



County of Santa Cruz

717

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604069
(831) 454-2040 FAX: (831) 454-2115

DWIGHT L. HERR, COUNTY COUNSEL

December 3, 1998

Agenda: December 8, 1998

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: Proposed Ordinance Restricting Timber Harvesting Within Riparian Corridors

Dear Members of the Board:

On November 24, 1998, your Board directed this office to submit a separate ordinance to restrict timber harvesting within riparian corridors which are located outside the Coastal Zone during the period that the proposed timber rules are being processed through the State Board of Forestry and the proposed County zoning ordinance amendments are being processed through the Coastal Commission. In response to the Board's direction, please find attached a proposed ordinance restricting timber harvesting within riparian corridors which are located outside the Coastal Zone, and which are not zoned Timberland Production (TP). The proposed ordinance contains an expiration date of December 31, 1999, for the reason that any of the proposed timber rules which may be adopted will not be effective until January 1, 2000, unless they are adopted by the State Board of Forestry and approved by the Office of Administrative Law as emergency regulations. The December 31, 1999, expiration date will also allow sufficient time for the processing of the package of proposed ordinance amendments through the Coastal Commission.

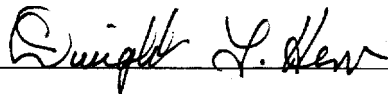
IT IS THEREFORE RECOMMENDED that your Board consider whether to

TPRPODB2.WPD

adopt the attached proposed ordinance prohibiting timber harvesting within riparian corridors which are located outside the Coastal Zone and which are not zoned Timberland Production.

Very truly yours,

DWIGHT L. HERR, COUNTY COUNSEL



RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

cc: Alvin James, Planning Director

ORDINANCE NO. _____

**ORDINANCE ADDING SECTION 13.10.695
TO THE SANTA CRUZ COUNTY CODE RELATING TO
LOCATIONAL CRITERIA FOR TIMBER HARVESTING**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.695 to read as follows:

13.10.695 LOCATIONAL CRITERIA FOR TIMBER HARVESTING.

(a) Within those zone districts in which timber harvesting is otherwise allowed by this Code, timber harvesting shall not occur within riparian corridors, defined as:

- (1) 50 feet from the bank full flow line of a perennial stream.
- (2) 30 feet from the bank full flow line of an intermittent or ephemeral stream.

(b) Notwithstanding the foregoing, the locational restriction of subsection (a) shall only apply outside of the Coastal Zone, and shall not apply to TP zoned property.

SECTION II

If any section, subsection, division, sentence, clause phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of this County hereby

declares that it would have adopted this Ordinance and each section, subsection, division, sentence, clause, phrase, or portion thereof, irrespective of any such decision.

SECTION III

This ordinance shall take effect on the 3 1st day after ~~the~~ date of final passage, and shall expire on December 3 1, 1999..

PASSED AND ADOPTED this ____ day of, 1998, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chair of the Board of Supervisors

Attest: _____
 Clerk of the Board

APPROVED AS TO FORM:


 DWIGHT L. HERR, County Counsel

DISTRIBUTION: County Counsel
 Planning Department

(Alternate Version)

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NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chair of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:



DWIGHT L. HERR, County Counsel

DISTRIBUTION: County Counsel
Planning Department

Law Offices of
DENNIS J. KEHOE
Law Corporation

723

31 I Bonita Drive
Aptos, California 95003
(831) 662-8444 FAX (831) 662-0227

December 2, 1998

BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ
701 Ocean Street
Santa Cruz, CA 95060
FAX: 454-2327, 454-3262 and also (Hand Delivered)

Re: December 8, 1998, Board of Supervisors Meeting-Consent Agenda 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 non-commercial zoned land; and ordinance amendments to the County Code amending Sections 13.10.170(d) - Zoning Implementation, 13.10.3 12(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 13.10.386 - General Plan consistency criteria for timber harvesting in the Special Use District.

PROJECT TWO:

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

4. **PROJECT FOUR:** Proposed Ordinance: re: TPZ ZONES, REGULATION, and CORRIDORS.

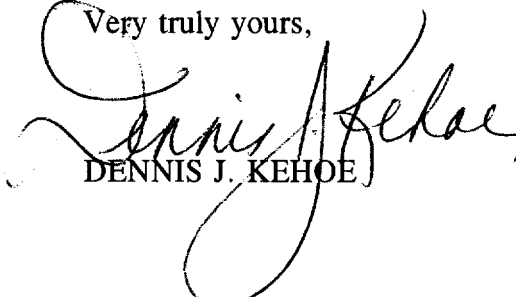
Dear Supervisors:

Please be advised that the undersigned represents Big Creek Lumber Company and Homer T. (Bud) McCrary in connection with the above described PROJECTS. The Board of Supervisors is already in receipt of my correspondence dated November 17, 1998, and evidence

provided at the public hearing on November 24, 1998. My November 17, 1998, correspondence to the Board and the letters of Mr. McBride and Mr. Rentz provided to you at the hearing on November 24, 1998, are all incorporated herein as though fully set forth.

On your December 8, 1998, consent agenda, there is a proposed Ordinance relating to the TPZ zone and other connected matters including thousands of acres of timber resources. My clients vigorously object to the adoption of the same! These matters must be pulled from the consent agenda. Among other items, this is a new Project and an environmental review must be made. Since this new Project will have a significant adverse effect on the environment, an Environmental Impact Report must be prepared. Further, this proposal is attempting to regulate timber operations and, therefore, preempted by State law. The other points, legal authorities, and evidence presented in, inter alia, my November 17, 1998, correspondence, and the testimony and letters of Messrs. McBride and Rentz are incorporated herein.

Very truly yours,



DENNIS J. KEHOE

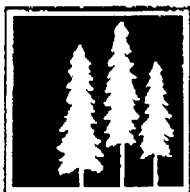
DJK:jlc

- c: Big Creek Lumber Company, Bud McCrary, FAX: 423-2800
 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
 California Forestry Association, Attn: Mark S. Rentz, Esq.
 Vice President, Environmental and Legal Affairs, FAX: (916) 444-0170

CALIFORNIA FORESTRY ASSOCIATION

725

December 2, 1998



BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ
701 Ocean Street
Santa Cruz, California 95060

RE: Board of Supervisors Consideration to Adopt Riparian Buffer Zones

Dear Supervisors:

The California Forestry Association (CFA) consists of companies, forest landowners and **natural resource** professionals committed to **environmentally** sound **policies**, the sustainable use of renewable resources and responsible forestry. Our membership **includes** forest **management** companies and registered professional foresters who do **business** in **Santa Cruz county**, as well as persons who **own** land in **the** county.

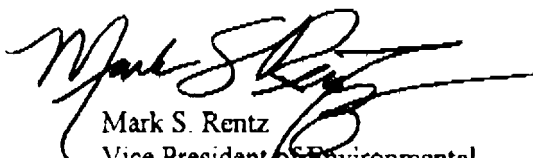
It is our understanding that the Santa Cruz County Board of Supervisors is **considering** a proposal by Supervisor Almquist to adopt a county ordinance creating "**riparian buffer zones**" for Timber Productivity Zone (TPZ) lands throughout **the county**. The California Forestry Association (CFA) **strongly opposes** any such effort by the Board of Supervisors.

We believe that any such action constitutes regulation of timber management **operations**. The Forest Practice Act of 1973 and the **Timberland** Productivity Act of 1982 clearly establish that such **regulatory** authority **rests solely** with the State of California through the Board of Forestry and the California **Department** of Forestry and Fire Protection. Any effort **by the county** to **regulate** timber **management** operations is **pre-empted** by the State. See our **comments** submitted to the Board of Supervisors dated November 23, 1998.

If the Board of Supervisors is **determined** to **pursue** such an **ill-advised course** of action, it is obligated under the Administrative Procedures Act (APA) to provide adequate **notification** and an opportunity to comment on **the** proposed action. We believe that an adoption of Supervisor Almquist's proposal through a blanket "**consent vote**" is a **denial** of due **process in violation** of the APA and the Constitution of the State of California.

WC strongly **encourage** the Board to reconsider any action to **unilaterally** establish **riparian buffer** zones. If you have any questions on this matter, **please feel free** to give me a call at 916/444-6592

Sincerely,


Mark S. Rentz
Vice President of Environmental
and Legal Affairs

MSR/ea

cc: Bud McCrary, Big Creek Lumber Company
Central Coast Forestry Association

60

Board of Supervisors c/o Clerk of the Board

701 Ocean Street Room 500

Dec. 8, 1998

re: today's Board meeting

Forestry in SC

To the Board:

When you started this action the concern was stated 'a threat to public health, safety and general welfare'.

Why don't you change the Plan to prohibit logging in the county, ban building in the unincorporated areas to minimize property values and declare eminent domain, take the land cheap and then allow some building. Sell it off, keeping the best for parks, of course. You'll make a killing. The deaths will be ours, the taxpayers. You'll be reelected, because we'll be driven out. Consider the savings in time and these messy meetings.

Think about it. I do. A lot

Dick Burton
620 Olson Rd
Soyuel, Ca. 95073

Robert O. Briggs

727

Rancho del Oso
3610 Pacific Coast Highway, Davenport, California 95017

December 8, 1998

Board of Supervisors,
Santa Cruz County

For the record of the December 8, 1998 forestry policy hearing

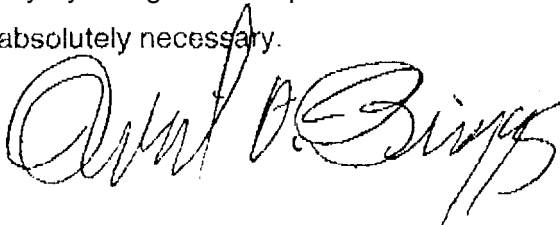
Subject: Testimony re: December 8, 1998 hearing on Santa Cruz County timber hat-v-vest policy

On several occasions including as an attachment to comments by Big Creek Lumber Company, my scientific report showing hydrologic consequences of forest growth in Waddell Valley over the past six decades has been presented to the County Planning Commission and the Board of Supervisors. A staff analysis of my report prior to the Board hearing on October 24 misrepresented my findings and falsely attributed the erroneous interpretation to County Hydrologist, Bruce Laclergue who had not seen my report. Staff's misleading paragraph had in fact been written by Mark Deming who is not a hydrologist. Laclergue was asked to edit the paragraph without having seen the report nor been informed of it's subject.

After reading my report, Mr. Laclergue informed me that he is in basic accord with my findings and apologized for the misrepresentation.

Conclusion: I should like to restate my serious concern. Surface waters (at least in the Waddell watershed and probably in most Santa Cruz Mountains watersheds) are reduced significantly during the late summer months as forest cover increases. Waddell may, in the next few decades, become a seasonal stream with serious consequences to anadromous fish colonies. This is a serious environmental concern and an understanding of the phenomenon is essential to responsible forestry policy decisions.

The dismissal by county staff of my hydrologic conclusions and the fallacious attribution of the dismissal to the county hydrologist is irresponsible and I believe an objectively researched Environmental Impact Report is absolutely necessary.



Elise Moss
21884 Bear Creek Way
Los Gatos, CA 95033

To: Board Of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

Date: 12/7/98

Re: Ordinance to prevent Timber Harvesting in Riparian Corridors (Item 69 on 12/8 Agenda)

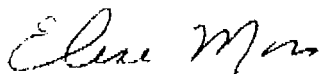
I want to thank the Board for working so tirelessly to protect the citizens on this county against the damage logging can do in residential areas. This Board has not capitulated to threats, nor has it acted in haste. This has been a process of almost two years. Any claims by the logging proponents that they have not been allowed to express their concerns or defend their "rights" are completely baseless.

Supervisor Almquist's proposal to ban timber harvesting in riparian corridors is a bold move. This act would protect and preserve the quality of the water for all the citizens in Santa Cruz County and any other water users who live "downstream". It would provide better protection for fish habitat and give the coho salmon a chance to survive and thrive.

However, I am not unmindful of the Board of Forestry's main objection to this rule; i.e. that rules that are absolute can be just as damaging as having no rules at all. There are cases when it is preferable to cut a tree down (even within a streambed). If the tree is creating a blockage preventing waterflow or if the tree is diseased or dead, these are reasonable times when a tree should be removed. I do not support the wholesale removal of trees within riparian corridors.

The forest owner's argument that this ordinance creates too large an economic impact is irrelevant. This same argument is used by factories who wish to dump pollutants in streams with no regard to health impacts because it is more convenient and economical for them to do so. Money should not be the deciding factor when health issues are under consideration.

Please consider re-writing the ordinance to allow for tree removal in cases when a tree is diseased, dying, or where it is preventing water flow.

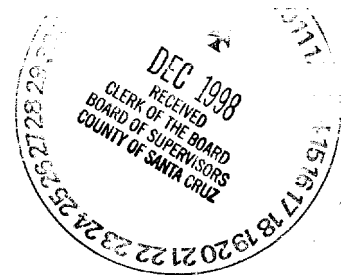


Elise Moss

Central Coast Forest Association

December 8, 1998

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



Dear Members of the Board:

Santa Cruz County forest landowners have spent more than a year witnessing county government pursue onerous and unjustified restrictions of legal land use and property rights. During this time we have heard anti-logging zealots spew nonsense about "Sacred Forests", listened to wild and hysterical accusations surrounding the perceived impacts of selective timber harvesting and seen untold thousands of taxpayer dollars wasted as public servants conduct what is, in reality, a modern day witch hunt.

Today's consideration of a county zoning ordinance which establishes locational criteria for timber harvesting within riparian corridors is no exception. The Central Coast Forest Association opposes this ordinance for the following reasons:

1) Any activity within a legal timber harvest falls solely under the jurisdiction of the State of California and is defined by the State Forest Practice Rules. Operations in and around riparian corridors, including any restrictions, are clearly the purview of state law.

2) Restriction of timber harvesting activities within riparian corridors is an issue of timber harvesting operations, not an issue of location. The exclusion of specific harvesting activities within a riparian corridor could drastically alter the operation of harvesting on other portions of a particular Timber Harvest Plan (THP). Furthermore, denial of all access to riparian corridors could landlock significant portions of a forested parcel, thus affecting harvesting operations elsewhere in the THP. This potential isolation of lands which otherwise would be legally harvestable constitutes the taking of property without just compensation.

3) This ordinance is a new project. State law and California Environmental Quality Act (CEQA) require a separate public noticing and review period. Neither the required noticing or review requirements have been met.

4) There have been serious and legitimate concerns raised regarding the potential environmental impacts of this ordinance. State law and CEQA demand that an Environmental Impact Report (EIR) be provided for this project.

5) In lieu of an EIR, a Negative Declaration with proper public review and public noticing must be provided on new projects. This has not been done.

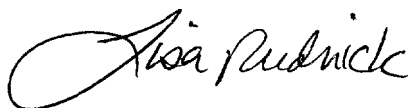
6) A serious independent statistical survey by Robert O. Briggs concerning forest growth and ground water uptake, which has significant implications on this ordinance, appears to have been intentionally misrepresented by county staff in ongoing efforts to avoid the requirement of an EIR. C.C.F.A. demands that the County of Santa Cruz Board of Supervisors and the County Planning Director conduct an investigation to determine the cause of this misrepresentation of critical documents.

7) Significant regulations currently exist which restrict timber harvesting operations within riparian corridors in Santa Cruz County. These regulations are part of the State Forest Practice Rules. Additionally, county streams in which coho salmon could be potentially be affected are subject to further restrictions related to timber harvesting. There are no known scientific studies that indicate these existing regulations are insufficient to protect the integrity of riparian resources.

The timber harvesting issue has gone on for more than a year. During this time, your board has not collectively visited a single timber harvesting location. You have consistently relied on hearsay, faulty staff assessments and the ranting of individuals and groups who publicly say they support the right to harvest timber but privately do everything in their power to abolish this activity completely in this county.

C.C.F.A. urges your board to step back and approach these issues from a logical and scientific perspective rather than continuing to allow emotion to drive your actions. We urge you to reject this ordinance.

Sincerely,



Lisa Rudnick
Interim Executive Director

C.C.F.A. P.O. Box 1670, Capitola, CA 95010 (831) 469-6016

County Board of Supervisors
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

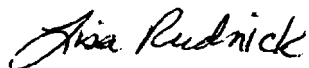
12/8/98

RE: Timber - Riparian Buffer Zones Discussion on Today's Agenda

Please include the entire record on this issue beginning last August of 1997 as part of the public record today. This entire record is pertinent since the current proposal before you is a direct result of concerns over potential effects from previous proposals that have been discussed. In the past, certain Supervisors have commented that there is a need to create ordinances due to the probability that "there will be a run on timber" due to the ongoing proposals being discussed, and that in effect a "fire sale" had been created. *This is why environmental study should have occurred at the beginning of this whole process.*

Continuing to implement more onerous restrictions in order to address problems which the County of Santa Cruz has created is an example of government at its worst! Lack of appropriate planning coupled with a lack of reliance on registered professionals and experts has worsened this issue in every conceivable manner. People with little or no experience are running the show and this is a sure recipe for continued problems.

Sincerely,



Lisa Rudnick
10425 Calif Dr.
Ben Lomond, CA 95005

**J.E. GREIG, Inc.**

733

CONSULTING FORESTER

P.O. Box 90190

Henderson, NV 89009-0190

(702) 564-9867 • Fax (702) 564-9876

December 9, 1998

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

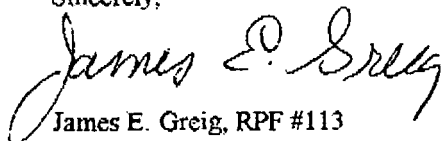
Board Of Supervisors:

Please do not enact the proposed ordinance prohibiting timber harvesting in riparian buffer zones, as described in your agenda Item #070 of November 24, 1998.

This elimination of timber harvesting is not necessary and has not been justified by any means. These streamside areas are well protected under existing State Forest Practice Rules, as administered by the California Department of Forestry.

This action will actually take from County landowners productive forest land, without any compensation or justifiable public need. In the case of the T.P.Z. lands, timber harvesting is the only financially viable land use. To take the most productive forest zone from the landowner can jeprodize his lands financial viability.

Sincerely,


James E. Greig, RPF #113

JEG/mlg
cc:D. Ley