



# County of Santa Cruz

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## PLANNING DEPARTMENT

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ALVIN D. JAMES, DIRECTOR

August 16, 1999

AGENDA: August 24, 1999

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

### **SUBJECT: STATUS REPORT REGARDING TIMBER HARVESTING REGULATIONS**

Members of the Board:

On April 27, 1999, your Board considered a report regarding the status of the processing of the County's proposed changes to the Forest Practice Rules and the Coastal Commission's review of the policy and ordinance amendments affecting timber harvesting in the unincorporated areas of the County. After public comment and deliberation, your Board:

- directed County Counsel and Planning staff to continue to work with the Coastal Commission to resolve issues regarding the County's Major Amendment No. 3-98 (policy and ordinance amendments) and to return to the Board with a status report of the Commission's decision, and
- directed Planning staff to monitor and participate in the review of the Forest Practice Rules by the Board of Forestry and the Office of Administrative Law for the 1998 and 1999 Forest Practice Rules packages.

Your Board also indicated that, at the time these reports were submitted, your Board would consider setting a public hearing to deal with the various matters relating to zoning and the Forest Practice Rules (Attachment 1).

The Coastal Commission has now completed its actions on the County's policy/amendment package. As directed by your Board, staff has prepared a report detailing the actions of the Commission and providing your Board with information regarding the County's 1999 Forest Practice Rules and other regulatory changes. This report will provide your Board with the following information:

- The Coastal Commissions action regarding the County's policy and ordinance amendments relative to timber harvesting;

- The status of the alternative set of policy/ordinance amendments that were continued by your Board last November, including consideration of parcel size for properties with SU zoning;
- A discussion of various issues regarding the ordinance adopted by your Board regarding timber harvesting within riparian corridors;
- The status of the approved 1998 Forest Practice Rules submitted by Santa Cruz County;
- The status of the pending 1999 Forest Practice Rules submitted by Santa Cruz County; and
- A review of the pending 1999 Forest Practice Rules submitted by the California Resource Agency and Cal EPA.

### **Background**

As you may recall, on November 24, 1998, your Board considered a number of alternatives regarding the regulation of timber harvesting in Santa Cruz County. Presented to you on that date was the following:

- two sets of policy and ordinance amendments: the more restrictive package, limiting timber harvesting to TP, PR and M-3 zoning, limiting helicopter logging, establishing locational criteria for timber harvesting; the less restrictive package, allowing timber harvesting also in the CA zone and in the SU and A zones with the timber resource overlay, limiting helicopter logging, establishing criteria for timber harvesting in the SU zone without the timber resource.
- the Board of Forestry approval of about half of the proposed Forest Practice Rules, not including the proposed rules which addressed riparian corridor protection, residential buffering, alternative silviculture standards outside the TPZ, and road construction requirements.

Following the public hearing and deliberations on this matter on November 1998, your Board approved, in concept, the more restrictive set of policies and ordinances regarding timber harvesting. At that time, your Board directed staff to forward the policies and ordinances to the Coastal Commission for its review and to prepare a second set of Forest Practice Rules for review by the Board of Forestry in 1999. Your Board stated its intention to consider adoption of the more restrictive policies and ordinance amendments if, following Coastal Commission action, the package of Forest Practice Rules were not adopted by the Board of Forestry. It was hoped that the Governor-elect would appoint new Board of Forestry members that would be supportive of the County's Forest Practice Rules package. The second, less restrictive, set of policies and ordinances was continued for future consideration.

Staff delivered the conceptually approved policy and ordinance amendments to the Coastal Commission in December 1998 and the matter was scheduled for review by the Coastal Commission on March 11, 1999. 281

### **Coastal Commission Review of Policy and Ordinance Amendments**

As you recall, the Coastal Commission originally considered the County's proposed policy and ordinance amendments on March 11, 1999. The matter was continued to resolve legal issues regarding the authority of the County to regulate timber harvesting operations. On July 14, 1999, the Coastal Commission conducted a public hearing to again consider the County's proposed policy and ordinance amendments. Following testimony from about 35 people, the Commission approved the County's Major Amendment 3-98, with a number of modifications. The modifications adopted by the Commission delete the proposed section of the County Code that regulated helicopter logging and tighten the requirements for rezoning properties to the Timber Production Zone. Both amendments only apply within the Coastal zone. The revised language approved by the Coastal Commission, in an underline/over&& format, is included as Attachment 2.

The County has 6 months from the date of the Commission's July 14 action to act upon the modifications approved by the Coastal Commission (by January 14, 2000). In order to act upon the Coastal Commission changes and take final action on the policy and ordinance amendments, your Board must conduct a public hearing. Staff is recommending that this public hearing be held in November following Board of Forestry consideration of the County's and the Resources Agency's pending Forestry Practice Rules. This will enable your Board to make a determination as to the adequacy of the Rules and whether they are responsive to your concerns regarding timber harvesting practices in Santa Cruz County. Your Board will have several local regulatory options before you in November which should be considered after the State's Rule Making process has been completed. This approach is consistent with your Board's prior actions.

### **Alternative Policy and Ordinance Amendments and Related Matters**

Your Board continued consideration of a second set of policies and ordinances relating to timber harvesting while the Board of Forestry reviewed the County's 1999 Rules package and the California Coastal Commission considered the more restrictive policy/ordinance package, conceptually approved by your Board in November 1998. Your Board indicated that this alternative set of policy/ordinance amendments would be considered in the event that the Board of Forestry approved acceptable Forest Practice Rules. Staff recommends that this alternative package of policies and ordinances return to your Board for further consideration at the public hearing in November to be considered at the same time as your Board considers the Coastal Commission's approved policy and ordinance amendments. It should be noted that this set of amendments would also require review by the Coastal Commission prior to enactment in the Coastal Zone.

Your Board also deferred consideration of a report prepared by Planning staff in January 1999, regarding the parcel size analysis of the Special Use (SU) zone district. This report presents an analysis of the SU zoning with regard to the sizes of properties in the SU zone district and on adjacent properties. This issue should also be considered within the context of your Zoning decision in November. If your Board elects to not allow timber harvesting on SU properties, then

### **Riparian Corridor Ordinance Issues**

In January 1999, your Board adopted Ordinance No. 4529, an ordinance that prohibited timber harvesting within specified buffer areas along perennial, intermittent and ephemeral streams outside the Coastal Zone. This ordinance was adopted with a 'sunset' date of December 31, 1999. The intent of the ordinance, as stated by Supervisor Almquist, was to provide protection to riparian corridors from timber harvesting while the State and Federal agencies that are responsible for implementing the Endangered Species Act, including CDF, California Department of Fish and Game and the National Marine Fisheries Service, completed their regulatory proposals relating to the protection and recovery of Coho salmon and steelhead. The hope was that any State regulations resulting from these proposals and/or County policy/ordinance amendments to protect riparian corridors and aquatic habitats would be adopted and in effect by January 1, 2000, thereby providing a seamless protection for these important resources. As discussed in the next Section of this report, there are Forest Practice Rules that are under consideration by the Department of Forestry that deal with riparian protection and aquatic habitat protection.

Following adoption of the Ordinance, staff requested that CDF honor the County's riparian corridor buffer ordinance in the same manner as the County's zoning. This request was based on the fact that the Ordinance was adopted as a part of the zoning ordinance and was a permissible locational regulation of timber harvesting. In its reply to the County, CDF states that they will not enforce the ordinance and that they believe that the County has exceeded its authority regarding the regulation of timber harvesting (Attachment 3).

Since the adoption of the Ordinance, staff has worked with local foresters and property owners to implement the buffer requirement. Most of the THPs submitted to CDF have been prepared or modified to comply with the County's Ordinance, pending final resolution of the pending legal challenge to Ordinance No. 4529. For those THPs which do not comply with the Ordinance, the County has filed letters of non-concurrence. To date, six letters of non-concurrence have been filed. On August 3, 1999, your Board authorized the Planning Director to file an appeal to the Board of Forestry regarding CDF's approval of a THP which does not comply with the Ordinance. Attached is a copy of our appeal (Attachment 4)

In addition to the issues of compliance with Ordinance 4529, staff have also identified two areas of the ordinance that, in our judgement, should be amended. These amendments would address problems that have arisen in the interpretation and administration of this ordinance, and are discussed below.

**Applicability.** The Ordinance restricts timber harvesting near all perennial, intermittent and ephemeral streams. These streams roughly equate to the Class I, II, and III streams, respectively, as defined in the Forest Practice Rules. "Timber harvesting" is not defined in the Zoning Ordinance. Staff has applied a functional interpretation of the term "timber harvesting" to new timber harvesting operations in the riparian corridor buffer areas. Tree cutting and any activity which could disturb the riparian corridor has been prohibited, including the construction of stream crossings and the clearing of cable corridors. Activities related to timber harvesting that do not disturb the riparian corridor, such as cabling trees over streams and the use of existing stream crossings have been deemed consistent with Ordinance No. 4529.

Staff believes that this ordinance, if enacted by your Board in November to take effect on January 1, 2000, should contain a definition that clearly states what activities may take place under the term “timber harvesting” within the riparian corridor buffer area. Staff recommends that the definition of timber harvesting, for the purposes of riparian corridor protection, include the cutting and removal of any tree (except diseased trees). Staff, however, believes that temporary stream crossings and skid trails necessary to access timber resources outside the riparian corridor should be permitted on all streams, as well as limited cable corridor access.

Ephemeral streams. Ordinance No. 4529 requires a 30-foot buffer along each side of all ephemeral streams. Ephemeral streams are defined in the County’s Riparian Corridor and Wetland Protection Ordinance (Chapter 16.30) as “a natural watercourse or portion thereof that flows only in direct response to precipitation , as identified through field investigation.” Chapter 16.30 does not, however, provide for any protections of these streams unless they contain a riparian woodland. Ephemeral streams are roughly analogous to Class III watercourses, characterized in the Forest Practice Rules as a watercourse with “no aquatic life present, watercourse showing evidence of being capable of transporting sediment to a Class I or II waters under normal high water flow conditions..” These streams (ephemeral/Class III) include all of the natural drainage channels, swales, ditches, etc. where rainwater is collected and transported to the intermittent and perennial streams. The area of the buffers required to protect the ‘riparian corridor’ along the ephemeral streams is substantial and significant.

In our judgement, providing the same level of protection to ephemeral streams as is given to intermittent streams should be reconsidered, considering the lack of riparian or aquatic habitat values. In addition, the “No-cut” restriction along the ephemeral streams makes it very difficult to harvest certain parcels. The buffer areas along two ephemeral streams on the same property may make certain areas completely inaccessible to harvesting, especially when applied in conjunction with the no-disturbance standard discussed above.

The Forest Practice Rules package prepared by the Resources Agency and Cal EPA (Agency Rules Package) allows tree cutting but no other significant disturbance that would generate sediment within the Class III buffer area. (This is discussed in greater detail in a subsequent Section of this report). Staff believes that a similar restriction should be developed for ephemeral streams, rather than the current 30 foot ‘No-Cut’ restriction. To address these concerns, staff recommends that your Board amend the County’s Locational Criteria for Timber Harvesting Ordinance to clarify its definition of timber harvesting, and to redefine those activities which are allowed within Class III/ephemeral stream buffers. Staff will present the proposed modifications to your Board in our November report.

### **1998 Forest Practice Rules**

The Board of Forestry approved changes to the County’s Forest Practice Rules on November 3, 1998. As you recall, the Board of Forestry approved only a portion of the County’s submittal (Attachment 5). The approved Rules package was finally forwarded to the Office of Administrative Law on May 19, 1999. On July 1, 1999, the Office of Administrative Law approved the package of Rules changes, with no additional changes (Attachment 6). This set of Rules changes, which will improve noticing of timber harvests, increase protections for private roads, and bonding of private roads, silviculture revisions, and other minor changes will go into

### **1999 Forest Practice Rules**

On January 26, 1999, your Board approved a set of proposed Forest Practice Rules, and directed staff to prepare the necessary supporting material and to submit the package to the Board of Forestry for processing and action in time for the amendments to become effective by January 1, 2000. These 1999 Rules (Attachment 7) were substantially the same as the Rules previously submitted by the County which the Board of Forestry had not approved in 1998. However, your Board wished to have these Rules considered again following the appointment of new Board of Forestry members by Governor Davis. Staff submitted this 1999 Rules package on February 18, 1999. Under the provisions of the Public Resources Code, the Board of Forestry must act upon the petition of the County for Forest Practice Rules changes within 180 days of the submittal. Thus, the time limit on the processing of the County's 1999 Rules package will expire in August.

Prior to the July meeting of the Board of Forestry, Governor Davis made one interim appointment to create a quorum so that some of the business of the Board of Forestry could be conducted. At the July 7, 1999, meeting of the Board of Forestry, the County's 1999 Rules package was placed on the agenda for consideration. At that meeting, Board of Forestry staff recommended and County staff strongly requested that the Board direct its staff to file a 45-day Notice of Proposed Rulemaking with the Office of Administrative Law, the first step in the process of considering the County's 1999 Rules package. After some deliberation, the Board of Forestry approved the staff recommendation to start the formal process for considering the County's 1999 Rules package.

Since the July Board meeting, the Governor has made two permanent appointments to the Board and the interim appointee has been retained, at least for now. Unfortunately, the two new appointees were not in attendance at the August Board and Committee meetings, but are expected to be in attendance at the September meeting. The Governor still has 3 appointments to make.

The County's 1999 Rules package (as well as the Agency's Rules) were reviewed by the Interim Committee (a committee comprised of the current Board of Forestry formed to conduct business until the full Board is appointed and new committees are formed) in August. Planning staff is preparing a tour for the members of the Forest Practices Committee of local THP's which illustrate the need for the County's Forest Practice Rules. This is scheduled for late August, followed by another review of the Rules by the Interim Committee on August 30, 1999. The full public hearing on the Rules is scheduled for Tuesday, September 14, 1999. This date extends the Board of Forestry's review past the 180 day statutory limitation, but there are no provisions for automatic approval or other 'penalties'. Planning staff will continue to participate in this process.

### **Agency Rules Package**

At the July 7, 1999, Board of Forestry meeting, CDF staff presented to the Board the "Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat". This report, prepared for the Resources Agency of California and the National Marine Fisheries Service by an independent panel of scientists, focused on northern California coastal watersheds and assessed the adequacy of the current Forest Practice Rules in protecting salmonid species. The findings of the report are that the current Forest Practice Rules are inadequate to protect the

riparian habitats needed by the salmonid species of concern, steelhead and Coho salmon. A copy of this report has been distributed to each Board member and is on file with the Clerk of the Board (Attachment 8).

The Scientific Review Panel (SRP) recommended that the State initiate a watershed analysis program “to evaluate the past, ongoing and potential future cumulative watershed effects (CWEs) resulting from forest management and other watershed activities, and to identify strategies to avoid, minimize and/or mitigate adverse CWEs on salmonid populations and their habitat.” The SRP recognized that the development of such a program for each watershed of concern would take years to complete and recommended that the following immediate steps be taken:

- identify and immediately mitigate existing, significant sources of sediment in high priority watersheds
- identify and prioritize anadromous fish migration barriers for removal/replacement
- modify specific Forest Practice Rules

The SPR also recommended that a blue-ribbon science panel be established to study the need for limiting timber harvesting within watersheds when timber harvesting within those watersheds reach a certain percentage land within that watershed.

In response to this report, CDF, at the July 7, 1999, Board of Forestry meeting, presented to the Board a package of proposed Forest Practice Rule (FPRs) changes prepared jointly by the California Environmental Protection Agency and the Resources Agency (Agency Rules Package) to address the recommendations of the SRP. The proposed Agency Rules (Attachment 9) would be applied to all “threatened and impaired watersheds” and include the following provisions:

- defines “threatened and impaired watersheds” as those watersheds which either have been listed pursuant to Section 303(d) of the Clean Water Act, are watersheds subject to a Total Maximum Daily Load (TMDL) or are watersheds where anadromous salmonids, or other aquatic species, are listed as threatened or endangered by the State or Federal Endangered Species Acts (this includes all watersheds in Santa Cruz County)
- changes the intent of Watercourse and Lake Protection to state that the beneficial functions of lakes and riparian systems are to be fully protected from the impacts of timber harvesting and establishes the following goals for every timber operation in the designated watersheds:
  - no net sediment increase
  - no decrease in the stability of the watercourse channel
  - no blockage in the aquatic migratory routes for anadromous salmonids or listed species
  - no stream flow reductions during critical low flow periods
  - protect, maintain and restore the recruitment of large, woody debris
  - protect, maintain and restore the quality and quantity of vegetative cover needed to shade the stream, maintain water temperatures and provide food and hiding cover
  - no substantial increase in peak flows or flooding frequency
- establishes specific Watercourse and Lake Protection Zones (WLPZ) based on the type of stream class, establishes a specific canopy standard within these areas,

establishes specific standards for stream crossings, and requires clear and enforceable maintenance and monitoring programs

- establishes specific requirements for timber operations in inner gorge areas above Class I streams
- establishes higher standards for the construction of new roads and landings, requires treatment of road and landing surfaces to prevent erosion

In order for the Agency Rules to be in effect by January 1, 2000, as recommended by the Director of CDF, the Rules will be processed on the same fast-track as the County's Rules package. The Agency Rules Package will be considered by the Interim Committee in August (the Interim Committee or a newly appointed Forest Practice Committee may review the package again in September), and is scheduled for a public hearing by the Board of Forestry on September 14, 1999, the same day as the public hearing on the County's proposed Rules. Staff plans to participate in the review of these Rules as well.

A comparison of the County's 1999 FPRs and the Agency Rules Package is presented in the following section. The Board of Forestry has requested that your Board take a formal position on the Agency Rules Package, since several of the County's proposed Rules deal with the same issues. We concur. Your Board should also clarify its position on the County's 1999 Rules. To assist you in this regard, Staff has prepared the following analysis and comparison of the Agency Rules Package and the County's Rules Package.

### **Comparison of Forest Practice Rules Packages**

Staff has reviewed the provisions of the Agency Rules Package and has compared it to the County's proposed FPRs. There are only two issues which are addressed by both sets of FPRs, riparian/aquatic habitat protection and roads. The Agency Rules Package does not address any of the other topics included in the County's FPR package, such as helicopter logging, silviculture prescriptions, residential buffers, flagging, and entry by County employees. A comparison of those portions of the County's and Agency's FPR packages which address common topics is presented below.

**Riparian/Aquatic Habitat Protection** - The proposed Agency Rules Package takes the approach that timber harvesting may be allowed near streams as long as it will result in the protection, maintenance and restoration of the beneficial uses of water or the populations and habitat of anadromous salmonids. To accomplish these goals, the Agency Rules Package contains a large number of prescriptions for timber harvesting operations near designated streams. These prescriptions include:

- a no-cut zone within the Channel Zone, defined as the area between the 'watercourse transition lines' (edge of floodplain)
- a limited cut zone within redefined Watercourse and Lake Protection Zones (WLPZ) based on percentage of canopy cover and recruitment of large, woody debris
- specific requirements for the installation of culverts and other watercourse crossings to provide for flood flows, sediment movement and unimpeded movement by fish
- specific requirements for the reduction and prevention of soil erosion from activities within the WLPZ



The County's Forest Practice Rules prohibit any tree cutting and entry into specific buffer zone areas, except for the construction of temporary stream crossings which are necessary. The intent of the County's no-cut riparian corridor buffer zones is to eliminate any disturbance within the area immediately adjacent to the stream thereby preserving the overstory canopy on both sides of the stream, providing a vegetated area for the entrapment of sediment, and protecting the near stream habitat that is important for the functioning of the aquatic system. For ease of comparison, the following table compares the specific provisions of the Agency Rules Package and the County's FPRs regarding riparian corridor protection.

Issue	County FPRs	Agency Rules Package
no-cut zone	a) in TPZ, 50-foot no cut, no entry zone on both sides of Class I and II waters, wetlands, etc; 10-feet from Class III waters; measured from bank; b) in non-TPZ, 125-foot no cut, no entry zone on both sides of Class I and II waters; 10-feet from Class III waters;	channel zone (area between watercourse transition lines); width dependent on topography of stream (narrower for steeper terrain, wider for gentler terrain) and definition of floodplain
limited cut zone	remainder of property per Santa Cruz County Rules (selection cutting only)	within WLPZ, 85% canopy retention required within 75-feet of Class I watercourse transition line, 30-feet of Class II watercourse transition line; 65% canopy in remainder; no harvesting allowed where minimum canopy does not exist; remainder of property subject to Santa Cruz County Rules (selection cutting only)
large, woody debris (LWD)	no specific requirement	in Class I WLPZ, retention of 10 large conifers per 330-feet of stream required within 50-feet of transition line
watercourse crossings	temporary crossings only	permanent crossings allowed subject to conditions that require free movement of fish, accommodate 100-year flood flows, have natural bottoms, etc

As the table indicates, the two sets of FPRs approach the issue of riparian corridor protection in different ways. The County's approach, mirroring the existing Riparian and Wetlands Protection

Ordinance to a large extent, applies a rigid no-cut, no entry zone to all watercourses. The width of that zone is dependent on zoning and the type of stream. The intent of the no-cut zone is to provide a true no disturbance buffer adjacent to the stream, which would provide far greater protection to the riparian corridor than is currently provided by the FPRs. But it is not clear that this fixed no-cut zone is the best way to provide for the protection and restoration of salmonid habitat.

The Agency Rules Package provides for a no-cut zone (the channel zone), allows selection cutting under specific limitations within the WLPZ, and allows selection cutting, per the Santa Cruz County special rules, outside the WLPZ. Because the WLPZ begins at the edge of the watercourse transition line (edge of the 'floodplain') and the area within the watercourse transition lines (the channel zone) is proposed as a no-cut zone, it is clear that the definition of 'floodplain' to be used in determining the watercourse transition line is critical. Much of the discussion at the August Board of Forestry Interim Committee meeting centered on the issue of what definition of floodplain was going to be used. National Marine Fisheries Service scientific staff wanted it to be broadly applied to the 100-year floodplain; other technical staff thought it should be the 10-20 year floodplain. To our knowledge, this issue has not been resolved.

The Agency Rules Package method would create no-cut, limited cut (canopy zone) and selection cutting zones that are dependent on the topography of the valley in which the stream flows. Thus, steeper canyons would have narrower channel zones and the 30 to 75 foot wide zone of 85% canopy would be fairly close to the watercourse. A wider floodplain would result in a wider channel zone and, therefore, a greater no-cut zone, with the 100 to 150 foot WLPZ extending out from there. In addition, the requirements for the design and installation of watercourse crossings, the recruitment of large woody debris and the proposed limitations on sediment generation and road construction have been specifically developed, in response to the findings of the Scientific Review Panel, to protect, restore and maintain the quality and quantity of water for anadromous salmonids. For these reasons, the proposed riparian/aquatic habitat protection measures in the Agency Rules Package, developed in response to the work of a consortium of scientists, appear to provide a better method of protecting the habitats within and along the watercourse than the County's "one size fits all" riparian buffer proposal.

### Road Construction

The Agency Rules Package would establish the following requirements for roads associated with timber harvesting:

- where new roads or reconstruction of roads is proposed, the THP must include provisions for abandonment of roads and landings to result in no net increase in road density on the property
- road construction/reconstruction would be prohibited during the winter period
- road widths are limited to 14-feet for tractor yarding and 16-feet for cable yarding, with specific requirements for drainage and design
- all tractor roads must have drainage systems in place before the first significant rain
- on slopes greater than 50%, design, specific design, grading and, in some cases, engineering is required
- roads with slopes over 20% for more than 500-feet must be surfaced with rock
- special conditions become effective in high risk areas

- within the WLPZ, EEZ or ELZ (equipment exclusion zone and equipment limitation zone) if, the following areas must be treated to “minimize erosion and prevent the discharge of sediment into waters in amounts deleterious.. .”:
  - the traveled surface of all logging roads, to prevent generation of sediment and concentration of runoff at any time (and rocked to provide a stable operating surface during periods of use)
  - all disturbed areas greater than 100 square feet, approaches to watercourse crossings, road cut banks and fills, any other disturbed area capable of discharging sediment to the streams
  - in areas of undisturbed natural ground with groundcover inadequate to protect the beneficial uses of water
- (The treatment, which can include seeding, mulching, replanting, must occur before any rain or October 15. Disturbance during the winter period, these areas must be treated within 10 days or before the next rain.)

The County’s FPRs contain the following relating to the construction of roads for timber operations:

- prohibits the construction of all new roads across slopes steeper than 65%, across slopes greater than 50% in areas of high or extreme erosion potential, across slopes steeper than 50% which lead to a watercourse or lake without flattening out
- any exceptions require a Certified Engineering Geologist/Licensed Geotechnical Engineer review and abandonment if it is a temporary road
- in areas of active mass movement, inner gorge slopes and headwater swales, new road construction/reconstruction requires review by a Certified Engineering Geologist/Licensed Geotechnical Engineer
- all new seasonal or permanent roads must be surfaced, the type of surfacing depending on slope of the road
- requires the abandonment of all tractor roads following the end of timber operations
- requires regular maintenance of all new roads per an approved erosion control and drainage plan approved by the County
- requires that roads that could not be built under the current Rules be abandoned, revegetated and access limited by the installation of barriers

The Agency Rules Package and the County’s FPRs have provisions which could complement each other, and others which are in conflict. For example, the Agency Rules requires the abandonment of roads and landings and limits new road construction/reconstruction so that there is no net increase in the density of roads on the property. The County’s proposed Rule would require the abandonment of all tractor roads and all roads and landings which could not be constructed under current FPRs. These proposed Rules would fit together quite well and would result in the removal of substandard landings, logging roads and tractor roads as well as establishing a limit on the creation of new roads. However, while the proposed Agency Rules Package rules will limit new road construction within the property based on the standard of “no net increase”, they will allow road construction in areas that the County’s proposed Rules would not (steep slopes, etc).

On the whole, though, the Agency Rules Package is directed towards controlling the generation of sediment caused by road construction and its introduction into the watercourses, as recommended by the Scientific Review Panel’s Report. If this is the goal of the County as well, then the Agency Rules Package provisions for road construction appear to be adequate as an

interim measure until the watershed cumulative effects studies are completed for the County's streams.

### **Conclusion and Recommendations**

At the November 1998 deliberations on this matter, your Board approved, in concept, the more restrictive set of policies and ordinances regarding timber harvesting. At that time, your Board directed staff to forward the policies and ordinances to the Coastal Commission for its review, and to prepare a set of Forest Practice Rules for review by the Board of Forestry in 1999. Your Board stated its intention to adopt the policies and ordinance amendments following Coastal Commission action, unless an acceptable package of Forest Practice Rules were adopted by the Board of Forestry. Your Board also continued consideration of the alternative, the less restrictive set of policies and ordinances, to preserve your policy options following action by the State Board of Forestry.

The Coastal Commission has completed its consideration of the County's proposed policy and ordinance amendments, albeit with some modifications that need County review. Forestry Board members will visit timber harvest sites in Santa Cruz in August prior to acting on our rules. The Board of Forestry has scheduled public hearings for the Agency Rules Package, and the County's Rules Package, on September 14, 1999. Staff expects the Board of Forestry to act on these Rules Packages either on that date or by October 6, 1999, at the latest. As noted earlier, we are recommending that your Board defer action on both sets of policy and ordinance amendments (both the Coastal Commission approved set, and the alternative, less restrictive set) until after the Board of Forestry actions on the two Forest Practice Rules packages (the County's 1999 Rules and the Agency Rules Package) is appropriate. A public hearing in early November would allow the Board of Supervisors to consider all of the various components of the timber harvesting regulations and allow sufficient time for the ordinances to become effective by January 1, 2000.

We are recommending that your Board support the Agency Rules Package, since the objectives of these Rules are consistent with your stated goals to protect our streams, riparian corridors, water quality, and aquatic habitats from the adverse impacts of timber harvesting. These Rules are based on a recent scientific study, the "Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat", prepared for the Resources Agency of California and the National Marine Fisheries Service by an independent panel of scientists. Accordingly, we are recommending that your Board authorize the Planning Department and your representative, Supervisor Almquist to testify in support of the Agency Rules Package.

In addition, your Board may wish to modify the County's **FPRs** by deleting all or a portion of the proposed rules regarding the protection of riparian corridors and road construction which are adequately addressed in the Agency Rules Package. Staff recommends that your Board modify the County's **FPRs** as follows:

- delete the proposed riparian corridor buffers (14 CCR 926.26)
- delete the proposed rules which limit the location of new roads and establish surfacing requirements (14 CCR 926.15); maintain the proposed rule which requires abandonment of roads and landings not allowed under current Forest Practice Rules (14 CCR 926.17)

These changes to the County's FPRs will not only signal our support of the Agency Rules Package but will also eliminate areas of conflict between the two rules packages. A revised set of Forest Practice Rules is included for your Board's consideration (Attachment 10).


The implementation of Ordinance No. 4529 will continue until the Ordinance expires, is superceded by subsequent action by the Board or invalidated as a result of the legal challenge. Because CDF will likely continue to approve THPs which are in conflict with the Ordinance, the County must appeal these approvals in order to preserve its ability to pursue legal actions. Authorization by the Board of Supervisors is necessary for staff to file appeals of CDF's approval of THPs that violate Ordinance No. 4529.

The implementation of the Ordinance has also raised a number of issues relating to the definition of timber harvesting and its application to ephemeral streams. Because similar language is included in the Locational Criteria for Timber Harvesting Ordinance, staff proposes to prepare a report discussing a number of clarifications that we believe the Board should consider in conjunction with the adoption of the permanent policy/ordinance language.

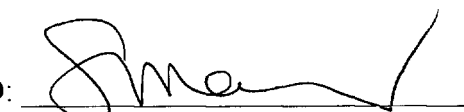
It is, therefore, RECOMMENDED that the Board of Supervisors:

- Accept and file this report, and
- Authorize the Planning Director to file appeals on any THP which fails to comply with the requirements of Ordinance No. 4529 or for any other appropriate and documented reason, and
- Direct Supervisor Almquist and Planning staff to transmit to the Board of Forestry the County's support of the Agency Rules Package and the changes to the County's 1999 Forest Practice Rules (Attachment 10), and
- Schedule a public hearing on November 9, 1999, to consider the set of policy/ordinance amendments, including the modifications, approved by the California Coastal Commission and the second (less restrictive) set of policy/ordinance amendments.

Sincerely,

  
Alvin D. James  
Planning Director

RECOMMENDED:

  
Susan A. Mauriello  
County Administrative Officer

- Attachments
1. Minute Order, April 27, 1999, item no. 40.4
  2. Coastal Commission Modifications
  3. Letter of Steve Wert, Unit Chief, CDF-Felton, dated June 23, 1999
  4. Letter of Alvin D. James, Planning Director, dated August 8, 1999

5. 1998 Forest Practice Rules
6. Notice of Approval of Regulatory Action
7. Santa Cruz County Rules, 1999
8. Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat (on file)
9. Protection of Threatened and Impaired Watersheds, 1999 (Agency Rules Package)
10. Revised Forest Practice Rules

cc: County Counsel  
California Department of Forestry, Central Coast Ranger Unit  
Santa Cruz Farm Bureau  
Big Creek Lumber  
Mark Morgenthaler  
Steven M. Butler  
Citizens for Responsible Forest Management  
Sierra Club  
Summit Watershed Protection League  
Valley Women's Club  
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