water **supplies**. (Water in Environmental Planning, Thomas Dunne and Luna Leopold, 1978, studies on **Waddell** Creek, Robert Briggs)

\* Many publicly and privately **held** water companies rely on funds generated through timber harvest for improvements and maintenance of their infrastructure for delivery of their water supply. The Project will result in significant reductions in revenues to these water purveyors which may result in an inability to insure an ample water supply. For example, the City of Santa **Cruz** annually harvests timber from its watershed lands. These are bisected by many streams. The proposed

**riparian** buffers will significantly reduce the volume of timber available for harvest within these forested areas.

In the ERC, Hydrologic Factors #4, the County contends that the Project will have “no impact on increased siltation rates”.

\* Development within the watersheds will increase siltation rates unless significantly mitigated. Testimony by the County Planning officials would indicate that the County has **insufficient** staffing and enforcement to realistically mitigate current negative impacts from development let alone what may be expected following implementation of these proposed ordinances. It may be that there is no realistic way to mitigate for this increased development. Furthermore, periodic **re-entries** to properties for commercial timber harvest allows for corrective work and improvements to already existing access roads. Mountainous roads require ongoing maintenance to prevent siltation (see attached letter by Ray Rice, Hydrologist).

In the ERC, Hydrologic Factors #5, the County contends **that** the Project will have “no impact on surface or ground water quality” which may be compromised by “contaminants including silt-urban runoff, nutrient enrichment, pesticides etc.”.

\* Increased rural development will result in significant increases in runoff of contaminants, which cannot be mitigated. There already is **documented** evidence in the San **Lorenzo** Valley that rural development in the forest has lead to **significant** increases in contaminated runoff due to animal enclosures.

In the ERC, Hydrologic Factors #7, the County contends that the Project will have “no impact on groundwater recharge”.

\* See #2 above, also, increased residential development in the watersheds will cause significant reductions in groundwater recharge rates due to residential consumption. This has been documented in the Soquel aquifer and the Santa Margarita (**Scotts** Valley) aquifer.

In the ERC, Hydrologic Factors #9, the County contends that the Project will have “no impact on changes in drainage patterns or rate and amount of runoff”.

\* Access roads, honsepad construction and increased impervious surfaces associated with residential development will significantly alter drainage patterns as well as the rates and amounts of surface runoff.

In the ERC, Hydrologic Factors #10, the County contends that the Project will have “no impact on cumulative saltwater intrusion”.

\* Residential **buildout** in forestland will require increased water use. This will only be accomplished by wells and surface uptakes. This will lead to significant cumulative saltwater intrusion for which there is no current successful mitigation.

## BIOTIC FACTORS

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber from a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria

In the ERC, Biotic Factors # 1, the County contends that the Project will have “less than significant impact on known habitat of any unique, rare or endangered plants or animals”.

\***The** proposed prohibition on harvesting trees in the riparian zones as defined by the County will have a significant negative impact on endangered aquatic species which will not be offset by supposed reductions from other impacts. All fish species referenced by the County require the presence and **instream** inputs of large woody material. Fire, which at one time acted to thin naturally occurring redwood stands, is no longer a feasible management tool given the risk to existing human development in the forest. Now, selective timber harvest is the only **known** method of increasing tree growth while reducing tree numbers to allow for development of these larger trees in second growth redwood stands. Selective harvesting is the only feasible method which could provide this woody material within a reasonable time frame,

In the ERC, Biotic Factors #2, the County contends that the Project will have “less than significant impact on unique or fragile biotic communities”.

\* The naturally occurring Monterey Pine stands located on parcels zoned SU, A and CA are infested with Pitch Canker. Many of these trees are dead and/or dying. **Commercial** salvage of these trees reduces the risk of further infestations and catastrophic fire. These stands are considered a unique biotic community by the County. Prohibitions on harvest of these trees in these locations will have a significant negative environmental effect on this ‘plant community. The lack of timber harvesting in these areas is already impeding the ability to critically research solutions and impacts of this disease. Indeed, given the overcrowded and decadent nature of these stands, mechanical manipulation (logging) of these stands is the only known method of restoring them to a healthy, natural state. This has been

**scientifically** replicated many times over the past two decades throughout California in areas of high visitor use such as Yosemite National Park.

In the ERC, Biotic Factors #3, the County contends that the Project will have “no impact on fire hazard from flammable brush, grass, or trees”.

\* Prohibition of harvest will, in many cases, create unmanageable fuel loads and increase the risk of catastrophic wildfires. This will be compounded by the increase in ignition sources as development, and access to development, encroaches on forest lands. One significant fire could cause such degradation of a watershed that multiple years of runs of anadromous **fish** would disappear and lead to the possibility of extinction.

In the ERC, Biotic Factors #4, the County contends that the Project will have “no impact on change in diversity of species, or number of species of plants or animals”.

\* Selective timber harvesting is the only process that can safely be employed to mimic fire’s natural ecological effects on vegetative cover reduction and early seral stage initiation (regeneration) of **all** plant and animal species which occupy the forest. Prohibition of this management tool will lead to a significant decrease in the diversity and number of plant and animal species. Long term effects that can be expected include: *Increase* in hardwoods, decrease in Douglas **fir**, lack of early successional habitats and a fragmentation of habitats due to the inevitable increase in rural **development**.

## ENERGY AND NATURAL RESOURCES

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber **from** a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria. ”. In Section X, Chapter 13.10 of the County Code is amended to add Section 13.10.378 (Timber Harvest Related Helicopter Operations), items a-d attempt to restrict helicopter operations.

In the ERC, Energy and Natural Resources # 1, the County contends that the Project will have “no impact on timber resources”.

\* The Project **will** have a significant adverse impact on the timber resources of the county by removing some of them from any possibility of production. This is true whether accomplished by zoning designation, residential buffering or for supposed riparian protection. The County’s resource designation, albeit inadequate, clearly

makes recognition of the fact that the forest landscape is limited to particular areas within the County. The fact that the County has identified and mapped this resource indicates that they recognize the inherent significance of the resource. The Projects failure to update the Timber Resource map will insure that valuable timber resource areas are excluded from harvest. To emphatically state that the proposed ordinance will have no impact on the timber resource is **in** direct conflict with the County's current General Plan. The assumption that their actions **will** lead all timberland owners prohibited from logging to rezone to TPZ is seriously flawed. Many owners do not have the monetary resources available to fund the rezoning application and the County required timber management plan. Furthermore, there is no guarantee that all applicants will be allowed to rezone by the County. Once landowners are denied an ability to harvest, they will turn to the sale and/or development of these properties. The County's initial study is far too narrow in scope and must take into account this scenario when considering such zoning changes. More importantly, from a biological perspective, abolition of selective timber harvest within any portion of the forested landscape **will** lead to significant negative environmental impacts. (see Biotic Factors, #4)

\* The project **will** have a significant adverse impact on timber resources state wide in that the proposed prohibitions will reduce significantly, the County's ability to provide wood products from within the range of its resources. This most assuredly **will** lead to the extraction of the resource from areas where timber harvesting is not done with as much environmental **care**. The County will have no control over where the timber procurement **will** be relocated. Because the County's actions will likely not alter the demand for forest products, timber harvesting **will** increase proportionally elsewhere. This will have a decided environmental impact in those areas.

In the ERC, Energy and Natural Resources #2, the County contends that the Project will have "no impact on lands currently utilized for agriculture or designated for agricultural use".

\* Direct prohibitions of timber **harvest** on agriculturally designated lands **will** have a negative economic impact on agriculture and may **cause** farmers and ranchers to **sell** or develop all or portions of their lands or alter their operations in such a way to compensate for their losses that other significant impacts may occur.

In the ERC, Energy and Natural Resources #3, the County contends that the Project **will** have "no impact or encourage activities which result in the use of large amounts of fuel or energy".

\* The proposed ordinances may reduce so significantly the amount of available commercial timber the Santa Cruz Mountains, especially when cumulative removals for park expansion, development and other neighboring county restrictions are taken into account, that the sole remaining sawmill in the area will no longer remain economically viable. Closure of the local mill will significantly increase the out of

county flow of logs to mills in Mendocino County, the Sacramento area and the Southern Sierras, which will result in a significant increase in fuel use for every delivered log load (3-4 times the amount). It will also increase wear and tear on roads and highways.

In the ERC, Energy and Natural Resources #4, the County contends that the Project will have “no impact or a substantial effect on the potential use, extraction, or depletion of a natural resource”.

\* See those listed in 1, above. Additionally, the proposal limiting helicopter operations will have a substantial negative environmental effect by eliminating one of the most environmentally sound methods of timber harvest over a significant portion of the timbered acreage in county. This clearly will affect both the “potential use and extraction of a natural resource”. To assert otherwise is a misrepresentation.

### CULTURAL/AESTHETIC FACTORS

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber from a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria.

In the ERC, Cultural/Aesthetic Factors #5, the County contends that the Project will have “no impact on or interference with established recreational, educational, religious or scientific uses of the area”.

\* Proposed ordinance changes will prevent religious, recreational camps and Educational centers from being able to harvest timber, and from harvesting some of their most productive timberlands. They will not have funds from such harvests to support camp activities and road maintenance, nor will they have the educational opportunity to teach about plant and animal succession and human responsibility to protect natural resources they must use to support civilization (see attached letters, Salesian Society, S.E. Cowell Foundation, Redwood Christian Park).

### SERVICES AND UTILITIES

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special



Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber from a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria.

In the ERC, Services and Utilities # 3 a-f, the County contends that the Project will have “no impact on a need for expanded governmental services”.

\* Policies, which will result in expanded development into the forest, will require expansion of most public services. The largest expansions will be required in fire protection and the maintenance of public roads to service residences on a year round basis. Additionally, technical restrictions such as riparian no-cut **zones** and residential buffers **will** require increased monitoring by public agencies with concurrent agency cost increases.

In the ERC, Services and Utilities #5, the County contends that the Project will have “no impact or result in inadequate access for fire protection”.

\* The elimination of logging as a permitted use **will** lead to a deterioration of adequate fire protection. Roads used for logging will no longer be regularly maintained and kept open for emergency fire access. Private roads, previously used by logging trucks, will in most instances, not have the benefit of periodic equipment on site and financial contributions brought about by **logging** for maintenance and improvements. The County’s assertion that their ordinance **will** improve access assumes that there will be ample funds available to rural landowners for the mandated improvements. Without the ability to harvest timber, where **will** these funds come from?

## TRAFFIC AND TRANSPORTATION

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria’ for Timber Harvesting) the Project completely eliminates all harvest of timber **from** a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber **harvest** is “subject to” restrictive criteria.

In the ERC, Traffic and Transportation #1 , the County contends that the Project will have “no impact on or result in an increase in **traffic** which is substantial in relation to the existing traffic load and capacity of the street system”.

\* As development of the forested lands increases it will place great pressure on substandard, publicly maintained roads in the mountains. It can be expected that

traffic loads will exceed the capacity of the mountain road systems. This is already evidenced by the daily use of Highway 9 and Bear Creek Road in the San Lorenzo Valley. This increased development will necessitate significant alteration of the County infrastructure. This expansion will have serious environmental impacts.

In the ERC, Traffic and Transportation #4, the County contends that the Project will have “no impact on or result in alterations to present patters of circulation or movements of people and/or goods.

\* See item “Energy and Natural Resources # 3, above

#### LAN-D USE/HOUSING

In Sections: II (13.10.312—Uses in A&cultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the Project completely eliminates all harvest of timber from a variety of locations/zones by stating that “timber harvesting is not an allowed use” or that timber harvest is “subject to” restrictive criteria.

In the ERC, Land Use/Housing #3, the County contends that the Project will have “no impact on or result in a substantial alteration of the present or planned land use of an area.”

\* It can be expected that substantial alterations of planned land use will occur as the County’s policies result in irreversible development of prime timberland. As development spreads outward, continued conflicts over timber harvest not addressed by the proposed ordinance, will result in further erosion of the timber base. This in turn will force many timberland owners to turn to development.

In the ERC, Land Use/Housing #5, the County contends that the Project will have “no impact on or result in land use not in conformance with the character of the surrounding neighborhood

\* Clearly, residential housing and all that comes with it, is not in conformance with the character of a fully functioning forested setting.

#### HAZARDS

In Sections: II (13.10.312—Uses in Agricultural Districts), III (13.10.322-Residential Uses) and (13.10.342- Uses in Industrial Districts), VI (13.10.342(b)- Industrial Uses Chart), VII (13.10.352(b)- PR Uses Chart), VIII (13.10.362(b)- Public and Community Facilities Uses), IX (13.10.372(b)- TP Uses Chart), XI (13.10.382- Uses in the Special Use “SU” District), and XII (13.10.695- Locational Criteria for Timber Harvesting) the

Project completely eliminates all harvest of timber from a variety of locations/zones by stating that "timber harvesting is not an allowed use" or that timber harvest is "subject to" restrictive criteria.

In the ERC, Hazards #6, the County contends that the Project will have "no impact on or create a potential substantial fire hazard.

\* See Biotic Factors #3 and Services and Utilities #5

### GENERAL PLANS AND PLANNING POLICY

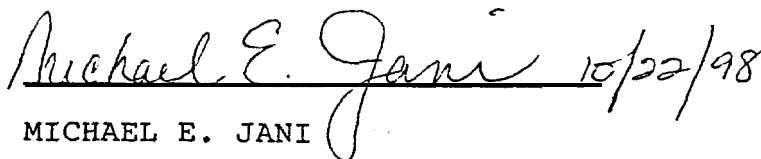
In Section II, ( 13.10.312—Uses in Agricultural Districts), the Project completely eliminates all harvest of timber from the "A, CA and RA "zones by stating that "timber harvesting is not an allowed use". In Section X, Chapter 13.10 of the County Code is amended to add Section 13.10.3 78 (Timber Harvest Related Helicopter Operations). items b, c, and d. attempt to regulate how operations of helicopters will occur.

In the ERC, General Plans and Planning Policy #2, the County contends that the Project will have "no impact nor conflict with any local, state or federal ordinances."

\* County actions have already violated state CEQA procedures (see letter by Jeffrey Redding, AICP).

\* The Project as reviewed is **clearly** in conflict **with** existing state law regarding county authority to regulate timber harvesting. The reviewed language regarding the use of helicopters attempts to regulate the conduct of such operations by limiting the timing and amounts of helicopter operations that can **occur**. The Federal Aviation Administration is the government agency which controls all aspects of air transportation. The County proposal clearly infringes on the jurisdictional authority of this agency. The Environmental Coordinator falsely stated that the proposal would not be in conflict with state law and this was circulated to **all** affected agencies. This clearly calls for **re-circulation** of the document for *review*.

\* The project is in conflict with State Food and Agricultural Code 1997, Sections **22**, Article 8.5 (Cannella Environmental Farming Act of 1995, Section 564) which states that: "Agricultural activities means those activities that generate products as specified in section 5004." Section 5004 states "' product' includes any horticultural, viticultural, aquacultural, forestry, dairy, livestock, poultry, bee, or farm product." The project also is in conflict with Section 58554 which states "' agricultural commodities' means the products of California's farms and ranches and items processed from these products, and includes forest products..."

 10/22/98  
MICHAEL E. JANI

MICHAEL E. JANI

Oct. 21, 1998

Occupation: Chief Forester

Education: B.S. Forestry, 1974, UC Berkeley with honors  
Member: Xi Sigma Pi, Graduate Leadership Santa Cruz, 1993

Licences and Certifications: Registered Professional Forester, State of California #1856, Certified Soil Erosion and Sedimentation Control Specialist #126, Certified by the State of California to do Archaeological Surveys, Certified by the California Department of Fish and Game to do Marbled Murrelett surveys.

Memberships and Affiliations: Member: Senator Bruce McPherson's Agricultural Advisory Committee, Member: California Forestry Association, Legislative Committee, Member: California Licensed Forester's Association, President, Santa Cruz County Farm Bureau, 1995-96, Vice President, 1993-94. Current Chairmen, Forestry Advisory Committee, California Farm Bureau, Member: Land Use Advisory Committee, CFBF, 1995-96, Member: Santa Cruz County Timber Advisory Committee, Santa Cruz County Grand Jury 1982-83, Santa Cruz County Brd. of Supervisor appointee:Local Coastal Plan Review, 1979

Professional Experience: 23 years and currently employed as chief forester for Big Creek Lumber Co., Davenport, Ca.

SANTA CRUZ COUNTY MUST PREPARE AN ENVIRONMENTAL IMPACT  
REPORT BECAUSE THIS PROPOSAL WILL CAUSE SIGNIFICANT  
ENVIRONMENTAL EFFECTS

The following will show that Santa Cruz County failed to adequately analyze the environmental effects of this proposal. This led to inappropriate and misleading responses in the Initial Study's Environmental Checklist. A Negative Declaration on the part of planning staff cannot be substantiated by any competent substantial evidence.

PROJECT DESCRIPTION

General Plan/Local Coastal Program amendment to policy 5.13.5 to add Timber Harvesting as a principal permitted use on Commercial Agricultural zoned land and to policy 5.14.1 to add Timber Harvesting as an allowed use on Non-Commercial Agricultural zoned land; and ordinance amendments to the county code sections 13.10.1.170(d)-zoning implementation, 13.10.312(b)-agricultural zoning use chart, 13.10.382- special use zoning uses chart, 16.20.180-private road standards and 16.30.050-riparian corridor exemptions, and adding county code sections 13.10.386-general plan consistency criteria for Timber Harvesting in the special use district.

PROJECT EFFECTS

GEOLOGIC FACTORS

In Section V (13.10.386 Timber Harvesting in the Special Use "SU" Zone District, item a-3) the County proposes that " areas within recent and/or active landslides, as defined by County Code Section 16.10.040 are excluded from harvest"

In the Environmental Review Checklist (ERC, hereafter), Geologic Hazards # 1, the County contends that this portion of the Project will have "no impact" on "landslides, mudslides or other slope instability".

\* Prohibition of timber harvesting on active landslides can and will cause further landsliding, mud flows and slope instabilities by eliminating the ability to remove trees from active slide areas. It is a common practice, often suggested by geologists from State Division of Mines during harvest plan review, to remove trees from unstable areas in order to decrease surface weight and to reduce the negative torsional effects that partially uprooted trees have on active slides. (see attached letter, Mark **Foxx**, Engineering Geologist) This portion of the Project will cause significant environmental impact.

In the ERC, Geologic Hazards #8, the County contends that the Project will have "no impact" on possible increases of erosion of soils, either on or off site".

--- \* Failure to remove tipped and unstable trees from active landslides often accelerates further sliding and increases instability. This will increase both short

and long term soil erosion in these affected areas. This portion of the Project will cause significant environmental impact unless very specific mitigation measures are provided.

## HYDROLOGIC FACTORS

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), Section IV- Section 13.10.382 a.3, (Uses in the Special Use "SU" District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use "SU" Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber from some areas and proposes various limitations on timber harvest on others. This project would require "Timber Resource" designation before harvest would be allowed on certain zones. The existing "Timber Resource" map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Hydrologic Factors #2 the County contends that the Project will have "no impact on private or public water supply".

\* When landowners are faced with the prospect of a prohibition of timber harvest on their property, there is a high likelihood that they will **turn** to some type of development of **the** parcel so as not to be entirely excluded from some form of reasonable use **In** the initial study, this possibility is never discussed yet it is such a potential likelihood, that the failure to analyze the potential impacts is both inadvisable and misleading. Public and private water supplies will be threatened by increased development in the watersheds.

\* Prohibitions of timber harvest will cause an increase of forest biomass which **will lead** to much higher water uptakes and a decrease in ground water supplies. (Water in Environmental Planning, Thomas **Dunne** and Luna Leopold, 1978, studies on **Waddell** Creek, Robert Briggs)

\* Many publicly and privately held water companies rely on funds generated through timber harvest, possibly from lands zoned "**SU**", for improvements and maintenance of their infrastructure for delivery of their water supply. The Project may result in significant reductions in revenues to these water purveyors which may result in an inability to **insure** an ample water supply. For example, the City of Santa Cruz annually harvests timber from its watershed lands. These are bisected by many streams. The proposed riparian buffers will significantly reduce the volume of timber available for harvest within these forested areas.

In the ERC, Hydrologic Factors #4, the County contends that the Project will have "no impact on increased siltation rates".

\* Development within the watersheds will increase siltation rates unless significantly mitigated. Testimony by the County Planning officials would indicate that the County has **insufficient** staffing and enforcement to realistically mitigate current negative impacts from development let alone what may be expected following implementation of these proposed ordinances. It may be that there is no realistic way to mitigate for this increased development. Furthermore, periodic re-entries to properties for commercial timber harvest allows for corrective work and improvements to already existing access roads. Mountainous roads require ongoing maintenance to prevent siltation (see attached letter by Ray Rice, Hydrologist).

In the ERC, Hydrologic Factors #5, the County contends that the Project will have “no impact on surface or ground water quality” which may be compromised by “contaminants including silt-urban runoff, nutrient enrichment, pesticides etc.”.

\* Increased rural development will result in significant increases in runoff of contaminants, which cannot be mitigated. **There** already is documented evidence in the San **Lorenzo** Valley that rural **development** in the forest has led to significant increases in contaminated runoff due to animal enclosures.

In the ERC, Hydrologic Factors #7, the County contends that the Project will have “no impact on groundwater recharge”.

\* See #2 above, also, increased residential development in the watersheds will cause **significant** reductions in **groundwater** recharge rates due to residential consumption. This has been documented in the Soquel aquifer and the Santa Margarita (**Scotts** Valley) aquifer.

In the ERC, Hydrologic Factors #9, the County contends that the Project will have “no impact on changes in drainage patterns or rate and amount of runoff”.

\* Access roads, **housepad** construction and increased impervious surfaces associated with residential development will significantly alter drainage patterns as well as the rates and amounts of surface runoff.

In the ERC, Hydrologic Factors #10, the County contends that the Project will have “no impact on cumulative saltwater intrusion”.

\* Residential **buildout** in **forestland** will require increased water use. **This** will only be **accomplished** by wells and surface uptakes. This will lead to significant cumulative saltwater intrusion for **which** there is no current successful mitigation.

## BIOTIC FACTORS

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), Section IV- Section 13.10.382 a.3, (Uses in the Special Use" SIT" District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use "SU" Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber from some areas and proposes various limitations on timber harvest on others. This project would require "Timber Resource" designation before harvest would be allowed on certain zones. The existing "Timber Resource" map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Biotic Factors #1, the County contends that the Project will have "no impact on known habitat of any unique, rare or endangered plants or animals".

\*The proposed prohibition on harvesting trees in the **riparian** zones as defined by the County will have a significant negative impact on endangered aquatic species which will not be **offset** by supposed reductions from other impacts. All fish **species** referenced by the County require the presence and **instream** inputs of large woody material. Fire, which at one time acted to **thin** naturally occurring redwood stands, is no longer a feasible management tool given the risk to existing human development in the forest, Now, selective timber harvest is the only **known** method of increasing tree growth while reducing tree numbers to allow for development of these larger trees in second growth redwood stands. Selective harvesting is the only feasible method which could provide this woody material within a reasonable *time* frame,

In the ERC, Biotic Factors #2, the County contends that the Project will have "no impact on unique or & agile biotic **communities**".

\* The naturally occurring Monterey Pine stands located on parcels zoned SU, RA and A are infested with Pitch Canker. Many of these trees are dead **and/or** dying. Commercial salvage of these trees reduces the risk of further infestations and catastrophic fire. These stands are considered a unique biotic community by the County. Prohibitions on harvest of these trees in these locations will have a significant negative environmental effect on this plant community. The lack of timber harvesting in these areas is already impeding the ability to critically research solutions and impacts of this disease. Indeed, given the overcrowded and decadent nature of these stands, mechanical manipulation (logging) of these stands is the only known method of restoring them to a healthy, natural state. **This** has been scientifically replicated many times over the past two decades throughout California in areas of high visitor use such as Yosemite National Park



In the ERC, Biotic Factors #3, the County contends that the Project will have “no impact on fire hazard from flammable brush, grass, or trees”.

\* Prohibition of harvest will, in many cases, create unmanageable fuel loads and increase the risk of catastrophic wildfires. This will be compounded by the increase in ignition source-s as development, and access to development, encroaches on forest lands. One significant fire could cause such degradation of a watershed that multiple years of runs of anadromous fish would disappear and lead to the possibility of extinction.

In the ERC, Biotic Factors #4, the County contends that the Project will have “no impact on change in diversity of species, or number of species of plants or animals”.

\* Selective timber harvesting is the **only** process that can safely be employed to mimic fire’s natural ecological effects on vegetative cover reduction and early seral stage initiation (regeneration) of **all** plant and animal species which occupy the forest. Prohibition of this management tool will lead to a **significant** decrease in the diversity and number of plant and animal species. Long term effects that can be expected include: Increases in hardwoods, decrease in Douglas fir, lack of early successional habitats and a fragmentation of habitats due to the inevitable increase in rural development.

## **ENERGY AND NATURAL RESOURCES**

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.3 12(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a3, (Uses in the Special Use” SU” District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use “SU” Zone District) and by the **exclusion** of Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber **from** some areas and proposes various limitations on timber harvest on others. This project would require “Timber Resource” designation before harvest would be allowed on certain zones. The existing “Timber Resource” map, does not accurately **portray** the timber resources in the county and underestimates the **extent** of the resource. In Section III, Charter 13.10 of the County Code is amended to add Section 13.10.378 (Timber Harvest Related Helicopter Operations). This portion of Project **restricts** helicopter operations for **the** harvest of timber.

In the ERC, Energy and Natural Resources # 1, the County contends that the Project will have “no impact on timber resources”.

\* The Project will have a significant adverse impact on the timber resources of the county by removing some of them from any possibility of production. This is true whether accomplished by zoning designation, residential buffering or for supposed riparian protection. The County’s resource designation, albeit inadequate, clearly makes recognition of the fact that the forest landscape is limited to particular areas

within the County. The fact that the County has identified and mapped this resource indicates that they recognize the inherent significance of the resource. The Projects failure to update the Timber Resource map will insure that valuable timber resource areas are excluded from harvest. To emphatically state that the proposed ordinance will have no impact on the timber resource is in direct conflict with the County's current General Plan. The assumption that their actions will lead all timberland owners prohibited from logging to rezone to **TPZ** is seriously flawed. Many owners do not have the monetary resources available to fund the rezoning application and the County required timber management plan. Furthermore, there is no guarantee that ail applicants will be allowed to rezone by the County. Once landowners are denied an ability to harvest, they will turn to the sale and/or development of these properties. The County's initial study is far too narrow in scope and must take into account this scenario when considering such zoning changes. More importantly, from a biological perspective, abolition of selective timber harvest within any portion of the forested landscape will lead to significant negative environmental impacts. (see Biotic Factors, #4)

\* The project will have a **significant** adverse impact on timber resources state wide in that the proposed prohibitions will reduce significantly, the County's **ability** to provide wood products from within the range of its resources. This **most assuredly** will lead to the extraction of the resource from areas where timber harvesting is not done with as much environmental care. The County will have no control over where the timber procurement **will** be relocated. Because the County's actions will likely not alter the demand for forest products, timber harvesting will increase proportionally elsewhere, This will have a decided environmental impact in those areas.

In the ERC, Energy and Natural Resources #2, the County contends that the Project will have "less than significant impact on lands currently utilized for agriculture or designated for agricultural use".

\* Direct prohibitions or arbitrary limitations of timber harvest on agriculturally designated lands will have a negative economic impact on agriculture and may cause farmers and ranchers to sell or develop **all** or portions of their lands or alter their operations in such a way to compensate for their losses that other significant impacts may occur.

In the ERC, Energy and Natural Resources #3, the County contends that the Project will have "no impact or encourage activities which result in the use of large amounts of fuel or energy".

\* The proposed ordinances may reduce so significantly the amount of available commercial timber the Santa **Cruz** Mountains, especially when cumulative removals for park expansion, development and other neighboring county restrictions are taken into account, that the sole remaining sawmill in the area **will** no longer remain economically viable. Closure of the local mill will significantly increase the out of

county flow of logs to mills in **Mendocino** County, the Sacramento area and the Southern Sierras, which will result in a significant increase in fuel use for every delivered log load (3-4 times the amount). It will also increase wear and tear on roads and highways.

In the ERC, Energy and Natural Resources #4, the County contends that the Project will have “no impact or a substantial effect on the potential use, extraction, or depletion of a natural resource”.

\* See those listed in 1, above. Additionally, the proposal limiting helicopter operations will have a substantial negative environmental effect by eliminating one of the most environmentally sound methods of timber harvest over a significant portion of the timbered acreage in **county**. This clearly will affect both the “potential use and extraction of a natural **resource**”. To assert otherwise is a misrepresentation.

## **CULTURAL/AESTHETIC FACTORS**

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a.3, (Uses in the Special Use” SU” District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use “SU” Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project **eliminates** all harvest of timber **from** some areas and proposes various limitations on timber harvest on others. This project would require “Timber Resource” designation before harvest would be allowed on certain zones. The existing “Timber Resource” map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, **Cultural/Aesthetic** Factors #5, the County contends that the Project will have “no impact on or interference with established recreational, educational, religious or scientific uses of the area”.

\* Proposed ordinance changes will prevent religious, recreational camps and Educational centers from being able to harvest timber, and from harvesting some of their most productive timberlands. They will not have funds from such harvests to support camp activities and road maintenance, nor will they have the educational opportunity to teach about plant and animal succession and human responsibility to protect natural resources they must use to support civilization (see attached letters, **Salesian** Society, S.H. Cowell Foundation, Redwood Christian Park).

## **SERVICES AND UTILITIES**

In Section 5.14.1 (Uses allowed on Non-Commercial **Agricultural(A)** Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a3, (Uses in the Special Use” SU” District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use “SU” Zone District) and by the exclusion of

Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber from some areas and proposes various limitations on timber harvest on others. This project would require “Timber Resource” designation before harvest would be allowed on certain zones. The existing “Timber Resource” map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Services and Utilities # 3 a-f, the County contends that the Project will have “no impact on a need for expanded governmental services”.

\* Policies, which will result in expanded development into the forest, will require expansion of most public services. The largest expansions will be required in fire protection and the maintenance of public roads to service residences on a year round basis. Additionally, technical restrictions such as riparian no-cut zones and residential buffers will require increased monitoring by public agencies with concurrent agency cost increases.

In the ERC, Services and Utilities #5, the County contends that the Project will have “no impact or result in inadequate access for fire protection”.

\* The elimination of logging as a permitted use will lead to a deterioration of adequate fire protection. Roads used for logging will no longer be regularly maintained and kept open for emergency fire access. Private roads, previously used by logging trucks, will in most instances, not have the benefit of periodic equipment on site and financial contributions brought about by logging for maintenance and improvements. The County’s assertion that their ordinance will improve access assumes that there will be ample funds available to rural landowners for the mandated improvements. Without the ability to harvest timber, where will these funds come from?

## TRAFFIC AND TRANSPORTATION

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a.3, (Uses in the Special Use” SU” District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use “SU” Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber from some areas and proposes various limitations on timber harvest on others. This project would require “Timber Resource” designation before harvest would be allowed on certain zones. The existing “Timber Resource” map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Traffic and Transportation #1, the County contends that the Project will have “no impact on or result in an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system”.

\* As development of the forested lands increases it will place great pressure on substandard, publicly maintained roads in the mountains. It can be expected that **traffic** loads will exceed the capacity of the mountain road systems. This is already evidenced by the daily use of Highway 9 and Bear Creek Road in the San Lorenzo Valley. This increased development will necessitate significant alteration of the County infrastructure. This expansion will have serious environmental impacts.

In the ERC, Traffic and Transportation #4, the County contends that the Project will have “no impact on or result in alterations to present patters of circulation or movements of people and/or goods.

\* See item “Energy and Natural Resources # 3, above

### **LAND USE/HOUSING**

In Section 514.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.3 12(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a.3, (Uses in the Special Use”SU” District, Section V- Section 13.10.386a-c (Timber harvesting in the Special Use “SU” Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project eliminates all harvest of timber **from** some areas and proposes various limitations on timber harvest on others. This project would require “Timber Resource” **designation** before harvest would be allowed on certain zones. The existing “Timber Resource”**map**, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Land Use/Housing #3, the **County** contends that the Project will have “no impact on or result in a substantial alteration of the present or planned land use of **an** area.”

\* It can be expected that substantial alterations of planned land use **will** occur as the County’s policies result in irreversible development of prime timberland. As development spreads outward, continued conflicts over timber harvest not addressed by the proposed ordinance, will result in further erosion of the timber base. This in turn will force many timberland owners to turn to development.

In the ERC, **Land Use/Housing #5**, the County contends that the Project **will** have “less than significant impact on or result in land use not in conformance with the character of the surrounding neighborhood,

\* Clearly, residential housing and all that comes with it, is not in conformance with the character of a fully functioning forested setting.

### **HAZARDS**

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands),

Section II- Section 13.10.312(b)- (Agricultural Use Chart), , Section IV- Section 13.10.382 a.3, (Uses in the Special Use "SU" District., Section V- Section 13.10.386a-c , (Timber harvesting in the Special Use "SU" Zone District) and by the exclusion of Timber Harvest as a permitted use in the RA zones, the Project eliminates **all** harvest of timber from <sup>some</sup> areas and proposes various limitations on timber harvest on others. This project would require "Timber Resource" designation before harvest would be allowed on certain zones. The existing "Timber Resource" map, does not accurately portray the timber resources in the county and underestimates the extent of the resource.

In the ERC, Hazards #6, the County contends that the Project will have "no impact on or create a potential substantial fire hazard.

\* See Biotic Factors #3 and Services and Utilities #5

### GENERAL PLANS AND PLANNING POLICY

In Section 5.14.1 (Uses allowed on Non-Commercial Agricultural(A) Zoned Lands), Section II- Section 13.10.312(b)- (Agricultural Use Chart), the Project limits harvest on the "A" zone and by exclusion as a permitted use, completely eliminates all harvest of timber from the RA "zone.. In Section X, Chapter 13.10 of the County Code is amended to add Section 13.10.378 (Timber Harvest Related Helicopter Operations), items b, c, and d. attempt to regulate how operations of helicopters **will** occur.

In the ERC, General Plans and Planning Policy #2, the County contends that the Project will have "no impact nor conflict with any local, state or federal ordinances."

\* County actions have already violated state CEQA procedures (see letter by Jeffrey Redding, AICP).

\* The **Project** as reviewed is **clearly in conflict** with existing state **law** regarding county authority to regulate timber harvesting. The reviewed language regarding the use of helicopters attempts to regulate **the** conduct of such operations by limiting the timing and amounts of helicopter operations that can occur. The Federal Aviation Administration is the government agency which controls **all** aspects of air transportation. The County proposal clearly infringes on the jurisdictional authority of this agency. The Environmental Coordinator falsely stated that the proposal would not be in conflict with state law and this was circulated to all affected agencies. This clearly **calls for re-circulation** of the document for review.

\* The project is in conflict with State Food and **Agricultural** Code 1997, Sections 22, Article 8.5 (**Cannella** Environmental Farming Act of 1995, **Section 564**) which states that: "Agricultural activities means those activities that generate products as specified in section 5004." Section 5004 states "' product' includes any horticultural, viticultural, aquacultural, forestry, dairy, livestock, poultry, bee, or farm product." / The project **also** is in conflict with Section 58554 which states " 'agricultural

commodities' means the products of California's farms and ranches and items processed from these products, and includes forest products..."

*Michael E. Jani 10/22/98*  
MICHAEL E. JANI

MICHAEL E. JANI

Oct. 21, 1998

Occupation: Chief Forester

Education: B.S. Forestry, 1974, UC Berkeley with honors  
Member: Xi Sigma Pi, Graduate Leadership Santa Cruz, 1993

Licences and Certifications: Registered Professional Forester, State of California #1856, Certified Soil Erosion and Sedimentation Control Specialist #126, Certified by the State of California to do Archaeological Surveys, Certified by the California Department of Fish and Game to do Marbled Murrelett surveys.

Memberships and Affiliations: Member: Senator Bruce McPherson's Agricultural Advisory Committee, Member: California Forestry Association, Legislative Committee, Member: California Licensed Forester's Association, President, Santa Cruz County Farm Bureau, 1995-96, Vice President, 1993-94. Current Chairman, Forestry Advisory Committee, California Farm Bureau, Member: Land Use Advisory Committee, CFBF, 1995-96, Member: Santa Cruz County Timber Advisory Committee, Santa Cruz County Grand Jury 1982-83, Santa Cruz County Brd. of Supervisor appointee: Local Coastal Plan Review, 1979

Professional Experience: 23 years and currently employed as chief forester for Big Creek Lumber Co., Davenport, Ca.



TO: Santa Cruz County Board of Supervisors  
701 Ocean Street  
Santa Cruz, CA 95060

FROM: Mark Foxx  
1400 Sun Mountain Road  
Felton, CA 95018

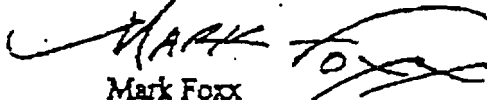
SUBJECT: Ordinance changes that restrict timber harvesting

Dear County Supervisors:

I am a seventeen year resident of Santa Cruz County. My family owns 172 acres of TPZ land in Felton where we live. I am a Certified Engineering Geologist and a Certified Professional in Erosion and Sediment Control and have worked in Santa Cruz County professionally in these fields since 1982. I have reviewed the Initial Study for your proposed changes to Section 13.10.695 of the County Code. It is my professional opinion that removal of trees from active or recent landslide areas is frequently beneficial and results in positive environmental impact. Such removal reduces geologic hazards, decreases erosion, and increases slope stability. Your ordinance 13.10.695 prohibits timber harvesting in these areas without exception and therefore legislates Significant Environmental Impacts. The Initial Study for these ordinance changes falsely indicates that there will be no environmental impact from their implementation.

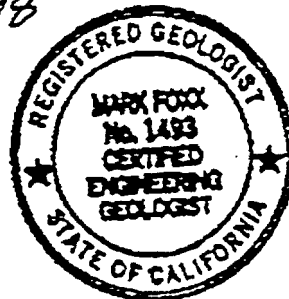
Please call my office if you have questions (831) 427-1770.

Sincerely,



Mark Foxx  
CEG #1493  
CPESC #857

9/17/98



**Jeffrey Redding, AICP  
2423 Renfrew Street  
Napa, California 94558**

October 15, 1998

Dennis Kehoe, Esquire  
311 Bonita Drive  
Aptos, California 95003

Dear Mr. Kehoe:

I have been employed as a professional land use and environmental planner, working both for local governments and in the private sector for some 22 years. I have a Master's Degree Urban Planning, with a specialization in environmental planning and resource management, from UCLA. I am also trained in landscape architecture.

During the course of my professional career, I have had an opportunity to review many proposed ordinances, associated initial studies and a variety of environmental documents. It was in this capacity that I was asked to review the proposed ordinance currently pending before the Santa Cruz Board of Supervisors relating to timber harvesting. I also had an opportunity to review the Initial Study prepared for that ordinance. Based upon this review, I believe that the Initial Study does not provide adequate information for the Santa Cruz Board of Supervisors to make an informed decision on the significant or potentially significant effects of adopting the proposed ordinance. Many of the statements in the Initial Study are conclusionary without the necessary facts to support the conclusion. For example, on page 5 of the Initial Study concludes under Section C Biotic Factors section:

“The proposed ordinance amendments, especially those that require road surfacing and **riparian** buffer in all timber harvests, will aid [emphasis added] in the recovery of Coho salmon, California red-legged frog, and steelhead, trout by decreasing erosion and sedimentation in streams. This is a beneficial impact”

There is no evidence in the Initial Study which supports this conclusion. Arguably, the paving of roads could adversely affect the habitat value of the stream corridor by increasing the rate of run-off into the stream and by channeling heavy metals, associated with brake liming and oil drippings, into the stream. A second example on page 3 of the Initial Study concludes under section A., Geologic Factors:

“The proposed ordinance. . .will likely reduce the potential impact of timber harvesting on geologically unstable slopes . due to the reduction in the number of properties where timber harvesting will be allowed. . .”

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Dennis Kehoe/Santa Cruz Timber harvest Ordinance  
October 15, 1998

In fact, nothing in the Initial Study supports this conclusion. The reader and the decision maker is left with the impression after reading the Initial Study that adopting and implementation of this ordinance not only has no significant or potentially significant effects but will in fact benefit the environment. The facts just aren't present to reach either of these conclusions.

A final example is within Section B, Hydrologic Factors on page 4 of the Initial Study:

“The proposed ordinance amendments are intended to decrease erosion from private roads by requiring road surfacing on all new roads. The establishment of a riparian buffer zone for all timber harvesting will allow sediment to be trapped within the buffers before it can reach streams”

This conclusion may or may not be true but there is certainly no evidence to support the conclusion in the Initial Study. In fact, erosion may in fact be increased by the paving of roads since erosion rates depends upon many factors, including the rate of water run-off, the slopes between the paved road and the stream in question, and the type of soil and soil cover over which the concentrated water will run. The point is that without the evidence to support these kind of broad generalizations, the decision-maker cannot make an informed conclusion about the environmental effects that might result from his/her decision on this ordinance.

In summary, I don't believe that the Initial Study as presently constituted meets the requirements of Chapter 15063 [c][5] of the State CEQA Guidelines.

I believe that adoption and implementation of the ordinance may have a significant effect on the environment necessitating the preparation of a full or focused Environmental Impact Report. This ordinance will have both direct and indirect consequences. I believe that a fair argument could be made that certain provisions of the ordinance may have a significant or potentially significant effect on water quality and biotics as discussed in the above paragraphs. In addition, adopting and implementing the ordinance may have indirect consequences as well. Assuming that there is a demand and market for timber from Santa Cruz County, timber harvesting will still occur even if this ordinance is adopted. The Initial Study assumes this to be true, albeit at a reduced level and in different areas of the County. The indirect effect of this ordinance is to shift those timber harvesting activities to these other areas. Are these parcels suitable for such activities? What environmental constraints do they have? Is/are the environmental effect(s) of shifting timber harvesting activities to other areas of the County “better or worse” with or without this ordinance? The proper place to examine these issues is in an EIR which must examine reasonable foreseeable projects and project alternatives. The Initial Study does reference the fact that property owners may rezone their properties to TP to allow

Page Three  
Dennis Kehoe/Santa Cruz Timber Harvest Ordinance  
October 15, 1998

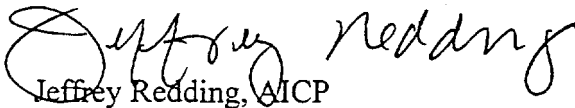
for timber harvesting to take place. Although I don't necessarily agree with the conclusion of the Initial study that such a rezoning is statutorily exempt from CEQA, the time to assess the impacts of this indirect consequence of ordinance adoption is before the ordinance is adopted since the County's process seems to preclude it at a future legislative stage.

In summary, both direct and indirect consequences must be considered by the Lead Agency in determining the significance or potential significance of a project (Section 15064[d] of the State CEQA Guidelines. The Initial Study does not consider direct and indirect impacts of ordinance adoption and implementation and therefore cannot reasonably conclude that adoption and implementation of the ordinance will not have a significant or potentially significant impact on the environment.

I also had an opportunity to read the excerpts from the local newspaper and letters written by interested parties on both sides of the issue. I believe that with the level of public controversy over the environmental effects of this ordinance that the County is obligated to prepare an EIR prior to adopting this ordinance pursuant to Chapter 15064[h][1] of the State CEQA Guidelines.

Please feel free to contact me if I may be of further assistance to you in this matter.

Sincerely,

  
Jeffrey Redding, AICP

44 Robert Court East  
Arcata, CA 95521

12 October 1998

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, Ca 950

Dear Members of the Board:

At the request of Big Creek Lumber Company I have reviewed your Proposed Amendments to the California Forest Practice Rules and the related county Ordinance. I am concerned that some of the proposed micro-management of forest practices may run afoul of the "law of unintended consequences". Before explaining why I hold this opinion let me tell you something of myself so that you may judge my qualifications to advise you.

I have been involved in watershed management research for 42 years: 33 years with the Pacific Southwest Research Station and as a private consultant since retiring from the Forest Service nine years ago (Curriculum Vitae is attached). My area of expertise is in the effects of forest management activities on streamflow and (especially) siltation. On four occasions I have been asked to advise owners of forest land in your county and in San Mateo County concerning erosion and sediment problems. I have also conducted 12 studies on private and public timber lands in other parts of the state.

The effect of disturbances to a steep forested environment, such as is typical of much of the hinterland of your county, is the result of a complicated mixture of vegetation, soil, geology, geomorphology and weather: in addition to the nature of the disturbance itself. Unfortunately, we have little control over those processes. They combine in a somewhat different manner on each site. Furthermore: since the weather is the immediate driving force of any flood flow or sediment discharge it is very difficult to know if a given event is unusual or what a watershed's natural response would be. Background sediment rates are known with any accuracy only in intensively monitored research watersheds. For example the Caspar Creek Experimental Watersheds have 46 station-years of data under undisturbed conditions yet the average annual sediment discharge is only known to an accuracy of plus or minus 22%. This uncertainty is the result of the fact that flows occurring only one percent of the time transport 31 percent of the total sediment (Rice et al. 1979). As a result of this inherently high variability the background sediment production of less intensively monitored watersheds is even more uncertain.

By stipulating management actions to such great detail I fear that your proposed rules will discourage correct responses to unique situations. Some operators will react as one I met some years ago who said, "I couldn't do it right, so I did it legal." To be sure, you allow exceptions but the complexity and detail of your prescriptions will likely deter all but the most determined and innovative. Assuming that the protection of water quality and aquatic resources is one of your objectives, let me cite a few examples where your rules may have a deleterious effect.

The very stringent standards that you propose for new roads may discourage new roads and encourage the continuing use of old roads, many of which were poorly designed and located. They were often near stream channels where any road-related erosion has the greatest opportunity to reach the stream. Roads so located favor tractor yarding. The increasingly expensive surfacings tied to gradient on permanent roads may lead to the use of season31 and lower standard (but longer since they at 3 lower grade) roads. In one of my studies I found that seasonal roads had 20% more erosion per acre of right-of-way than larger permanent roads (McCashion and Rice, 1983).

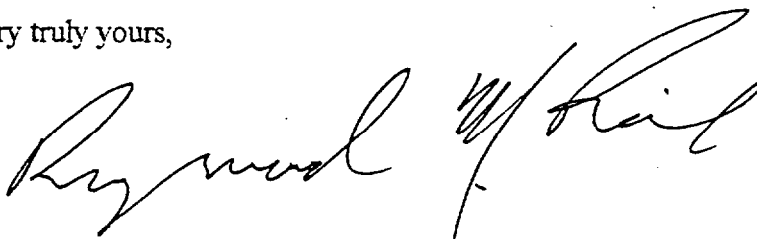
The provision of no-cut corridors on Class I, Class II, and especially Class III watercourses will discourage cable yarding. This too will favor tractor yarding and more sediment.

I presume that the restrictions on helicopter yarding are aimed at noise abatement goals. They appear to me to go beyond what is necessary to achieve that objective. However, that is not my area of expertise. I do know something about erosion from timber harvesting. Helicopter yarding makes it possible to retrieve logs from a forest with the least disturbance to the site.

Restrictions such as you propose may, if adopted, lead to more not less erosion and sedimentation. As I noted above they foster tractor yarding, the least desired method in most cases from an erosion or sediment point of view. Beyond that they likely will foster the conversion of timber land to urban uses. That could be the worst outcome. Dr. Luna Leopold, one of the nation's premier hydrologists: has said "Of all land-used changes affecting the hydrology of an area, urbanization is the most forceful." (Leopold 1968). Demonstrating that point, Wolman and Schick (1967) found sediment rates from urban areas in Maryland were 10 to 100 times greater than those from mainly natural areas. Something similar likely occurs in California. Quite apart from sedimentation effects: the increase of impervious area that accompanies the urbanization of 3 watershed increases runoff which may cause downstream flooding and will almost certainly destabilize stream channels leading to additional sediment yield.

I hope you will give these thoughts of mine careful consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Raymond M. Rice". The signature is written in a cursive, flowing style.

Raymond M. Rice: Hydrologist  
Registered Professional Forester No. 394

**Literature Cited:**

Leopold, L. B., 1968. **Hydrology for urban land planning** – A guide book on the hydrologic effects of urban land use. U. S. Geological Survey Circular 554, 18 pp.

McCashion, J. D. and R. M. Rice, 1983. Erosion on logging roads in northwestern California: How much is avoidable? *Jour. Forestry*, 81(1):23-26.

Rice, R. M., F. B. Tilley, and P. A. Datzman, 1979. A watershed's response to logging and roads: South Fork of Caspar Creel, 1967-1976. Res. Paper PSW-146, 12p.

Wolman, M. G. and P. A. Schick, 1967. Effects of construction on fluvial sediment, urban and suburban areas of Maryland. *Water Resour. Res.* 3(2):451-462.

## CURRICULUM VITAE

### A. Personal Data

1. Name - Raymond M. Rice

2. Educational Background

a. College Degrees

1951 - B.S., Montana State University - Forestry

1961 - M.S., University of California (Berkeley) - Forestry

1970 - Ph.D, Colorado State University - Watershed Management

3. Professional Experience

1951-56 - Forester and District Ranger, GS-5 to GS-9 on the Sierra and Cleveland National Forests.

1956-60 - Forester (Forest Influences) GS-9, and Research Forester (Watershed Management) GS-11, PSW Station, Berkeley. Responsible for planning and executing research in snowpack management in relation to management of forest stands.

1960-63 - Research Forester (Watershed Management) and Project Leader, GS-12, PSW Station, Glendora, Calif. Responsible for all watershed management research at research center.

1963-71 - Research Forester (Watershed Management), or Hydrologist, and Project Leader, GS-13, PSW Station, Glendora, Calif. Responsible for problem analyses and planning and execution of watershed management research in mountains of southern California, with emphasis on flood hydrology.



- 1971-73 - Hydrologist, and Project Leader, GS-14, PSW Station, Glendora, California. Responsible for problem analyses and planning and execution of watershed management research in mountains of southern California, with emphasis on post-fire erosion and rehabilitation of burned watersheds.
- 1973-82 - Supervisory Hydrologist, and Project Leader, multi-functional research work unit, Processes Affecting Management of Pacific Coastal Forests on Unstable Lands, Arcata, California.
- 1982-89 - Hydrologist, GS-15, Effects of Forest Management on Hillslope Processes, Fishery Resources, and Stream Environments. In charge of studies on the Caspar Creek Experimental Watersheds and survey studies of the erosional effects of logging and forest roads.
- 1989- Continues studies at the Redwood Sciences Laboratory as a volunteer and consults with various private organizations.

### B. Professional Activities and Recognition

#### 1. Honors and Awards

Member of academic honor societies: Sigma Xi (Science), Xi Sigma Pi (Forestry), Phi Sigma (Biology), Kappa Tau (Scholastic).

Co-recipient of the 1990 Francis H. Raymond Award for "research of forest management on unstable terrain, which has increased our understanding of the processes that contribute to mass erosion and degradation of aquatic habitat."

Named PSW Outstanding Scientist in 1986 for "outstanding achievement in all phases of wildland hydrology research." The incumbent was one of two recipients of this award during the first year of its existence.

Recipient of the Japan Society for the Promotion of Science Fellowship in 1965. Lectured- and studied at the Laboratory of Erosion Control, Department of Forestry, Kyoto University.

2. Presentations

- a. Invited papers before scientific societies: 11.
- b. Offered papers before scientific societies: 17.
- c. Presentations at technical conferences, workshops, etc.: 25.

3. Society and Committee Participation

- a. Membership in professional societies:

American Geophysical Union  
Society of Sigma Xi

- b. Offices held in professional societies:

- (1) Vice-Chairman, Southern California Section, Society of American Foresters, 1965-1966.
- (2) Chairman, Southern California Section, Society of American Foresters, 1966-1967.
- (3) National Program Chairman, Society of American Foresters, 1970.
- (4) Program Chairman, Hydrology Section Western National Meeting, American Geophysical Union, 1973-1976.
- (5) Working Party Chairman, IUFRO Working Party S1.04-04: Erosion Control by Watershed Management. 1981-1986
- (6) Subject Group Leader, IUFRO Subject Group S1.04: Prevention of Torrent Erosion, Floods and Mud Flows, Snow Damage, and Avalanches. 1987 - 1990.

- c. Committee assignments:

- (1) Policy Committee, Southern California Section, Society of American Forester, 1965-1973.
- (2) Policy Committee, Jedediah Smith Chapter, Northern California Section. Society of American Foresters, 1974-1975.
- (3) Chairman, National Task Force on Water Quality, Society of American Foresters, 1975-1976.

d. Professional Registration:

Registered Professional Forester, State of California: license No. 394.

4. Participation and technical conferences, workshops, etc.

Organized or assisted in the organization and conduct of 6 scientific symposia.

5. Consultations

Advised 10 governmental and private entities concerning erosion, sedimentation and hydrologic consequences of logging, road construction, and fire.

6. Special Assignments

From 1961 to 1985 the incumbent had 13 extended assignments advising or conducting research for Federal, State, and local government entities as well as private and foreign organizations.

7. University Involvement - The incumbent is presently an adjunct professor on the faculty of Humboldt State University. In the past decade he has served on 5 other faculties as a member or chair of 19 master's candidates committees and 5 Ph.D committees. In addition to giving occasional lectures to soils, fire management, and watershed classes, the incumbent, during spring quarter 1978, taught a graduate level course, Fundamentals of Research, in the School of Natural Resources, Humboldt State University and in 1990 taught a similar course in the School of Business Administration. Three times since 1979, the incumbent and his staff taught graduate level courses on erosional processes and management of erosion in forested areas of the Pacific Coast.

The incumbent lectured on hydrologic models, processes and systems and statistical methods and probability theory in hydrology as part of a short course on Statistical and Probability Analysis, of Hydrologic Systems conducted by the School of Engineering, California State University, Los Angeles, 1972.

C. Reporting of Research Results

a. Publications: Senior or sole author of 52 scientific papers; junior author of 27 papers.

b. Translation

Shimizu, Toshio and Yoshihara Kono. 1976. Studies on mountain devastation by heavy rains in July, 1972, on Amakusa District. Bull. Gov. For. Exp. Sta. No. 280, p. 69-93. Translated by Joseph B. Arata and Raymond M. Rice.

Sent by: SIG CREEK LUMBER  
RECEIVED: 9/22/98 1:17 PM;  
Lisa Rudnick  
SEP. -21'98 (MON) 13:22

408 423 2800;  
631 338-0128  
CLERK OF THE BOARD  
09/22/98 2:06 PM; Jetfax #770; Page 2/4  
09/22/98 1:17 PM  
TEL: 408 454 2327

09/22/98 2:06 PM; Jetfax #770; Page 2/4  
09/22/98 1:17 PM  
P.001

**COUNTY OF SANTA CRUZ**  
INTER-OFFICE CORRESPONDENCE

DATE: September 21, 1998  
TO: Lisa Rudnick  
FROM: Julia Sheehan, Clerk of the Board 454-2323  
SUBJECT: Notice of Determination/Negative Declaration

---

Lisa-

As per our conversation of September 3<sup>rd</sup> or 4<sup>th</sup>, there have been no Notices of Determination/Negative Declarations regarding timber harvesting posted in this office during the months of July, August and September, 1998.

LISA RUDNICK

County of Santa Cruz Clerk of the Board 701 Ocean Street Room 500 Santa Cruz, CA 95060 (408) 454-2323		
Charge for: PHOTOCOPIES		
<u>4</u> @ 50¢	<u>-</u> @ 10¢	Total = <u>4</u>
Please remit: \$ 2.00		
Thank You		

# **Homer T. (Bud) McCrary**

**Born: January 13, 1927**

**Santa Cruz, CA**

## **Public Service**

Military Service: United States Navy,	1945-1946
Santa Cruz County Planning Commission,	1969-1970
Calif. District Timber Advisory Committee,	1973-1985
S.C. Co. Timber Tech. Advisory Committee,	1997-1998
S.C. Co. Fish & Game Advisory Commission,	Current

## **Public Recognition and Awards**

Certificate of Special Commendation, State Dept. of Parks & Rec.	1984
Congressional Award: Outstanding Contribution to the Community, the State and the Nation; Congressman Leon E. Pannetta	
Francis H. Raymond Award, State Board of Forestry,	1991
Wildlife Conservation Award, California Dept. of Forestry,	1995
Farmer of the Year, San Mateo County	1998
As recognized by: County of San Mateo Board of Supervisors California State Assembly California House of Representatives San Mateo County Farm Bureau	

California State Senate

*Certificate of*

# RECOGNITION

*Presented To*

**Homer T. "Bud" McCrary**

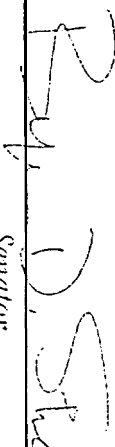
*On the 26<sup>th</sup> of September, 1998*

*In Honor Of*

*your selection as*

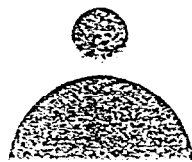
*The San Mateo County Farm Bureau's*

*1998 Farmer of the Year*

  
\_\_\_\_\_  
Senator

\_\_\_\_\_  
Placer County  
Senate District





*California State Assembly*

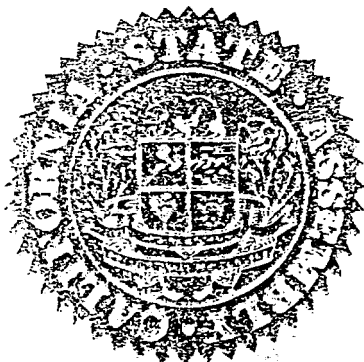
# Certificate Of Appreciation

PRESENTED TO:

**Bud McCrary**

IN HONOR OF:

His selection as Farmer of the Year by the San Mateo County Farm Bureau. Sustainable forest harvesting practices and untold civic contributions to communities near his business have made Bud McCrary an example for others, and will ensure his legacy for generations yet to come.



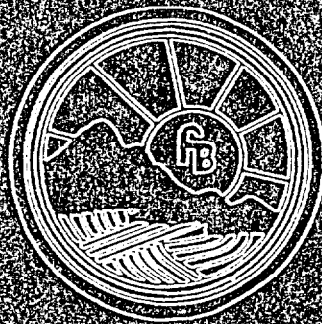
TED LEMPERT

MEMBER OF THE ASSEMBLY

21st ASSEMBLY DISTRICT  
CALIFORNIA STATE LEGISLATURE







1998

FARMER OF THE YEAR

PRESENTED TO

BUD McCRARY

IN RECOGNITION OF HIS OUTSTANDING SERVICE TO  
AGRICULTURE AND COMMUNITY



SAN MATEO COUNTY FARM BUREAU

SEPTEMBER 26, 1998

CONGRESSIONAL AWARD  
Frank and Homer McGary  
Big Creek Lumber Co.

FOR OUTSTANDING CONTRIBUTION  
TO THE COMMUNITY, THE STATE,  
AND THE NATION.



---

LEON E. PANETTA  
Member of Congress — 16th California

THE STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION

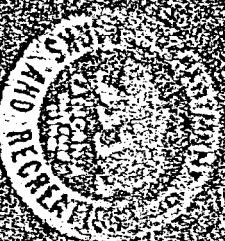
# CERTIFICATE OF

## SPECIAL COMMENDATION

Be it known that a noteworthy  
and significant service to the people of the  
State of California and the State Park System  
has been rendered by

*John J. ...*  
whose credit to the people and the parks

of the State of California  
This contribution to the State Park System  
is hereby gratefully acknowledged for the people



*John J. ...*  
Special Agent in Charge



**THE RESOURCES AGENCY  
CALIFORNIA DEPARTMENT OF FISH AND GAME  
WILDLIFE CONSERVATION AWARD**



**PRESENTED TO: EOMER "BUD" McCRARY  
BIG CREEK LUMBER  
1995 PRIVATE SECTOR AWARD**

**FOR OUTSTANDING WILDLIFE CONSERVATION ACHIEVEMENT**

**FRANCIS H. RAYMOND**

**AWARD**

Presented to

**HOMER T. "Bud" McCRARY**

**IN RECOGNITION OF**

**OUTSTANDING CONTRIBUTIONS TO**

**FORESTRY IN CALIFORNIA**

**1991**

YEAR

CHAIRMAN -  
California State Board of Forestry

This certificate is presented in memory of Francis H. Raymond (1906-1984)  
State Forester (1953-1970) and California's first Registered Professional Forester.



# Resolution

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA  
HONORING

## Homer "Bud" McCrary

FARMER OF THE YEAR

\*\*\*\*\*

WHEREAS, Bud McCrary is being honored as the 1998 Farmer of the Year by the San Mateo County Farm Bureau; and

WHEREAS, Bud McCrary, and his company, Big Creek Lumber, have made significant changes to the lumber industry and have developed "forest practices" adopted by the state; and

WHEREAS, because of Bud McCrary's good neighbor policy, he has been described as having an attitude that hasn't been seen on the parts of loggers elsewhere in California; and

WHEREAS, Bud McCrary is a businessman who happens to love his work as much as he loves the environment that sustains it; and

WHEREAS, Bud McCrary has been logging in the Santa Cruz Mountains for 51 years, since he and his younger brother, Lud, joined with their father and uncle in starting Big Creek Lumber Company after World War II; and


NOW, THEREFORE, BE IT RESOLVED this Board of Supervisors of San Mateo County commends Homer "Bud" McCrary for all of his hard work, commitment, and contributions to San Mateo County.

DATED: September 26, 1998

SUPERVISORS:

  
TOM HUENING, PRESIDENT

  
MARY GRIFFIN

  
RICHARD S. GORDON

  
RUBEN BARRALES

  
MICHAEL D. NEVIN





In the use of Representatives

IN HONOR OF BUD McCrARY  
1998 FARMER OF THE YEAR

WHEREAS Bud McCrary is being honored on this 26th day of September, 1998, as Farmer of the Year by the San Mateo County Farm Bureau; and

WHEREAS Bud McCrary has been logging in the Santa Cruz Mountains for over 50 years, since he and his younger brother joined with their father and uncle in starting Big Creek Lumber Company after World War II; and

WHEREAS Big Creek Lumber Company, under the leadership of Bud McCrary, owns over 10,000 acres of land in the Santa Cruz Mountains, roughly half of which is in San Mateo County; and

WHEREAS Bud McCrary developed over the past half-century forest practices, now incorporated into state and local regulations, which prevent clear-cutting, minimize erosion and stimulate forest growth; and

WHEREAS Bud McCrary has skillfully guided Big Creek Lumber Company, employing sound business practices, culling no more timber than is necessary, causing as little impact as possible so that his children, grandchildren and future generations may continue to harvest timber,

THEREFORE the Honorable Anna G. Eshoo, Member of Congress, 14th District, California, extends her warmest congratulations to Bud McCrary on his being honored as Farmer of the Year by the San Mateo County Farm Bureau and her best wishes for continued success.



  
ANNA G. ESHOO  
MEMBER OF CONGRESS



CITY OF SANTA CRUZ  
CALIFORNIA

# Mayor's Proclamation

- WHEREAS THE MCCRARY FAMILY CHERISHES THE FOREST AND WAS A PIONEER IN LIMITING LOGGING TO A "60-40 CUT" WHICH HAS BEEN ADOPTED BY THE STATE OF CALIFORNIA; and
- WHEREAS DURING TIMES OF DISASTER, THE MCCRARY FAMILY HAS DONATED ITS KNOWLEDGE, EQUIPMENT AND RESOURCES TO THE COMMUNITY; and
- WHEREAS BY BUILDING TRAILS, DEVELOPING PROPER DRAINAGE SYSTEMS, CREATING PROPER ROADS THROUGH THE TREES AND PROTECTING WILDLIFE, THE MCCRARY FAMILY IS A LEADER IN THE RESTORATION OF THE LOCAL STATE PARK AREA; and
- WHEREAS THE MCCRARY FAMILY GOAL IS "THAT IN 200 YEARS SOMEONE WILL LOOK BACK AT WHAT BIG CREEK'S DONE AND SAY, 'THEY KNEW WHAT THEY WERE DOING.' "; and
- WHEREAS ON MONDAY, JUNE 15, 1998, THE SANTA CRUZ CHAPTER OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION WILL AWARD TO THE MCCRARY FAMILY THE 'NATIONAL CONSERVATION AWARD IN HONOR OF ITS DEVOTION TO THE NATURAL RESOURCES OF THE SANTA CRUZ MOUNTAINS:

NOW, THEREFORE, I, CELIA SCOTT, MAYOR OF THE CITY OF SANTA CRUZ, DO HEREBY PROCLAIM MONDAY, JUNE 15, 1996 AS "THE MCCRARY FAMILY DAY" IN THE CITY OF SANTA CRUZ AND URGE ALL CITIZENS TO JOIN ME IN CONGRATULATING THE MCCRARY FAMILY ON BEING AWARDED THE NATIONAL CONSERVATION AWARD BY THE SANTA CRUZ CHAPTER OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION AND ACKNOWLEDGING THEIR YEARS OF DEDICATED SERVICE TO THE CITIZENS AND CITY OF SANTA CRUZ.



  
\_\_\_\_\_  
CELIA SCOTT, MAYOR





THE NATIONAL SOCIETY OF THE

*Daughters of the American*

*Revolution*

INVITES YOU TO

*Our Conservation Award Ceremony*

IN HONOR OF

*The McCrary Family*

RANCHO DEL OSO

June 15, 1998

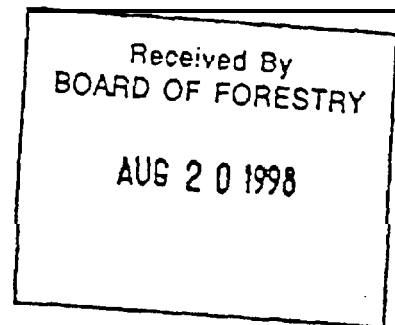
1:00 PM



**Salesian Society**  
SAN FRANCISCO PROVINCE

*Salesians are working the world over.*

OFFICE OF THE TREASURER



August 16, 1998

Board of Forestry  
Attention: Chris Rowney  
1416 Ninth Street  
Sacramento, CA 95814

**RE: TIMBER PRODUCTION ZONE**

Dear Members of the Board of Forestry:

My name is Brother Joseph R Lockwood, Secretary/Treasurer of the Salesian Society a Catholic religious order of men dedicated the education of youth especially the lower middle class. This mission of the Salesian fathers and Brothers is fulfilled by operation of high schools, Boys and Girls Clubs and youth and retreat centers.

Quite a few years ago (1938), the Salesians purchased a few parcels of property located in both the Santa Cruz and Santa Clara Counties. The said property has both open areas for grazing land and timber for select harvest.

As good forest landowners, every ten years as specified by the State of California Department of Forestry the Salesians applied for the necessary permits to select timber harvest.

To operate quality high schools, Boys and Girls Clubs and youth centers; one of the most important ingredients is money. The revenue received from the select timber harvest (Salesian Society Asset) has provided the Salesians the opportunity to award over \$100,000 worth of financial aid to boys and girls attending a Salesian schools and to provide other educational resources to the Clubs and youth centers.

A joint venture between the Salesian Society and the Diocese of Monterey is to open a Catholic High School in the Watsonville area. A portion of the revenue from the next select timber harvest will be used to provide financial aid to student attending this new high school.

The Salesians are very concerned about the action taken by the Santa Cruz County Government. To adopted these proposed rules, the County is forcing the Department of Forestry to take the blame for the diminishing the financial aid to the youth of the Watsonville area

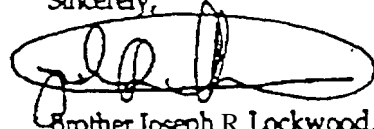
The proposed rules drafted and submitted by a special interest group lack the scientific information and knowledge of good forest management. These proposed rules do not have the backing of the forest landowners and are nothing else than a group of people trying to impose their will on private property owners.

The fathers and Brothers are urging the Board of Forestry to adopt only those rules that were submitted by the County of Santa Cruz that pertain to good forest management. We also urge the Board to be brave enough to reject the all the threats coming from the special interest group and the Santa Cruz County Government.

As forest landowners, we can **not** sit back and allow a **government agency** to stifle the education of young people, the future of **this State** or to **confiscate** the **financial resources** that our educational **institutions depend on**. We are ready **to take** any action(s) that is **necessary** to prevent a **government agency** and **special** interest group from **confiscating** private **resources**.

Thank you,

Sincerely,



Brother Joseph R. Lockwood, SDB  
Secretary/Treasurer



# REDWOOD

CHRISTIAN PARK

October 14, 1998

Board of Forestry  
Attn: cbii Rowney  
1416 Ninth St.  
Sacramento, CA 95814

RE: "Special County Rules" Proposal for the County of Santa Cruz

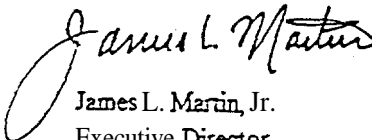
Dear Mr. Rowney:

This purpose of this letter is to follow up previous correspondence related to efforts of the few political zealots desiring further control over the private affairs of the citizens of Santa Cruz county. I want to reiee my strong disapproval of these efforts to deny the private citizens of Santa Cruz county the right to prudently manage the resources that we own.

Redwood Christian Park has been an established organized camp in Santa Cruz county since 1950. We are a nonprofit organization that has accomplished much good in marry ways. Our programs reach out to youth, families and adults, and provide them with development opportunities for personal growth and community service. We have hosted outdoor education programs and are beginning the development of new ones. We provide jobs for the community and attract over 15,000 guests per year to our area. These guests become tourists and spend their money in this county, providing jobs and tax revenue. On occasion, Redwood Christian Park has engaged in timber harvesting to help fund the operation for the purpose of providing organized camps and various programs. Timber is one of our zassets, and timber harvesting has been and should be one of our sources of funding. As responsible citizens, we deserve the right to utilize our timber assets.

One of the primary reasons citizens of this county live here is the forest. With regard to timber harvesting, I don't know of anyone in this area that has anything but the very best interest of our forest and its future at heart. We like the trees and we have the necessary regulations in place to protect their future. Once again, please disregard the "Rules" proposal for the political faction that it represents and de-vote your attention to real issues that relate to the people and to the land of California.

Yours truly,



James L. Martin, Jr.  
Executive Director



# CALIFORNIA FARM BUREAU FEDERATION

NATIONAL AFFAIRS AND RESEARCH DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3239 • PHONE (916) 561-5610 • FAX (916) 561-5693

October 30, 1998

Members of the Board of Forestry  
State Board of Forestry  
1416 Ninth Street  
Sacramento, CA 95814

## RE: Santa Cruz County Rule Package

Dear Members of the Board:

The California Farm Bureau Federation must, once again, **object** to the rule **changes** proposed by the county of Santa **Cruz**. None of the issues raised in our letter, dated September 1, 1998, or by affected landowners at the South Lake **Tahoe** hearing in September have been adequately **addressed**. The county has failed to bring forth any credible evidence to **justify** the proposed rule changes or **demonstrate** a need for **this** package. The **county's** best **argument**, that additional development for the growing population is **the** best use for the Santa **Cruz** County mountains, lacks merit for a variety of reasons.

**First** and foremost the purposes of the Z'berg-Nejedly Forest Practices Act, the Forest **Practice** Rules **and** the Board of Forestry are to encourage prudent and responsible forest **resource** management and to assure that the productivity of California's timberlands is restored, **enhanced** and maintained. This rule package is contrary to responsible forest management and the intent and purpose of the Board of Forestry and **the rules** and regulations governing forest practices. **The** state faces increased pressures **from** an ever-expanding population. Following Santa **Cruz** County's logic, **all** of our forests should be **paved** and subdivided to accommodate **the** needs of an exploding **population**.

In its quest to **accommodate** the population **growth**, Santa **Cruz** County appears ready to **create** environmental havoc. This rule package will increase **sedimentation**, mass wasting and **failed** roads because it will **increase** the **number** of people living in the Santa **Cruz** mountains. Development, unlike **the** responsible forestry currently being practiced in **the** area, is a permanent land conversion that substantially alters the landscape and creates environmental **harm**. Greater **fragmentation** will occur and more homes will **create** additional problems in the wildland-urban **interface** area and increase **fire** hazards. Because of the area's geological and hydrological properties, **the** area will not tolerate **the** demands of increased subdivisions and greater population density. This rule package will only **exacerbate** the massive problems existing subdivisions have **already created** in the **area**.

To appease a small but vocal group and forward their anti-timber agenda, the county appears willing to eliminate, or severely curtail, responsible forest management, threaten the **environmental** integrity of the Santa **Cruz** mountains **and** increase the risk to public **health** and safety by permitting construction on **unstable** slopes and in areas where forests, not homes **and** driveways, are the proper and best use for the land.

Page Two  
Members of the Board  
October 30, 1998

We are concerned that the county is recruiting the Board of Forests help to destroy both the timber industry and the environment in the Santa Cruz mountains. Although Farm Bureau objects to the package in its entirety, the following discussion illustrates the reasons for its objections.

**NOTICING (926.3):**

The noticing requirement is excessive. We question the ultimate purpose this rule will serve, particularly in light of the significant cost increase it will pose in areas where high density housing is adjacent to harvest sites. We wonder why this noticing must be done twice. This will double the cost to the plan submitter and may confuse the public. This noticing could easily be misused by community activists as a way to organize opposition to the timber harvest plan and interfere seriously with the plan operations.

The need to post a Notice of Intent for helicopter logging at a minimum of one conspicuous location every half mile on all public roads within a two mile radius of the proposed area of operations (p. 3, lines 13-15) is excessive, costly and extremely burdensome to the plan submitter. Posting the notice in a conspicuous location, combined with the required mailing is adequate to ensure public notice. Any further notice is duplicative and wastes time and money.

The language on lines 19 through 22 of page three, concerning water districts, is too broad and could be interpreted to include everything from the mainstem of a given waterbody to the coast. If interpreted this way, again, the noticing requirements will be costly and almost impossible to carry out.

**REVIEW TEAM FIELD REVIEW (926.7)**

Additional language is needed to address liability. Who assumes liability if a member of the public who is not a member of the review team is injured while on the property? It must be explicitly stated that the landowner is not liable for injuries which may occur to a review team participant or any individual representing the public.

What qualifications or general knowledge, must this individual have concerning silvicultural methods and timber harvest operations? Since this member will have the opportunity to question review team members and participate in the pre-harvest inspection, it is imperative that the individual have some expertise concerning timber operations. This will make the experience useful for all the parties. Furthermore, if the individual becomes disruptive or confrontational, we believe the review team chair must have the authority to ask the person to leave. This will avoid the potential for the creation of a divisive and confrontational atmosphere.

**Page Three****Members of the Board****October 30, 1998****ROADS (926.15 and 926.17)**

This language is unnecessary because the Forest Practice **Rules**, at 14 CCR 914.2(f) already provides these restrictions and provides for site-specific mitigation when exceptions to **these rules** are proposed. In addition to being duplicative, the county has failed to supply the evidence to justify this rule, despite **numerous** written and **verbal** requests by both the Board and the public.

We **further** question why the county is so adamant **in** requiring new restrictions on roads **constructed** for timber harvest but has not placed the same requirements on private or county roads. This is within their authority and is certainly warranted. A recent watershed assessment **undertaken** by **Barry Hecht** and **Gary Kittleson** found that the most persistent, chronic source of sediment came **from** year round road use, and especially **unpaved** roads and drives primarily for residential access. In light of the county's determination to **further** develop the Santa **Cruz mountains**, and thus increase both road density and traffic on **existing** roads, a **more** prudent exercise would be for the Board of **Supervisors** to address their own road problems rather than mandating the Board of **Forestry** adopt duplicative and costly regulations to **timber** roads that **will** not measurably improve sediment run-off or mass-wasting events. Until the county passes ordinances requiring private and county **roads** be built and maintained to similar standards that forest roads are currently held to, it is premature **to** consider these proposed changes.

**CONTENTS OF PLAN (926.23)**

We **object** to requiring the plan submitter to document the existing conditions of the road. If the county or road association believes the road has **been damaged**, they must bear the burden of proof. The plan submitter must not **have** to prove his innocence, rather the **county** or the road association must bear the burden of proving the plan submitter's guilt. **This shift** in responsibility is unacceptable. **It** should remain the plan submitter's **prerogative** to voluntarily submit such **documentation**.

**RESIDENTIAL BUFFER ZONE (926.24)**

The county has **not** established **that** harvesting **timber** is a threat to public health and **safety**, nor have they demonstrated a need **to** impose such a **heavy burden** on private landowners. A 300 foot "no cut" residential buffer, **combined** with the **riparian** exclusions and reduced cutting intensities will make it impossible for landowners to continue responsible timber management. The cumulative reductions combined **with the** added expenses imposed by this rules package will make **timber** harvesting too expensive for virtually all landowners. Thus, this rule is not **consistent** with the intent and purposes of this Board, the Forest **Practices** Act nor the Forest **Practices** Rules. **There** is no **scientific** evidence which can **support** this rule. **There** are no sound **silvicultural** reasons **which** support this **rule**. This blanket "no cut" zone is unnecessary and unacceptable.

Page Four  
Members of the Board  
October 30, 1998

### WATER COURSE AND LAKE PROTECTION (926.26)

Again, the county has failed to provide any documentation **demonstrating** the need for this rule. The current rules and the 2090 agreement adequately protect watercourses. For the reasons discussed under the Special Harvest Methods section, we oppose this rule.

### SPECIAL HARVEST METHODS (926.25)

The proposed harvest methods for **both** TPZ and non-TPZ lands are also completely unacceptable. Once **again**, the county has **failed** to justify these proposed changes. A need has not been demonstrated and these changes are not scientifically nor **silviculturally** sound. Forestry practiced in **Santa Cruz county** is the most progressive in the world. **Rather** than rewarding the foresight and responsible way in which foresters have acted in Santa **Cruz** County, the county is **requesting** the Board to punish these professionals. The current rules provide protection for the resources **and** allow for consideration of **site-specific** conditions. This rule is **unnecessary** and **unjustified**.

### HELICOPTER OPERATIONS (926.28)

We question why the County is intent on severely restricting **one** of the most environmentally friendly harvest methods. While some control over helicopter operations may be warranted due to the potential noise impacts, this proposal goes too **far**. The restrictions on TPZ **lands** have the potential for a single company to effectively **lock-out all** competition in a given watershed. The limitations on **non-TPZ** lands are unfounded because **helicopter** logging **has** been proven to be an **environmentally** responsible harvest method. **We** further question the Board or County's authority to regulate flight paths.

### ENTRY BY COUNTY REPRESENTATIVE FOR INSPECTION (926.3)

This **proposal** only compounds the divisive, hostile environment surrounding **timber** harvesting **within** the county. **It** provides **no** additional resource protection and may, in fact, lead to a campaign of misinformation and propaganda by the community's anti-timber activists.

There is no **need** to allow a county representative to "document" purported violations of the **THP and** keep that "documentation" as property of the **county**. The potential for misuse of **this** "documentation\*" is **extreme**. The "**documentation**" would have to be given to any individual who requested it, at **which** point the county would have no **control** over the **use**, or misuse, of **the** "documentation". **Since** this **documentation** is of merely purported violations, which may not be **actual** violations **once** investigated by CDF, it is **irresponsible** to allow the information to be utilized by the public. Furthermore, at **any** time the county believes a violation has occurred, it is mandated **to** contact **CDF**. **At** which point, **CDF** is required **to** investigate and take the appropriate actions. Thus, this rule **serves** no purpose.



Page Five  
Members of the Board  
October 30, 1998


**CONCLUSION:**

The California **Farm** Bureau Federation remains opposed to all aspects of this rule proposal, The county has failed to provide technical **justification** and demonstrate any need for these proposed changes. We continue to object to the manner in which this rule package was presented and believe it is premature for **the** Board to take any action until the county **settles** its zoning ordinance issues. The Board can not make well-informed decisions until a zoning ordinance is in place.

The county must not be allowed to use the threat of implementing a more restrictive zoning **ordinance** to force the Board to adopt questionable **rules**. **This** rule package must **be judged** on its merit and whether or not there are factual and demonstrable **needs**, based on sound science, for the proposed rules and changes. The Board should only **consider** rules **and** changes which are consistent **with** the intent and purpose of the Forest Practices Act and Forest Practices Rules. None of the county's proposed **rules** and changes meet these criteria

Passage of this rule package will be cost prohibitive and will force many timber landowners out of business. We reiterate that **this** rule package will result in decreased forest health and increased environmental harm as timber landowners are forced off **their** land while asphalt and houses replace fore&s.

Sincerely,

  
RONDA LUCAS  
Director

cc: ✓ **Bill Pauli, President, California Farm Bureau Federation**  
Art Dove, Field **Representative**  
Santa **Cruz** County **Farm Bureau**




# CALIFORNIA FORESTRY ASSOCIATION

November 2, 1998



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Mr. Robert Kerstiens  
Chair, Board of Forestry  
1416 Ninth Street, Room 1506-14  
Sacramento, California 958 14

RE: **Santa Cruz County Proposal to Amend *the* Forest Practice Rules**

Dear Mr. Kerstiens:

The California Forestry Association (CFA) submits the following comments to the Board of Forestry ("Board") on the behalf of our members. Members include professional foresters, forest landowners and producers of wood products and biomass energy who are directly affected by changes to the Forest Practice Rules (FPRs). Our membership includes companies and registered professional foresters (RPFs) that do business in Santa Cruz county as well as persons who own land in the county.

As we stated in our previous comments dated August 28, 1998 (copy attached), CFA recognizes the challenges facing counties such as Santa Cruz in dealing with the accelerated expansion of residential development in the countryside. CFA staff has attended every public hearing held by the Board on the County's proposal, as well as several meeting of local concerned citizens in Santa Cruz county. The challenges inherent with the rapid population growth in a historically rural county such as Santa Cruz county are occurring throughout the State. As we approach the 21<sup>st</sup> Century the Board of Forestry will increasingly be challenged with the responsibility to provide a balance between forest ecosystems and an expanding urban population while ensuring "prudent and responsible forest resource management calculated to serve the public's need for timber and forest products". *Z'berg Nejedley Forest Practice Act of 1973* ("Fores: Practice Act"). See Public Resources Code (PRC) § 4512(c).

We have had an opportunity to review the most recently revised proposal submitted by the County of Santa Cruz and, for the most part have come to the same conclusions. We believe that, for the most part, the County's proposal:

- (1) inadvertently promotes converting vital forestlands to urban and residential development, consequently undermining the integrity of the Central Coastal Redwood Forest Ecosystem;
- (2) discourages rather than encourage the enhancement of timberlands as set forth in PRC § 4513(a);
- (3) severely limits forest landowners' abilities to manage their forest lends in an environmentally and economically reasonable manner,

and

- (4) some of the proposals, namely the no harvest zones, may in fact constitute a taking of private property for public benefit without the payment of just compensation in violation of the Forest Practice Act (See PRC §4512(d)), the California Constitution and the United States Constitution.

The following issues constitute the major concerns, but not all the concerns, CFA members have with the proposed rulemaking package submitted by Santa Cruz County.

**1. The County of Santa Cruz has failed to establish necessity for most of the operational proposals.**

Public Resource Code (PRC) § 4516.5(b)(2) provides that the Board shall adopt additional rules and regulations proposed by a county if the Board finds that the proposal(s) are "necessary to protect the needs and conditions of the county recommending them." Emphasis added. The mere fact that the County of Santa Cruz has come before the Board with a set of proposals does not, *de facto*, establish necessity. The Board must find that the current Forest Practice Rules (FPRs) and enforcement procedures are inadequate to protect the "needs and conditions of the county."

As the Board is aware, Santa Cruz county currently has some of the most restrictive timber forestry restrictions in the State. In addition to the state-wide FPRs, registered professional foresters (RPFs), licensed timber operators (LTOs) and forest landowners in Santa Cruz county are regulated by Southern Sub-District Forest Practice Rules and specific county FPRs. And if there is any doubt as to the adequacy of environmental protections, it should be noted that these same parties are further constrained by the terms of the "Coho Salmon Biological Opinion and 2090 Agreement for Timber Harvest Plans South of San Francisco Bay" entered into by the Directors of the California Department of Fish and Game (CDF&G) and the Department of Forestry and Fire Protection (CDF) in early 1996.

Throughout the public hearings, CFA staff and other interested parties have continuously requested that the Board's Forest Practice Committee require the County to provide adequate documentation establishing the necessity or justification for the additional operational restrictions proposed by the County. To the best of our knowledge the County has failed to present such documentation. This documentation should include an analysis of the economic effects of the proposals on landowners, operators and the County.

For the record, CFA was informed by our members in Santa Cruz county that last week the County submitted to the Board documentation "justifying" the proposed rulemaking. In all fairness to open public participation, we believe that this documentation should be noticed by the Board and an adequate opportunity (at least 30 days) be given for public review and comment.

**2. Proposed Amendments to 14 CCR 926.3: Plan Submittal and Notice of Intent**

CFA realizes that often requests for additional public notification is often a concern best dealt with at the local level. In all likelihood the proposals for additional notification are in response to the County's increasing concern over the expansion of urban and residential development into rural forest lands throughout the county. It truly may be in the best interests of maintaining good neighbor relationships to provide additional notification about proposed forestry operations.

The question remains as to whether the County has adequately considered the additional costs associated with proposed requirements under 14 CCR 926.3. The proposed amendments include requiring the timber harvest plan (THP) submitter to individually notify: (1) all property owners within 300 feet of the proposed planning area; (2) all property owners and residents (if different from property owners) within 3000 feet of any helicopter operations; (3) all members of all private road associations with regards to roads to be utilized in the forestry operations; and (4) all community water systems downstream from any location within which any operation is proposed. Furthermore, the county proposes that the plan submitter post a notice in "conspicuous locations". If the plan involves helicopter operations a notice must be posted "every half mile on all public roads within a 2 mile radius of the proposed area of operations." Remember, this is a Notice of Intent with regards to a proposed plan, and NOT a safety notice prior to commencement of operations.

This is in addition to the current rules which require a plan submitter to publish a "Notice of Intent in a newspaper of general circulation in the area where the project is proposed concurrent with the submission of the plan to the Director." Id. PRC § 926.3(d). We believe that the proposed notification requirements are excessive. With regards to the posting in conspicuous locations we query as to whether the submitter will be responsible for continually monitoring the postings and replacing signs that have been damaged or removed. Furthermore, will CDF have additional enforcement responsibilities to ensure that the proposed posting rules are complied with?

It may be in the best interests of all affected parties for the County to revisit its proposed Notice of Intent requirements and consider a more reasonable, balanced approach that shares notification responsibilities and costs between the County and the plan submitter.

### 3. Proposed Amendments to 926.7: Review Team Field Review

We question the appropriateness or necessity for designating a neighborhood representative to attend scheduled THP preharvest inspections, Review Team field inspections and scheduled meetings. 14 CCR 10373, "Agency and Public Review" provides that the CDF Director "shall invite written comments [from the public] and will consider these comments." Also see PRC §§ 4582.6 and 4582.7. Currently, a plan submitter has the discretion to bring any interested party onto the land to get an on-the-ground review of the proposed THP. In that this proposal allows the landowner to deny admittance to the designated neighborhood representative, we believe that this portion of the proposal is merely redundant.

If the Board decides to move ahead with the County's proposal to designate a neighborhood representative there are three issues that need to be resolved as part of the amendments to § 926.7:

- (1) The Board must identify a set of qualifications applicable to possible neighborhood representative. This should include a working knowledge of technical forestry, silvicultural and timber harvesting practices, as well as the Forest Practice Rules.
- (2) The Board must make it explicitly clear that the landowner will bear no responsibility (i.e. liability) for any injury sustained by the representative while participating in THP preharvest or field inspections. It is the business of the State or County as to whether either is willing to assume any such responsibility.
- (3) The language amending § 926.7 must expressly state that the decision of the plan submitter to deny access to the designated neighborhood representative will have no consequence on the decision to accept, reject or modify the THP. Furthermore, given the potential prejudice such a decision may have with regards to any possible administrative appeals or legal action, we believe that the decision to deny access should be excluded from the administrative file for the THP.

### 4. Proposed Amendments to 926.13: Performance Bonding

Any damage to a private road allegedly resulting from log hauling operations is a civil matter best handled between person responsible for log hauling and owner of the private road. We query whether CDF wants to assume the additional responsibility for monitoring private roads and determining who are the responsible parties and apportioning liability for damages to private roads.

5. Proposed Amendments to 926.15: Road Construction

Existing language under 14 CCR 923.1(b), "Planning for Roads and Landings", and 923.2(b) and © already address the County's concerns with regards to road construction on steep slopes. We believe that the proposed amendments will create havoc for many road construction projects, and in many cases may cause unnecessary adverse environmental impacts. For example, section (a)(2) of the proposed amendments would require the operator to excavate all the cut material, remove it from the road site and then bring it back for recontouring purposes as part of the road abandonment requirements. The additional transport and placement of soil may increase the likelihood of sediment transport into watercourses. The proposed alternative in section (a)(2) return of all side-cast materials to the roadbed may also increase the potential for sediment transport in situations where a stable roadbed already exists. Foresters and transportation engineers should have the flexibility to design and maintain roads in a manner that environmentally responsible as well as economically viable.

We oppose the blanket road surfacing requirements proposed under the amendments to § 926.15(a)(5). The proponents have failed to demonstrate the necessity for such surfacing requirements for all permanent logging roads throughout the County. Furthermore, we do not believe the County has fully addressed all the potential problems associated with determining "ratable costs" not attributable to the plan submitter. For example, how will the County assure that the costs associated the portion not attributable to the plan submitter (i.e. associated with "other road users") will be collected in a timely manner? Or will the collection be the responsibility of the plan submitter? If so, what authority will the submitter have to collect a "road-use fee"? These questions were raised before the Forest Practice Committee but have yet to be addressed in the proposed amendments.

6. Proposal to Adopt a New Section, 14 CCR 926.25: Special Harvesting Methods

CFA opposes the proposed cutting prescriptions set forth under the new section, 14 CCR 926.25. There is no biological, silvicultural or logical justification for applying different silvicultural prescriptions to Non-Timber Production Zone (TPZ) lands and TPZ lands. While general silvicultural guidelines may be beneficial, the proposed county-wide cutting standards are indefensible. Such a proposal runs completely counter to the basic premise of the Forest Practice Rules – i.e. forest management activities should be designed by a registered professional forester taking into account professional judgment and site-specific conditions. See 14 CCR 897, "Implementation of the [Forest Practice] Act".

The main defense for these proposals was presented by a proponent last month before the Forest Practice Committee. The proponent developed a computer "model" which he alleged demonstrated the appropriateness of these cutting standards. To the best of our knowledge this individual is neither a licensed professional forester or even educated in forest management or silvicultural applications. The person did admit that his model had no scientific peer review. It would be completely inappropriate, and would undermine the Board's credibility, to accept these standards as forest practice rules absent scientifically-credible justification.

7. Proposal to Adopt a New Section, 14 CCR 926.28, Helicopter Operations

Today, more foresters, hydrologists, geomorphologists, and fisheries biologists, are encouraging helicopter logging as an environmentally-sensitive alternative to conventional timber harvesting systems, where the conditions warrant additional environmental protections. We are astounded with extensive ~~concern~~ that the County proposes to apply to helicopter logging. It would appear that the County wants to discourage the use of helicopter logging in Santa Cruz county. We recognize the need to be sensitive to needs of adjacent residences, and understand that some restrictions operating hours and weekend/holiday flights may be warranted. But restricting the number of days that a helicopter can be used in a calendar year or a during a five year period, will force landowners to use other harvesting methods when in fact helicopter logging may be the

most desirable method given the environmental characteristics of the planning area. We strongly encourage the Board to reject the proposed restrictions on the number of operating days in a calendar year or five year period. The environmental benefits often may outweigh the inconvenience to residents over a short duration.

**8. Proposal to Adopt a New Section 14 CCR 926.24, residential Buffer Zones**

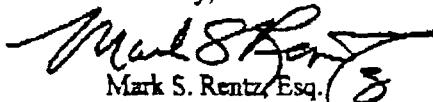
We believe that the County has failed to provide any legal justification for the 300 foot "no cut" residential buffer zone. The proponents have failed to establish any threat to the health and safety of adjacent landowners. For many landowners this buffer may impose added expenses that would preclude responsible forest management and eliminate all economically viable use of their property with the possible exception of conversion for development purposes. The consequence of such an outcome would be further loss of the forest ecosystem. It is also quite possible that a forest landowner could have a legitimate private property "takings" claim against the State if the Board were to adopt this proposal.

This concludes our comments on this proposed rulemaking package. As we stated in our August 28, 1998 comments (copy attached) we encourage the Board to defer any action on the silvicultural and operational aspects of the County's proposed rulemaking until the Board has conducted an on-the-ground assessment of the effectiveness of the current FPRs. Furthermore, we believe it is imperative that the Board consider the full effect additional rulemaking may have on the forest ecosystems in Santa Cruz County. Additional layers of regulations will make it economically prohibitive for some landowners to manage their lands to achieve their personal goals. A likely scenario is a continued increase in conversion of forest lands to more valuable residential and urban development as the San Francisco Bay area continues to migrate south. This is a negative environmental impact we would all agree is undesirable.

If the Board feels that additional notification requirements may improve relations between forest landowners, foresters and operators on the one hand, and the general citizenry on the other hand, we could support amendments to the Santa Cruz County Forest Practice Rules, consistent with our comments.

If you have any questions regarding this matter please give me a call at 916/444-6592.

Sincerely,

  
 Mark S. Rentz, Esq.  
 Vice President, Environmental  
 and Legal Affairs

attachment (1)

cc: Mike Jani, Big Creek Lumber Company  
 Central Coast Forest Association

## CALIFORNIA FORESTRY ASSOCIATION

August 28, 1998

ATTACHMENT



Robert Kerstiens  
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RE: Santa Cruz County Proposal to Amend the Forest Practice Rules

Dear Chairman Kerstiens:

Enclosed are the comments of the California Forestry Association (CFA) regarding the Santa Cruz County Board of Supervisors' proposal to amend the Forest Practice Rules (FPRs) as submitted to the Board of Forestry (BOF) last month.

CFA encourages the BOF to defer any action on the County's proposal until the BOF has had an opportunity to thoroughly review the proposal in light of the proposed county ordinances and the BOF has conducted an on-the-ground assessment of the current forest practices in Santa Cruz county.

CFA recognizes that many counties such as Santa Cruz are facing major challenges in dealing with the accelerated expansion of residential development into the rural countryside. Unfortunately, we do not believe that this proposal represents a well thought-out approach that balances the residential needs with the need to protect the integrity of forest ecosystems, while assuring forest landowners have an opportunity to manage their lands in an environmentally and economically reasonable manner.

As the BOF is aware, Santa Cruz county currently has some of the most restrictive timber forestry regulations in the state. In addition to the California Forest Practice Rules, forest landowners, foresters and timber operators in Santa Cruz are subject to the Southern Sub-District Forest Practice Rules, as well as specific county rules and additional restrictions under the current 2090 Agreement for the protection of coho salmon in Santa Cruz county. We believe that the County of Santa Cruz has failed to demonstrate the necessity for additional rules and regulatory burdens.

The timber harvest planning process, as set forth under the Forest Practice Rules, is based on professional judgement and performance in the field. This process is designed to take into account the varying physical conditions found within the forested landscapes and ownerships throughout the state. Some of the greatest geological and geographical variation takes place in Santa Cruz county. A "one-size-fits-all" approach as envisioned by the Board of Supervisors could spell environmental catastrophe under certain circumstances. For example, the proposed limits on helicopter logging operations may make many such operations economically and physically impractical although they may be environmentally desirable.

CFA encourages the Board of Forestry to take its time when reviewing the County's amendment proposals. The action taken by the BOF with regards to the Santa Cruz Board of Supervisors' proposal may set the precedence for actions taken by other counties. The BOF may want

to conduct its own investigation, including a field trip to review, first hand, forestry operations in Santa Cruz County. We believe that an opportunity to discuss forestry practices on-the-ground with professional foresters may provide greater insight than merely relying on information provided by County Planning Department staff.

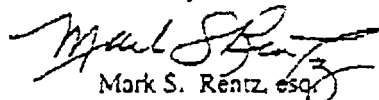
Finally, it is our understanding, from Supervisor Almquest's presentation to the Board last month, and from follow-up discussions with our members in Santa Cruz county, the County's proposal is basically an "all-or-nothing" proposal. In other words, if the Board of Forestry fails to totally acquiesce to the Supervisors' demands the Supervisors will do an "end-around" and pass county ordinances, in fact, it is quite possible that the Board of Supervisors will pass county ordinances regardless what action the BOF takes.

We encourage the BOCK! to resist such "strong-arm" tactics. As you are aware from the advice previously provided by your legal counsel: a Board of Forestry meetings, counties have limited authority with regards to regulating timber operations. The California Court of Appeals for the First District clearly ruled in the case of the Big Creek Lumber Company v. County of San Mateo, 31 Cal.App.4th 418, that "public Resources Code section 4516.5 expressly preempt[s] local attempts to regulate the conduct of timber operations." *Id.* at 420-21. Emphasis added. The BOF and the California Department of Forestry and Fire Protection (CDF) have authority over the conduct of forestry operations within the State of California. We believe that many of the amendments proposed by County of Santa Cruz are nothing more than thinly-veiled attempts to regulate forestry operations under the guise of their zoning authority. Such actions are beyond the County's authority. Absent any action by the BOF, any attempt by the County to regulate forestry operations are likely be struck down by the courts.

In conclusion, we encourage the Board of Forestry to defer taking any action on the proposed amendments until the County has provided the Board with its final zoning ordinance proposals. This information is essential to the BOF making a fully informed decision. Furthermore, we encourage the Board to closely scrutinize each one of the County's proposed amendments, especially in light of all the current regulatory constraints on forestry operations in Santa Cruz county, and determine whether the County has established adequate necessity for the proposed changes.

Finally, we strongly encourage the Board of Forestry to visit Santa Cruz county before making any decision on the County's proposal, to determine, first-hand, whether additional regulations are warranted. We believe that you will find & at the professional foresters in Santa Cruz county are practicing some of the most environmentally sound forestry in the State.

Sincerely,



Mark S. Rentz, esq.  
Vice President for Environmental  
and Legal Affairs

cc: Mike Jani, Big Creek Lumber Company  
Central Coast Forest Association