

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****Th4c**

February 25, 1999

TO: Commissioners and Interested Persons

FROM: Tami Grove, Deputy Director
Lee Otter, District Chief Planner
Rick Hyman, Coastal Program Analyst

SUBJECT: **SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-98.** For public hearing and Commission action at its meeting of March 11, 1999, to be held at Carmel Mission Inn, 3665 Rio Road, Carmel.

SUMMARY OF STAFF REPORT

Santa Cruz County is proposing the following changes to its certified Local Coastal Program:

A. Timber Harvest

Amend the Land Use Plan (LUP) and Implementation portion (IP) portion of its Local Coastal Program to:

1. allow timber harvesting (and associated operations) requiring California Department of Forestry approval of a timber harvest plan only in the Timber Production; Parks, Recreation and Open Space; and Mineral Extraction Industrial zone districts (LUP policy 5.12.14; IP sections 13.10.312; 13.10.322; 13.10.332; 13.10.342; 13.10.352; 13.10.362; 13.10.372; 13.10.382; new 13.10.395a);
2. allow timber harvesting by helicopter only in the "TP Timber Production" zone district under certain criteria (new section 13.10.378);
3. limit timber harvesting in riparian corridors, residential buffer zones, and landslide areas and do not exempt timber harvesting from following riparian corridor rules (IP: new section 13.10.695b, c; 16.30.050).

B. Roads

Change the design criteria for roads (IP Section 16.20.180h).

This amendment was filed on December 31, 1998. These two items are part of a larger package; the other components regarding non-conforming use and resources and constraints mapping have been deemed "minor" and are addressed in a companion staff report for this meeting (Item #3C). The standard of review for the land use plan amendments is that they must be consistent with the Coastal Act. The standard of review for the implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

Note: This LCP amendment submittal involves several timber harvest issues that the Commission has previously expressed interest in reviewing in a public workshop. Unfortunately, resources have not been available for staff to prepare for such a workshop prior to processing this particular amendment. Staff will continue to seek means to conduct a timber harvest workshop sometime in the future.

Staff Recommendation

Staff recommends that the Commission **approve, only if modified** the proposed amendment as it relates to timber harvesting. The primary purpose of this amendment is to restrict timber harvesting to three zoning districts: Timber Production (TP), Parks, Recreation and Open Space (PR), and M-3 (Mining). The County has proposed the amendment in response to a recent court case that affirmed that local governments have authority to determine appropriate locations for timber harvesting (see Staff Note below). Most of the amendment falls within this parameter. In the coastal zone, the proposed restriction of timber harvesting to three zoning districts means that some lands that have timber resources will not be allowed to be logged, unless there is a zoning change to a district that allows timber harvesting, such as TP. Staff's concern with this amendment is that the criteria for such rezoning are unclear in the land use plan and this could result in rezonings that are inappropriate under Coastal Act policies, particularly those concerning recreational and visual resources, environmentally sensitive habitat, and lands subject to geological hazards. A further concern is that the amendment would allow for logging in Parks, Recreation, and Open Space and Resource Conservation areas where the intent is to reserve these areas for recreational and other compatible low-intensity uses or conservation uses, respectively. Finally, staff has identified two activities proposed for policy amendment that the County does not have the authority to regulate: helicopter logging and logging on landslides. Table 1 summarizes these issues and the staff recommended modifications.

Another part of the submittal addresses roads. Staff has found that the proposed revisions do not relate to timber roads. The revisions repeat land use plan policies, promote fire protection and erosion, and are recommended for approval.

TABLE 1: Santa Cruz County Timber Harvesting Amendment Issues and Proposed Modifications

Existing Policy	Proposed Amendment	As Modified
LAND USE PLAN		
Six land use plan designations in the coastal zone have timber resources: Parks Recreation and Open Space; Mountain Residential; Agriculture; Resource Conservation; Public Facilities; Rural Residential. There is no "Timber Resource" or "Timber Production" land use designation.	UNCHANGED	UNCHANGED
There is no explicit policy on whether Timber Production is an appropriate use in these land use designations except for the Agriculture designation, where it is discretionary (Policy 5. 13.4).	UNCHANGED	Specify that timber harvesting in recreational, visually or environmentally sensitive, and areas susceptible to hazards, is not appropriate. (Mod A)
LUP Objective 5.12 encourages sustainable forestry under high environmental standards, protection of the scenic and ecological values of forested areas, and orderly timber production consistent with the least possible environmental impacts.	UNCHANGED	UNCHANGED
LUP Policy 5.12.9 encourages rezoning to Timber Production "where appropriate." No LUP policy specifies what is appropriate.	UNCHANGED	Specify that timber harvesting in recreational, visually or environmentally sensitive, and areas susceptible to hazards, is not appropriate. (Mod A)
LUP Policy 5.12.2 allows for timber harvesting in the Tp Timber Production zone district	Adds Policy 5.12.14 that allows timber harvesting only in 3 zoning districts: TP, M-3, PR.	Prohibit timber harvesting in PR zone in coastal zone (Mod B-1)

Existing Policy	Proposed Amendment	As Modified
ZONING		
Timber harvesting is an allowable use in the TP Timber Production, PR Parks and Recreation, SU Special Use, M-1, M-2, and M-3 Industrial zones; small scale harvesting is allowed in RR and R-A zones.	Limits timber harvesting to 3 zones: TP, M-3, PR	Add prohibition of timber harvesting in PR zone in coastal zone (Mod B-3)
Section 13.10.170d allows rezoning of land to Timber Production in six different designations and two mapped resource areas without LCP amendment.	UNCHANGED	Eliminate TP as allowable zone for Park or Resource Conservation designations. Other zoning changes to Timber Production need LCP amendments (B-2).
Helicopter logging not addressed in zoning	Restricts helicopter logging	Do not restrict (Mod C).
Logging on landslide areas not directly addressed in zoning	Prohibits logging on landslide areas meeting certain criteria (see findings for detail)	Do not prohibit (Mod D).

Summary Of Issues And Comments

At the County hearings, the proposed timber harvest amendments elicited substantial comments. The amendments approved generally elicited favorable reaction from neighborhood and environmental groups and unfavorable reaction from those who conduct timber harvests and/or own timberland. In response, the County noted that most of the timber land remains zoned for timber harvesting, amendments to a zone that allows timber harvesting are possible for other properties, and that the proposal addresses environmental and neighborhood concerns with logging. Much of the testimony was focused on matters not in the Commission's purview, such as concurrent changes that the County was recommending to the Forest Practices Rules, the effects of the proposals outside of the coastal zone, and on earlier amendment proposals that were not finally adopted by the Board of Supervisors.

Additional Information

For further information about this report or the amendment process, please contact Rick Hyman or Lee Otter, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; Tel. (831) 427-4863.

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ATTACHMENTS

- Full Text Of Proposed Amendments
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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

MOTIONS AND RESOLUTIONS

The Commission needs to make five separate motions in order to act on this recommendation:

A. DENIAL OF LAND USE PLAN MAJOR AMENDMENT #3-98 PART A AS SUBMITTED

MOTION 1:

"I move that the Commission certify Major Amendment # 3-98 part A to the County of Santa Cruz Land Use Plan as submitted by the County."

Staff recommends a "NO" vote. An affirmative vote by a majority of the appointed commissioners is needed to pass the motion.

RESOLUTION:

The Commission hereby **rejects** Major Amendment # 3-98 part A to the land use plan of the County of Santa Cruz as submitted for the specific reasons discussed in the recommended findings on the grounds that, as submitted, it does not meet the requirements of Chapter 3 of the Coastal Act. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment.

B. APPROVAL OF LAND USE PLAN MAJOR AMENDMENT #3-98 PART A, IF MODIFIED

MOTION 2:

"I move that the Commission certify Major Amendment # 3-98 Part A to the County of Santa Cruz Land Use Plan as submitted by the County, if modified according to Modifications A and B-1."

Staff recommends a "YES" vote. An affirmative vote by a majority of the appointed commissioners is needed to pass the motion.

RESOLUTION:

The Commission hereby **approves** Major Amendment # 3-98 Part A to the land use plan of the County of Santa Cruz as submitted for the specific reasons

discussed in the recommended findings on the grounds that, as modified according to Modifications A and B-1, it meets the requirements of Chapter 3 of the Coastal Act. There are no feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment.

C. DENIAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART A AS SUBMITTED

MOTION 3:

*"I move that the Commission **reject** Major Amendment #3-98 Part A to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by the County."*

Staff recommends a "YES" vote which would result in **denial** of this amendment as submitted. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can result in rejection of the amendment (otherwise the amendment is approved as submitted).

RESOLUTION:

The Commission hereby **rejects** Major Amendment #3-98 Part A to the implementation plan of the Santa Cruz County local coastal program, as submitted, for the specific reasons discussed in the following findings, on the grounds that the amendment is not consistent with and not adequate to carry out the certified land use plan and exceeds the County's legal authority and hence the Commission's ability to approve.

D. APPROVAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART A, IF MODIFIED

MOTION 4:

*"I move that the Commission **approve** Major Amendment #3-98 Part A to the Santa Cruz County Local Coastal Program Implementation Plan, if it is modified according to Suggested Modifications B-2 &-3, C, D."*

Staff recommends a "YES" vote which would result in **approval** of this amendment if modified. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

RESOLUTION:

The Commission hereby **approves** Major Amendment #3-98 Part A to the Implementation Plan of the Santa Cruz County Local Coastal Program, for the specific reasons discussed in the following findings, on the grounds that, as modified by Suggested Modifications B-2, B-3, C & D, the amendment conforms with and is adequate to carry out the certified land use plan. Approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

E. APPROVAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART B, AS SUBMITTED

MOTION 5:

*"I move that the Commission **reject** Major Amendment #3-98 Part B to the Santa Cruz County Local Coastal Program Implementation Plan, as submitted by Santa Cruz County.*

Staff recommends a "NO" vote which would result in **approval** of this amendment as submitted. An affirmative vote by a majority of the Commissioners present is needed to pass the motion; and since the motion is written in the negative, if it fails then the amendment is approved.

RESOLUTION:

The Commission hereby **approves** Major Amendment #3-98 Part B to the Implementation Plan of the Santa Cruz County Local Coastal Program, as submitted, for the specific reasons discussed in the following findings, on the grounds that the amendment conforms with and is adequate to carry out the certified land use plan. Approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts each of the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

A. Rezoning Lands to Timber Production

Revise 1994 General Plan and Local Coastal Program for the County of Santa Cruz *policy 5.12.9* by adding the underlined wording:

Encourage timberland owners to apply for Timber Production zoning where appropriate. It is not appropriate to zone timberland for timber production if it is recreational, environmentally sensitive, visible from rural scenic roads (pursuant to policy 5.10.11), or susceptible to hazards that may be exacerbated by logging. Such rezonings must be in accordance with the procedures set forth in the TP ordinance.

and revise last sentence of policy 5.12.8 to be consistent with and reference this revision as follows:

...Require, as a condition of any land division, rezoning to TP for parcels which have equivalent timber resources and that meet the criteria of policy 5.12.9.

B Zoning Districts Where Timber Harvesting is Allowed

1. *Revise proposed new 1994 General Plan and Local Coastal Program for the County of Santa Cruz policy 5.12.14 (LCP) by deleting the wording "Parks, Recreation and Open Space (PR)," or by adding the underlined wording:*

Allow timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, only in the Timber Production (TP), Parks, Recreation and Open Space (PR) (except in the coastal zone), and Mineral Extraction Industrial (M-3) zone districts.

2. *Revise Section 13.10.170(d) of the County Code "Consistent Zone Districts" 3 by adding the underlined wording:*

... Rezoning of a property to a zone district which is shown in the following Zone Implementation Table as implementing the designation applicable to the property, shall not constitute an amendment of the Local Coastal Program, unless it involves rezoning to "TP" or "M-3" in the coastal zone.

General Plan/Local Coastal
Program Land Use Designation

Zone District pursuant to
Section 13.10.300 et seq. And
Section 13.10.400 et seq.

Open Space Uses:

-O-R Parks, Recreation
and Open Space

PR –Parks, Recreation and Open Space
PF –Public Facilities
TP—Timber Production, outside of the
Coastal zone only.

-O-C Resource Conservation

PR –Parks, Recreation and Open Space
PF –Public Facilities
TP—Timber Production, outside of the
Coastal zone only.
A- Agriculture
CA- Commercial Agriculture

General Plan/Local Coastal Program
Resource

-Agricultural Resource Lands

AP-Agricultural Preserve Zone District
A-P-Agriculture with Agricultural
Preserve Combining Zone District
CA-Commercial Agriculture
TP-Timber Production (except for
Coastal zone lands designated Parks
or Resource Conservation)

-Timber Resource Lands

TP-Timber Production (except for
Coastal zone lands designated Parks
or Resource Conservation)

3. *Revise Subsection (b) of Section 13.10.352 - Timber Harvesting- of the Parks, Recreation and Open Space Uses Chart of the County Code by adding the underlined wording:*

“PR USES CHART”

USE	PR
Timber Harvesting, <u>outside of the coastal zone</u> subject to Section 13.10.695.	P

C. Timber Harvest Related Helicopter Operations

Delete proposed Section 13.10.378 and associated references or revise proposed Section. 13.10.378 as by adding the underlined wording and deleting the wording with ~~strike~~throughs:

(a) Helicopter yarding of timber shall only be permitted for timber harvested from properties zoned TP or zoned another zone district where timber harvesting is an allowed use. Appurtenant helicopter service and log landing areas must be sited within the Timber Harvest Permit Plan (THP) boundaries on property which is either zoned TP or is zoned on another zone district where timber harvesting is an allowed use.

(b) Where environmental review or other resource protection evaluation concludes that the following measures are advisable, the County will communicate such recommendations to the appropriate authorities:

- limit ~~h~~Helicopter flights for log transport between the area where the felling is occurring and the landing ~~must~~ to occur only over property contained within the approved THP.

~~(b) No~~ helicopter flight ~~may occur~~ within 1,000 feet horizontally of an inhabited residence.

D. Locational Criteria for Timber Harvesting

Revise proposed Section. 13.10.695 as by deleting the wording with ~~strike~~throughs:

(a) Timber harvesting requiring approval of a Timber Harvesting Plan by the California Department of Forestry is allowed, in addition to the TP zone, only in those zone districts which specifically list timber harvesting as an allowed use.

(b) Within those zone districts (except the TP zone), timber harvesting shall not occur within the following areas:

1) riparian corridors, defined as:

- i) 50-feet from the bank full flow line of a perennial stream
- ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

2) a residential buffer, measuring 300-feet from the exterior walls of any residential dwelling located on adjacent properties not zoned TP.

~~3) in 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.~~

(c) Within the TP zone district, timber harvesting shall not occur within riparian corridors, defined as:

- i) 50-feet from the bank full flow line of a perennial stream
- ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

III. STAFF NOTE ON OTHER STATUTES RELEVANT TO COMMERCIAL TIMBER HARVESTING

A portion of this LCP amendment submittal includes additions and revisions to Land Use Plan and Zoning provisions for commercial timber harvesting. A significant body of legislation relevant to timber harvesting was enacted by the state legislature in the late 1970s and early 1980s which limits the Coastal Commission's ability to regulate this particular land use. Subsequent appellate court decisions have provided interpretive guidance regarding the authority to plan and regulate this activity. The following discussion outlines the provisions of the relevant legislation and cases as they affect the Commission's responsibility to carry out the Coastal Act, and their effect on the amendments submitted by Santa Cruz County.

Relevant Statutes: The Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code Section 4511 et seq.) and the Timberland Productivity Act of 1982 (Government Code Section 51100 et seq.) together provide a regulatory and planning framework for commercial timber harvesting in California. The Forest Practice Act specifically gives the California Department of Forestry (CDF) rather than the local county jurisdictions, authority to regulate commercial timber operations through the review of Timber Harvest Plans (PRC Section 4516.5 (d)). The Act also establishes hearing bodies, various operating procedures, an appeals process (PRC Sections 4516.5 (b) and 4516.6), and a number of definitions,(PRC 4521 et seq.) The definition of "timber operations" found in Section 4527 is most relevant to this discussion because it describes the activities that are regulated by CDF alone:

"Timber operations " means the cutting or removal or both of timber or other solid wood forest products, including Christmas Trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to construction and maintenance of roads, fuel breaks, fire breaks, stream crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, but, excluding preparatory work such as tree marking, surveying or road flagging. "Commercial purposes" includes (1) the cutting or removal of trees which are processed into logs, lumber or other wood products and offered for sale, barter, exchange or

trade, or (2) the cutting or removal of trees or other forest products during the conversion of timberlands to other land uses other than the growing of timber which are subject to the provisions of Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects and transportation projects. Removal or harvest of incidental vegetation from timberlands, such as berries, ferns, greenery, mistletoe, herbs and other products, which action cannot normally be expected to result in threat to forest, air, water or soil resources, does not constitute timber operations.

The Forest Practice Act also includes criteria to be used in the development of individual timber harvest plans and invites local counties to submit recommendations to the Board of Forestry for specific criteria to be applied to timber harvests in their jurisdiction. (PRC Sections 4516.5 and 4516.8)

No specific mention is made of the Coastal Commission in the Forest Practice Act, however PRC Section 4514 (c) states that the act is not "a limitation on the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce". Turning to the Coastal Act, the Commission is *not* authorized to *regulate* the conduct of timber operations through the Coastal Development Permit process because Section 30106 specifically exempts the removal of major vegetation pursuant to "timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973" from the definition of "development" and thus, also from the permit requirement. There is, however, no parallel prohibition in the Coastal Act regarding the Commissions *planning* responsibilities for various land uses, including timber production, in the Coastal Zone. Chapter 6 of the Coastal Act contains a legislative scheme to prepare and certify Local Coastal Programs for all land in the Coastal Zone. PRC 30330 gives the Commission the authority to carry out the planning provisions found in Chapter 6. ("The Commission, unless specifically otherwise provided, shall have the primary responsibility for the implementation of the provisions of this division..."). The LCPs prepared pursuant to the requirements laid out in the Coastal Act include Land Use Plans "sufficiently detailed to show the kinds, locations and intensity of land uses" (PRC 30108.5) and "zoning ordinances...which, when taken together with [the land use plan] implement the policies and provisions of this division at the local level" (PRC 30108.6). The Commission is thus, specifically authorized to undertake the land use planning process laid out in the Coastal Act and is not limited in fulfilling these duties by terms of Section 4514 (c) the Forest Practice Act.

The Timberland Productivity Act of 1982 (Gov't Code Section 51101 et seq.) is primarily directed towards encouraging counties to identify timber resources and zone land which contains commercial timber resources to the "Timber Production" Zone District. The statute requires all County Assessors in the state to prepare a list of properties that were, or, in the opinion of the Assessor, should be, assessed as timber production lands as their "highest and best" use. (Gov't. Code Sections 51110 and 51110.1). The Act

then lays out a mandatory re-zoning process which must be undertaken by counties where timber production properties have been identified. (Gov. Code Section 51112). The clear preference of the statute is that all timber production land will be zoned into the "Timber Production" zone, although the discretion to place land in this zone district is left up to the individual counties. Once zoned into the "Timber Production" zone district, the statute provides that "The growing and harvesting on those parcels shall be regulated solely pursuant to state statutes and regulations" i.e. The Forest Practice Act. (Gov't. Code Section 51115.1) According to the Timberland Productivity Act, (Gov't. Code Section 51114) the "Timber Production" zone district functions in many ways like a Williamson Contract for farmland. That is, land in the "Timber Production" zone remains in the district for a minimum of ten years and the initial time period "rolls over" every year unless the property is rezoned, thus any rezoning to a new zone district will not usually be effective for ten years. Also similar to a Williamson Contract, there is a very limited ability to obtain an immediate rezoning to another zone district. In conclusion, this statute strongly encourages the identification and placement of timber land into the "Timber Production" zone district, but leaves the individual designations and re-zoning to the discretion of local planning authorities. The Act also contains no limitations on the Coastal Commission to carry out its' statutory planning responsibilities.

Relevant cases: There are two recent appellate court cases that provide additional insight into the effect of the Forest Practice Act and The Timber Productivity Act on the Coastal Commissions' authority to plan for various land uses in the Coastal Zone.

The first case, Big Creek Lumber Company v. County of San Mateo (1995) 31 Cal. App 4th at 418, found that a zoning regulation which provided for a 1000' buffer between timber operations and residences located on land outside the "Timber Production" zone was not in conflict with the Forest Practice Act. In its decision, the Court distinguished between regulations which directed *how* timber harvesting would be accomplished and those which were simply identifying *where* the land use of timber harvesting could take place. The Court opined that regulations directed to the *conduct* of timber operations were inconsistent with the Forest Practice Act because the Act gave CDF sole authority to review and approve the permits for this activity through the Timber Harvest Plan process. The Court found however, that the zoning criteria added by San Mateo County was permissible because it only addressed a *locational* issue,,i.e. where timber harvesting could and could not occur, pursuant to the countys' general authority to plan for land uses.

In the second case (Westhaven Community Development Council v. County of Humboldt, (1998) 61 Cal. App.4th at 365), the Court denied the plaintiffs request to issue an injunction preventing logging, subject to a CDF approved Timber Harvest Plan, unless and until a use permit for the activity was obtained from Humboldt County. The Court opined that even though the County Zoning Ordinance stated that a use permit was required for commercial timber harvests, the requirement could not be enforced because the Forest Practice Act pre-empted application of zoning regulations "to the extent those regulations required a permit for timber operations on a land area of three

or more acres". The Court distinguished the ruling in their case from that made in the Big Creek case as follows "that decision {the Big Creek decision} did not address, consider or resolve any issues relating to local permitting requirements, because the county ordinance at issue in Big Creek Lumber Co. did not create a permit requirement....The Big Creek Lumber Co. draws a distinction between local attempts to regulate the conduct of timber operations, the first type prohibited by Section 4516.5 (d) and local efforts to regulate the location of timber operations" The Court thus affirmed the earlier decision in Big Creek "that the Forest Practice Act does not preempt local efforts to regulate the location of timber harvesting".

Conclusion: Based on the above analysis, the Commission may review and act on the amendments submitted by Santa Cruz County relevant to timberlands and timber harvesting to the extent that the policies and ordinances provide locational criteria. Thus, the Commission may consider those amendments which identify the zone districts where timber harvesting can occur, and those zoning criteria which specify buffer areas from inhabited homes not located in the "Timber Production" zone and from specific natural features because they simply specify *where* timber operations can occur.

Amendments which directly or indirectly regulate *how* timber operations will be conducted may not be reviewed by the Commission because the ability to establish rules regarding the actual conduct of the work is solely under the authority of CDF pursuant to the terms of the Forest Practice Act. Thus the proposed amendment to regulate the manner in which helicopters will be used to transport felled timber is outside of the Commission's authority because it directly regulates a component of a "timber operation" as defined in the Forest Practice Act and reserved by that act to CDF.

IV. RECOMMENDED FINDINGS

The Commission finds and declares for the following parts of Santa Cruz County Major Amendment # 3-98:

A. Timber Harvest

The County has proposed the following amendment to the Land Use Plan and implementation plan of the LCP.

Limitation on Timber Harvesting

This amendment has both a land use plan component and a zoning component. Since the standards of review are different, each is discussed separately.

a. Land Use Plan amendment

1. Description and Background

The proposed amendment mostly concerns the appropriate locations for timber harvesting regulated by the California Department of Forestry (see staff note above). Currently, the Santa Cruz County Local Coastal Program contains a broad objective to promote sustainable forestry. Objective 5.12 states:

To encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

The certified Local Coastal Program land use plan map contains six land use designations in the coastal zone that have timber resources: Parks Recreation and Open Space; Mountain Residential; Agriculture; Resource Conservation; Public Facilities; Rural Residential. These are found in the North Coast and Bonny Doon planning areas. There is no "Timber Resource" or "Timber Production" land use designation. Nor is there any explicit discussion in the LCP about whether timber harvesting is an appropriate use in the land designations where timber resources occur, except for the "Agriculture" category. In "Agriculture" areas timber resource land can be zoned "TP" according to plan policy 5.13.4.¹ In the other designations, objectives are limited to the primary purposes of the designations. For example, in the two residential designations, the objectives are limited to providing for low density residential development and retaining rural character (objectives 2.4 and 2.5).²

The County does have a separate timber resource map that is referenced in the LCP, although its status relative to the land use designations and zoning districts of the LCP is not entirely clear. LCP Policy 5.12.9 encourages (re)zoning of land that is mapped as timber resource to the "Timber Production" zoning district "**where appropriate**" (emphasis added), and policy 5.12.2 states that timber harvesting is a principal use in that district. For timber resource land over 20 gross acres in size not zoned "TP," land divisions and residential development are to be evaluated for timber resource potential. Timber resources are to be protected and the parcel rezoned to "TP" as part of any land division approval (policy 5.12.8). Beyond this, there is no specific policy that states that all mapped timber resource land should be zoned "TP" or alternatively that it should be logged.³

¹ If it is not so zoned, then generally it is zoned "Commercial Agriculture (CA)" and used for commercial cultivation of plant crops and raising of animals. (Policy 5.13.5).

² Similarly, In the Parks, Recreation, and Open Space areas, "low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable" and "commercial recreation, County, State and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable" are allowed (policy 7.1.3). The "Resource Conservation" designation is for public or private lands held for conservation purposes (policy 5.11.5). The only such land in the coastal zone which has timber is a Fish and Game ecological reserve. The "Public Facilities" designation is for public and quasi public facilities, public facility support facilities, and institutions (policy 2.21.1). The only "Public Facility" designation in the coastal zone with possible timber resources is on the University of California, Santa Cruz campus. One area is protected environmental reserve land and the other is undeveloped "resource" land.

³ These maps can be updated upon rezoning of land in or out of a "TP Timber Production" zoning district, without constituting a local coastal program amendment (figure 1-7). Otherwise, if new information were

This proposed amendment to the coastal land use plan, the *1994 General Plan and Local Coastal Program for the County of Santa Cruz*, would add new policy 5.12.14. This would allow timber harvesting that is regulated by the Department of Forestry through Timber Harvest Plans only in the Timber Production, Parks, Recreation and Open Space, and Mineral Extraction Industrial zone districts. State-approved timber harvest plans are required for most timbering operations except for the following:

- harvesting Christmas trees;
- harvesting dead, dying or diseased trees of any size and small amounts (less than 10 percent of the average volume per acre under certain conditions) of fuelwood or split products;
- operations conducted on ownerships of timberland of less than 3 acres (1.214 ha) in size and not part of a larger parcel of timberland in the same ownership;
- and certain cutting or removal of trees which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration, and intensity.

These types of operations would be governed by other local coastal program policies and are not affected by this amendment (except with regard to residential zoning as discussed below). The County is offering this amendment as a follow-up to a court case that states that while local governments can not regulate the conduct of timber cutting operation, they can use their planning authority to determine **where** it may occur (*Big Creek Lumber v. County of San Mateo*, 31 Cal. App. 4th at 418, (1995)) (see Staff note above).

2. Standard of Review

The standard of review for Land Use Plan amendments is the Coastal Act. Under the Act, Land Use Plans are to indicate the kinds, locations, and intensities of uses that are allowable in various locations (PRC 30108.5). As discussed in the staff note above, although the Coastal Act exempts timber harvesting regulated by the CDF from the definition of development, the Commission is not precluded from planning for the appropriate locations of such activity. The substantive policies of Chapter 3 are the primary basis for determining this. In this case, the most relevant governing sections of the Coastal Act are:

30223 Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

presented showing timber resources outside of the currently mapped areas and not designated "TP," the County would have the option of updating the mapping through an amendment of its *1994 General Plan and Local Coastal Program for the County of Santa Cruz*. "TP" zoning generally applies to parcels capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre pursuant to State law and County policy.

30240(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

30243 The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

30251 The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

30253 New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Additionally, Coastal Act section 30001.5(c) states, "Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state."

3. Analysis.

The Commission must determine whether the land use plan with the proposed amendment is consistent with the Coastal Act. As submitted by the County, the

amended land use plan would not clearly define where timber harvesting is allowed and, therefore, consistency with the various policies of Chapter 3 of the Coastal Act is not guaranteed. As mentioned, a land use plan is to indicate kinds, locations, and intensities of uses (PRC 30108.5). Typically, this is achieved through a series of land use designations, each for a different use or group of uses. Unfortunately, Santa Cruz County does not have a designation for timber harvesting. Complicating matters, there are six designations in the Coastal Zone where timber harvesting could potentially occur. A review of the land use plan provisions regarding purposes and uses of the designations alone (see above) reveals that timber harvesting is only explicitly shown as appropriate in agricultural areas. One is left to interpret how separate policies favoring timber harvesting (in Section 5.12) are to be implemented in other areas. The proposed amendment only serves to perpetuate this ambiguity by addressing only zoning districts, not the land use designations, where timber harvesting is allowed. The proposed new policy does not alter any land use plan policies or designations. Nor does it change which zoning districts are appropriate for implementing which land use designations. It simply states the districts where timber harvesting is permitted: TP, PR, and M-3. In effect, the only guidance in the LUP as to the appropriate location of timber harvesting is Policy 5.12.9, which encourages rezoning of timberlands to timber production "where appropriate." Under this approach, there is no guarantee that timber harvesting would not be deemed appropriate in locations that might conflict with Coastal Act policies concerning environmentally sensitive habitat, visual resources, recreational lands, and lands where geological hazards are a concern. This is inconsistent with these respective policies (Sections 30233, 30240, 30251, 30253). The specific analysis of each proposed zoning district restriction is summarized below.

- **"TP" Zoning:** The land use plan already has provisions sanctioning TP zoning where timber harvesting is allowed. Thus, the part of the proposed amendment that says that timber harvesting is allowed in the TP zone district is redundant. It does not give guidance as to where the TP zoning will apply. It thus perpetuates the non-definitive direction of land use plan policy 5.12.9. As proposed for amendment, the land use plan will lack an explicit policy that addresses timberlands and clarifies the cited objective; i.e., which of the timberlands (which may or not be included on the County Resource Maps) are suitable to be rezoned to "TP" and hence suitable to be logged? Lacking such language, one possible interpretation is that any such lands, no matter what resource constraints they pose, are suitable. Thus, the proposed amendment could lead to rezonings and, hence, timber harvesting that is in clearly inappropriate locations from a Coastal Act perspective. Therefore, this amendment must be denied, because the resulting land use plan would be inconsistent with the Coastal Act.
- **"PR" Zoning:** The land use plan does not have a policy that addresses PR zoning. However, cited policy 7.1.3 specifies which uses are allowed in the Parks, Recreation, and Open Space designation on the land use map. The implication is that PR zoning is the district that implements the identically-named land use plan designation. Policy 7.1.3 does not say

anything about allowing timber harvesting. In fact such a use would conflict with the list of the allowed uses, the purpose of the designation, and hence Coastal Act policy 30223. Timber harvesting would conflict with, be disruptive to, and is fundamentally incompatible with recreational use. Thus, the proposed amendment, which would allow for timber harvesting in the PR zoning is inconsistent with the Coastal Act and must be denied.

- **"M-3" Zoning:** The land use plan does not have a policy that addresses M-3 zoning. That zone applies to mines. Section 2.19 of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz*, provides for heavy industrial and quarry operations. There are two sites designated with a "Q" quarry overlay symbol (Lonestar Shale and Limestone) in the coastal zone that have timber resources on them (the underlying land use plan designation is "Mountain Residential." They are not zoned "M-3." A zoning designation of M-3 implies sanctioning a disruption of the natural environment that would require removal of tree cover to function. Therefore, saying that timber harvesting is an allowed use in such a zoning district is acceptable.

It would have been preferable for the County to structure the proposed amendment differently at least as it affects the coastal zone in order to provide clarity. Under the Coastal Act, the land use plan is to give general indications of locations, intensity, and kinds of permitted uses, and the zoning then provides the details consistent with the land use plan directive. This would suggest a three-step process with regard to timber harvesting:

1. Ensure that the timber resource maps were up to date, using aerial photography and possibly other information;
2. Decide appropriate locations for timber harvesting based on Coastal Act criteria and then other local objectives that did not conflict, in line with the recent Big Creek court case. For example, answer such questions as: is timber harvesting appropriate only in lands which are zoned TP? Are there sensitive areas, such as environmentally sensitive habitat, or visually sensitive lands, where timber harvesting should not be allowed?
3. Ensure that the land use plan was internally consistent with and appropriately incorporated into these locational decisions. This step would involve comparing the (revised) timber resource map with the land use plan map. For each designation where timber resources occur, the plan should make clear whether timber harvesting is an allowed use based on the previous step. For example, if there remained designated "Mountain Residential" and "Rural Residential" areas where timber harvesting was desired, the "purpose" sections of the designations could be restated to add timber harvesting as being suitable. Or, alternatively,

such areas could be reclassified to a designation where timber harvesting was said to be suitable.

In the absence of such an exercise, though, the inconsistencies of the submitted amendment may be addressed by adding overriding policy language that dictates where timber harvesting is suitable. This could be accomplished by adding criteria to existing policy 5.12.9 to replace the vague "where appropriate" language. Such criteria should follow Coastal Act considerations as outlined above and are shown in **Suggested Modification A**. A companion change needs to be made to the previous policy regarding "Timber Resource Land Not Zoned Timber Production" for consistency, as also shown in Suggested Modification A. That policy now requires a rezoning to "TP" if there is any approved land division on such lands. However, if under the modification to policy 5.12.9, timber harvesting is inappropriate, then this rezoning should not occur.

Additionally, the reference to allowing timber harvesting in "PR" zones needs to be deleted as shown in Suggested Modification B, as it applies to the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The Commission is aware that the "PR" zone district is used outside of the coastal zone to designate some publicly owned watershed lands and some privately owned lands that may be logged. The Commission notes that it does not have authority outside of the coastal zone. Therefore, the County could choose to either allow timber harvesting to be permitted or not on "PR" lands outside of the coastal zone under the suggested modification.

If the land use plan is modified along these lines, according to Modifications A and B-1, then the amendment can be approved because the land use plan as amended will be consistent with the Coastal Act.

b. Implementation amendment

1. Description and Background

The certified Local Coastal Program implementation plan explicitly allows some type of timber harvesting in the following zoning districts: "TP Timber Production", "PR, Parks, Recreation, and Open Space," and "SU Special Use" zoning districts. Harvesting is an allowed interim use of a mining site in the M-1, M-2, and M-3 Industrial zone districts. Small-scale timber harvesting is an allowed use in the "RA" (Residential Agriculture), and "RR" (Rural Residential) districts.

As discussed above, the proposed LUP amendment would limit timber harvesting to the TP, PR, and M-3 zoning districts. In parallel to this change, the proposed amendment to the zoning ordinance would delete entries that currently allow timber harvesting in the "Rural Residential (RR)," "Residential Agriculture (RA)," "M-1" and "M-2" Industrial, and "Special Use (SU)" zone districts. It would also specify that timber harvesting is not allowed in the Agricultural ("CA," "AP," and "A"), Commercial ("PA," "VA," "CT," "C-1," "C-2," "C-4"), and

Public and Community Facilities zone districts. The *County Code* sections affected are 13.10.312; 13.10.322; 13.10.332; 13.10.342; 13.10.352; 13.10.362; 13.10.372; 13.10.382; new 13.10.695a (see Attachment 1). [As explained below, the only substantive change from the current zoning provisions is that timber harvesting will no longer be allowed in the "Special Use" district.]

Zoning districts are shown on the zoning map. A substantial portion of the mapped timber resource areas are zoned "Timber Production" (20,697 out of 21,355 acres or 97% in the coastal zone). Properties with timber resources on them are also zoned a variety of other districts, including "SU," "CA," and "RA" (see second column of table).

The zoning map may also be amended. For each land use plan designation, overlay, and mapped resource, there are one or more appropriate zoning districts. Section 13.10.170(d) of the *County Code* provides that "Timber Production" zoning is a consistent implementing zoning district for property designated in the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* as "Agriculture," "Public/Institutional Facilities," "Mountain Residential," "Parks, Recreation, and Open Space," "Resource Conservation," as well as Agricultural and Timber Resource lands (see third column of table). Under this provision a rezoning to timber harvest in any of these designations does not constitute a local coastal program amendment, as the Coastal Commission had certified this provision stating that "Timber Production" is appropriate zoning for these designations.

"PR" (which also allows timber harvesting) is a consistent implementing zoning district for property designated in the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* as "Agriculture," "Mountain Residential," "Rural Residential," "Parks, Recreation, and Open Space," and "Resource Conservation," as well as Agricultural Resource lands (see third column of table). M-3 (which also allows timber harvesting) is a consistent zoning district for property with a Quarry overlay symbol on the land use plan map. "SU" (which also allows timber harvesting) is a consistent zoning district anywhere.

The proposed amendment will now explicitly limit where timber harvesting can occur to the three noted zoning districts: "TP," "PR," "M-3." The amendment does not alter the permissibility of timber harvesting in the "M-3 Mineral Extraction Industrial District" (as an interim use of a mining site), the "Parks, Recreation and Open Space (PR)" district, and the "TP" zone district. What the amendment will mean is that timber harvesting can not occur on timber land in one of the other districts, absent a rezoning. The rezoning would not constitute a local coastal program amendment if the rezoning involved any of the land use designations noted in the previous paragraph, which it almost certainly would.

The proposed amendment explicitly prohibits timber harvesting in Agricultural, Commercial, and Public and Community Facilities zone districts. The current zoning district regulations do not show timber harvesting as permitted uses in those districts. Under traditional planning rules and County policy, if a use is not listed as an allowable land use in a particular zone district, then it is already prohibited. Thus, this aspect of the amendment is also a reiteration of existing policy. However, prior to the noted Big Creek court case, the Department of Forestry would have approved timber harvesting in these zones. Since the

court case, the Department of Forestry should not be approving timber harvesting in these zones.

The proposed amendment deletes timber harvesting as an interim use of a mining site in the M-1 and M-2 Industrial zone districts. The purpose of these districts is to provide areas for light and heavy industrial facilities respectively (*Code* Section 13.10.341). Since mines would not be zoned "M-1" or "M-2" this is simply a "clean-up" amendment from the County's perspective.

The proposed amendment also deletes timber harvesting in the "SU" zone district. This district is used for flexible planning of large properties, lands with a variety of physical constraints, and mixed uses (*Code* Section 13.10.381).

The proposed amendment deletes "small-scale" timber harvesting in the "RA" and "RR" zoning districts. "Small-scale" is not specifically defined, but according to County staff means "minor." This is defined in section 16.52.030 as those harvests not requiring State approval. Thus, the County would maintain that State-approved timber harvest plans are currently not listed as permitted uses in these districts and the proposed amendment thus does not represent a change, just a reiteration. These districts are certified as appropriately implementing lands designated "Mountain Residential," "Rural Residential," and "Suburban Residential" in the land use plan. Additionally, "RA" is an implementing district for lands designated "Agriculture."

With the exception of the noted change to the "RA" and "RR" districts, this amendment does not alter provisions regarding tree cutting not subject to a State-approved timber harvest plan.⁴

⁴ Under the Coastal Act removal of major vegetation that is not subject to such regulation and is not for agricultural purposes or kelp harvesting needs a coastal permit. County regulations thus provide for the following categories in the coastal zone:

1. County notice of timber harvesting (*County Code* §16.52.035) or timber harvest permit (§16.52.037) and coastal permit (§13.20.160): tree removal for commercial purposes
2. Various other discretionary permits (would include a coastal permit or exclusion): tree removal authorized pursuant to those permits, such as tree removal needed to construct an authorized building.
3. Significant tree removal permit (excluded from coastal permit exclusion per §13.20.074): removal of significant trees not included in the above categories (defined in Section 16.34.030)
4. Exempt: removal of orchard trees (§16.52.031), removal of tree crops pursuant to an agricultural operation (§16.34.090), removal of trees in an emergency situation caused by hazardous or dangerous condition of the tree (§16.34.080), and non-significant trees (defined in Section 16.34.030)

Although the proposed language prohibiting timber harvesting in most zoning districts references only such harvesting requiring a State-approved timber harvest plan, there are also no entries in the individual zoning districts which mention any other types of tree cutting as permissible uses. The cited *Code* sections in the above list could be interpreted to allow tree cutting in the second, third, and fourth categories in all zoning districts. Any commercial cutting of timber that is not regulated through State-approved timber harvest plans (first category) would still be allowed in the "TP," "PR," and "M-3" districts under this amendment. But with the

2. Standard of Review

The standard of review for these amendments is the land use plan. Most relevant are new policy 5.12.14 and policy 5.12.9, as modified above. Also relevant is Objective 5.12:

Encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

Furthermore, the provisions describing the purposes and uses of each land use designation, as discussed above, govern. Finally, the amendment must meet the legal tests described in the staff note.

3. Analysis

Since this amendment addresses specifically mapped zoning districts, it meets the noted legal test. This amendment is written to carry out the directive of the proposed new land use plan policy. The lists of permitted uses in each zoning district comply with this policy as submitted. However, since the new land use plan policy must be modified to delete timber harvesting as a permitted use in the PR zoning district, the proposed amendment is now inconsistent with this provision and must be denied. As well, there is nothing in the purpose section of the "PR" zoning district that suggests that timber harvesting should be a permitted use.

"TP" Zoning: A further question is whether the amendment conflicts with any other existing land use plan policies. The amendment does not change the currently certified provision that timber harvesting is an allowed use in the "TP" zoning district. That is the zoning district that gives precedence to timber harvesting (although it allows other compatible uses as well). That is the only zoning district specifically mentioned in the land use plan as being appropriate for timber harvesting.

Rezoning to "TP without LCP Amendment: As noted in the above findings, the implementation plan has been certified to allow rezonings to "TP" without being considered local coastal program amendments subject to Coastal Commission review. This procedure is no longer fully consistent with the land use plan as will be amended with modifications. As noted policy 7.1.3's list of permitted uses in the "Parks, Recreation, and Open Space" designation says nothing to suggest that timber harvesting is an appropriate use. The same goes for policy 5.11.5 regarding the "Resource Conservation" designation. Therefore, the automatic rezoning provision to "TP" for those designations is inconsistent with the land use plan. Furthermore, the

proposed deletion of "small-scale" timber harvesting from being allowed in the "RA" and "RR" zoning districts, there would be no explicit allowances for such timber removal in any other zoning districts.

automatic rezoning to "TP" in the other four land use plan designations and the two mapped resource areas is inconsistent with policy 5.12.9, as modified. To implement that policy may require some of these lands to stay in their current zoning category rather than be rezoned to "TP."

Rezoning to "M-3:" The implementation plan also has a provision allowing rezoning of "Q Quarry" designated land to the "M-3" zone. As noted, the "M-3" zone allows timber harvesting. There are mapped "Mineral Resource" areas that also have timber resources. The "Q" designation is just a symbol on the land use map; thus its extent, and the extent of the area that can be rezoned to "M-3" is unclear. Since there could be a rezoning to "M-3" (which would allow for timber harvesting) encompassing sensitive forests, there could be a conflict with policy 5.12.9 as amended.

Non-"TP" Zoning: A concern with this amendment involves the current zoning maps. Information in the County submittal indicates that 21% of timber harvests countywide (both in and out of the coastal zone) took place in the Special Use, Commercial Agriculture, or Agriculture zones; zones where timber harvesting would no longer be permitted. A review of the zoning maps reveals that there are approximately 200 acres of mapped timber resource land in the coastal zone that is so zoned and thus will no longer be able to be logged. (See fourth column "Not OK" entries above the dashed lines.) In most cases these district boundaries follow property lines. About 150 of these acres are designated on the land use plan as "Mountain Residential" and are zoned "Special Use." As noted, this zone district allows a range of uses, including residential.

The remaining mapped timberland is mostly designated "Agriculture" on the land use plan and zoned "Commercial Agriculture". This district allows various agricultural and agricultural support uses along with limited residential and other uses. An argument has been raised that timber harvesting is an agricultural use. While some state law supports such a definition, that is not part of the County's definition.

In addition to these officially-mapped lands a representative of Big Creek Lumber has submitted a map showing over 1000 acres in the coastal zone of timber land in the Rural Residential, Special Use, Commercial Agriculture, or Agriculture zone districts (see attached correspondence). These additional acres are not mapped as timber resource lands. They would have to be carefully reviewed to determine if they all hold commercial timber stands. However, given the age of the previous mapping (over 25 years ago) and a sample examination of aerial photographs, it is likely that the representative's map has validity.

Different perspectives can be taken with regard to this information. Some citizens expressed concern with the site-specific affect of this amendment and the fact that the County did not perform such an analysis. An approach to address their concerns would be a parcel-specific review to determine if other uses allowed would be consistent with the land use plan. If no such uses were found, then if the proposed amendment were to go forward it should be accompanied by a site-specific rezoning. For example, there is a parcel designated "Agriculture" and zoned "CA Commercial Agriculture." It contains

mapped timber resources. The analysis would determine if not allowing timber harvesting would be in conflict with land use plan provisions and if any of the other permitted uses allowed in the zoning district would be feasible and consistent with land use plan provisions.

However, this type of analysis is not necessary in order for the Commission to approve the remaining aspects of the proposed amendment. As long as logging remains permitted in the "TP" zoning district, then the supportive land use policies can be carried out. This is made clear by the fact that there is the possibility that a rezoning to that district could always be requested if an owner of a parcel not already so zoned wanted to log. Furthermore, each affected parcel still retains its certified zoning district. This zoning has been found consistent with the land use designation. Each mentioned district contains a variety of permitted uses. There thus would be some use (other than timber harvesting) that could be made of each property that would be consistent with the certified land use plan and hence not result in a "taking." There do appear to be approximately eight parcels that are zoned "CA" or "A" in the coastal zone that are mostly forested according to the map provided by Big Creek Lumber's representative (they are not mapped by the County as timber resource). Since most of the permitted uses involve open lands, these parcels would be most restricted under the amendment. They would be prime candidates for a rezoning to "TP." This would be preferable to modifying the proposed amendment to include timber harvesting as a permitted use on agriculturally-zoned land. Although it can be argued that only such land with timber could be logged, theoretically there could be some incentive to convert productive fields to timber plantations. Also, there could be incentive to log those timbered portions of productive fields that currently provide habitat, buffers, or scenic amenities. Finally, ancillary timber activities could potentially be allowed (e.g., grading for landings or haul roads) that would adversely affect farming operations.

Remedies: The zoning provisions need to be made consistent with the land use plan provisions. Timber harvesting needs to be deleted as a permitted use in the "PR" zone district at least as far as the coastal zone is concerned, as shown in Suggested Modification B-3. To ensure that timber harvesting does not become permitted in Parks and Resource Conservation designations through future amendments, Section 13.10.170d of the *County Code* must be revised to remove the automatic rezoning, as shown in Suggested Modification B-2. To ensure that other rezonings are consistent with policy 5.12.9, as amended, they need to be subject to Coastal Commission review, pursuant to the Coastal Act, as shown in Suggested Modification B-2. The proposed amendment can then be approved because the implementation plan as amended and so modified will be consistent with the land use plan.

The following table shows what the results of the suggested modifications to the land use plan and zoning would be in bold and double strikethrough:

Land Use Designations w/ Timber Resources	Existing Zoning with Timber Resources	Acceptable Zoning Districts for Land Use Designations	Is Timbering an allowable use? (Proposed and as modified)
Parks, Recreation, & Open Space	PR Parks, Recreation, & Open Space SU Special Use TP Timber Production	PR Parks, Recreation, & Open Space SU Special Use TP Timber Production PF Public Facilities	<u>Not OK in coastal zone</u> OK Not OK OK Not OK
Mountain Residential	RR Rural Residential TP Timber Production SU Special Use	RR Rural Residential TP Timber Production** SU Special Use RA Rural Agriculture A Agriculture	Not OK OK Not OK Not OK Not OK
Agriculture	CA Commercial Agriculture TP Timber Production	CA Commercial Agriculture TP Timber Production**	Not OK OK
		A Agriculture RA Residential Agriculture SU Special Use	Not OK Not OK Not OK
Resource Conservation	TP Timber Production	TP Timber Production	<u>Not OK in coastal zone</u> OK
		PR Parks, Recreation, & Open Space PF Public Facilities A Agriculture CA Commercial Agriculture SU Special Use	<u>Not OK in coastal zone</u> OK Not OK Not OK Not OK Not OK

Land Use Designations w/ Timber Resources	Existing Zoning with Timber Resources	Acceptable Zoning Districts for Land Use Designations	Is Timbering an allowable use? (Proposed and as modified)
Public Facility	SU Special Use *CA Commercial Agriculture	SU Special Use CA Commercial Agriculture	Not OK Not OK
		PF Public Facilities A Agriculture TP Timber Production**	Not OK Not OK OK
Rural Residential	RR Rural Residential RA Residential Agriculture SU Special Use TP Timber Production A Agriculture	RR Rural Residential RA Residential Agriculture SU Special Use TP Timber Production** A Agriculture	Not OK Not OK Not OK OK Not OK

** = Any further rezonings to "TP Timber Production" would have to on timberland that is not recreational, environmentally sensitive, highly scenic, or susceptible to hazards that can be exacerbated by logging, subject to Coastal Commission review through the local coastal program amendment process.

Helicopter Timber Harvesting

1. Description

This proposed amendment proposes a new section (13.10.378) of the *County Code* to allow timber harvesting by helicopter only in the "TP" zone district, pursuant to three criteria. The first criteria is that any appurtenant helicopter service and log landing areas must be sited within the Timber Harvest Plan boundaries on properties which are zoned for timber harvesting. This provision appears to just restate that timber harvest is allowed only in areas so zoned. That is because such appurtenant helicopter operational facilities would be included on the Timber Harvest Plan as approved by the State.

The second criteria is that helicopter flights for log transport between the area where the felling is occurring and the landing must occur only over property contained within the approved THP. This appears to mean that if there was a non-contiguous timber harvest area (e.g., a property intersected between where the logs were being felled and where they were being transported to by helicopter), then helicopter transport would not be allowed.

The third criteria is that no helicopter flight may occur within 1000 feet horizontally of an inhabited residence.

The purpose of this amendment is to reduce noise impacts from helicopters on residences near logging operations and to help promote safety.

2. Standard of Review

The following *1994 General Plan* provisions are most applicable:

3.19.1 - which prohibits the use of helicopters for any use other than emergency law enforcement, emergency medical or commercial agricultural purposes; the County does define logging operations as an agricultural use; therefore, logging would fall under the exceptions in this policy

6.9.1 - which deals with the compatibility of land uses with respect to noise.

However, these provisions are not part of the certified local coastal program. The Commission's legal authority to review this proposed change is also limited (see Staff Note above).

3. Analysis

As described in the staff note, neither the Coastal Commission nor any local cities or counties have permitting authority over commercial timber harvesting operations subject to the Forest Practice Act. The proposed amendment's limitation on helicopter operations is clearly beyond the purview of the County. As defined in the Forest Practice Act, "timber operations" includes "removal...of timber" and "haul routes and schedules" (PRC Sections 4516.5(a) and 4527). Regulation of how timber is removed is thus pre-empted by the Board of Forestry, and local jurisdictions may not regulate this aspect of timber harvesting (PRC Section 4527), nor may the Coastal Commission. Additionally, the FAA would preempt local government vis-a-vis helicopter altitudes over residences. Thus, the Commission has no permit authority to delegate, and the amendment must therefore be denied.

Even if this proposed regulation were to meet the legal authority test, it may not adequately carry out the land use plan. There may be occasions where helicopter transport would be the environmentally preferred method of hauling cut logs from the harvest site. This would be particularly true, for example, in a sensitive watershed where the only alternative would involve soil-destructive yarding and hauling methods (e.g., by truck or tractor on a particular site that would require grading for landings or new road construction).

Remedies: The proposed wording needs to be qualified in two ways in order to be legally sound. First, it can not dictate the method of timber removal. Thus, the reference to not allowing helicopter logging where logging is permitted must be deleted. Second, helicopter

flight regulations can not be dictated and such references must be deleted. This can be accomplished in one of two ways, either (1) by simply deleting the proposed new section 13.10.378 and the references to it or (2) by placing qualifying language that is consistent with the County's authority. As so modified, according to Suggested Modification C, the proposed amendment is consistent with the land use plan and can be approved.

The Commission notes that it does not have authority outside of the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The County could choose to develop regulations on this subject that apply exclusively outside of the coastal zone and put them into effect without Commission review.

Riparian Corridor and Residential Buffer Limitations

1. Description

This proposed amendment would add a new *County Code* section (13.10.695b, c). This would prohibit logging in the PR and M-3 districts within 300 feet of a residence not zoned "TP" or within active or recent landslide areas. It would also prohibit all timber harvesting within 50 feet of the banks of perennial streams and 30 feet from the banks of intermittent streams. This would also amend Section 16.30.050 in the Riparian Corridor chapter to no longer allow activities done pursuant to a valid County timber harvest permit to be exempt from the Riparian Corridor standards. A County timber harvest permit would only apply to those infrequent cases where timber harvest is exempt from State review. The riparian corridor standards prohibit development in defined riparian corridors, unless an exception is granted. The defined riparian corridor would in some cases be wider than the proposed 50 foot buffer prohibition of Section 13.10.695 (e.g., it covers the entire width of riparian vegetation and a 100 wetland buffer). If there were a logging proposal with the riparian corridor beyond the prohibition area, that fell under the County's jurisdiction to regulate, then it would have to meet the tests of the exception provisions (Section 16.30.060) in order to be approved.

2. Standard of Review

Several *1994 General Plan and Local Coastal Program for the County of Santa Cruz* policies address riparian corridors.

Objective 5.1 is:

to maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.

The Local Coastal Program has provisions requiring protection of riparian areas and wetlands; which are defined as environmentally sensitive habitats (under policies 5.1.2 and 5.1.3). They must be delineated and biotic reports must be prepared. Sensitive habitat provisions include:

- Policy 5.1.3 allows only uses dependent on resources in these habitats unless:
 - ⇒ other uses are consistent with habitat protection policies and beneficial to the public;
 - ⇒ the project approval is legally necessary to allow a reasonable economic use of the land;
 - ⇒ any adverse environmental impact will be completely mitigated; and
 - ⇒ there is no feasible less-damaging alternative.
- Policy 5.1.4 requires complying with the Sensitive Habitat Protection ordinance (Chapter 16.32 of the *County Code*).
- Policy 5.1.6 states in part,

Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats...

The following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions specifically address riparian corridors and wetlands:

- Objective 5.2 is "to preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters."
- Objective 5.7 is "to protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses."
- Policy 5.2.2 specifies adherence to the Riparian Corridor and Wetland Protection ordinance (Chapter 16.30 of the *County Code*), to ensure no net loss of riparian corridors and riparian wetlands.
- Policy 5.2.3 states that "development activities, land alteration and vegetation disturbance within riparian corridors and wetland required buffers shall be prohibited unless an exception is granted per the Riparian Corridor and Wetlands Protection ordinance."

The County, in such cases, is required to make Riparian Exception findings of:

- ⇒ special circumstances affecting the property,
- ⇒ necessity for proper function of an existing or permitted activity;
- ⇒ not being injurious to downstream or other nearby property;
- ⇒ not reducing nor adversely impacting the riparian corridor;
- ⇒ there being no less environmentally damaging alternative;
- ⇒ and meeting local coastal program objectives (*County Code* Section 16.30.060).

- Policy 5.2.7 states, "Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities..."

With regard to **residential buffers**, *1994 General Plan and Local Coastal Program for the County of Santa Cruz* policy 8.5.2 is applicable:

Ensure the compatibility of commercial and industrial uses with adjacent uses...

With regard to **landslides** the following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable:

- Objective 6.2 - this objective seeks to minimize the hazards and property damage caused by proposed activities in areas of unstable slopes.
- 6.2.6 - this policy requires building sites to be located away from potentially unstable slopes.

The only policy to specifically mention landslides addresses only land divisions (6.2.5 - "exclude land with...recent or active landslides from density calculations for land divisions"), but by implication demonstrates the County's concerns with disruptive activities in such areas.

3. Analysis

As described in the Staff Note, the Commission may rule on the *locational criteria* for timber harvesting operations proposed by the County, but not on pre-empted regulatory matters. The subject criteria for riparian and residential setbacks are locational and objectively verifiable and do not require a permit determination from the local government. Therefore, there is authority for the Commission to approve these.

There is ample basis in the cited land use plan policies for a **riparian setback**. The proposed prohibition area matches the definition of "Riparian Corridor" in the current *County Code* section 16.30.040. This definition additionally includes a 100 foot buffer around water bodies. A review of the location of coastal wetlands in northern Santa

Cruz County reveals no mapped timber resources in close proximity, therefore obviating the need for the proposed prohibition to extend to wetland buffers (as was requested by testimony in the local hearings). Some concern was expressed that timber harvesting may be environmentally desirable in the proposed prohibition area, for habitat improvement reasons. The use of State and County exception provisions (e.g., for diseased or hazardous trees) or alternative environmental enhancements should satisfy this concern. If there were substantiated reasons in the future to allow logging near streams, then a subsequent amendment (including a land use plan change) could be requested.

There is less direct, but still ample basis in the land use plan for the proposed **residential setback** and no policy that it would conflict with. Actually a review of the timber resource and zoning maps indicates that this provision is unlikely to be applicable in the coastal zone at this time as there is no "PR" or "M-3" land with a timber resource designation on it. There is some "PR" zoned land that is outside of Big Basin State Park that may have timber resources on it (according to a map provided by a representative of Big Creek Lumber), but it is almost all adjacent to "TP" land, where the buffer does not apply.

The proposed County prohibition against timber operations on some active or recent **landslides** is problematic because it does not contain an objective locational criterion. As written, it appears that County staff would have to interpret their geologic hazard maps and a registered geologist's report and make a determination as to whether the proposed timber operation would be located in a prohibited area. This edges into regulation because it could be argued that discretion is involved in such a determination. Thus, this provision exceeds the authority of the Commission to regulate and must be denied.

Even could this regulation meet the legal test, there does not appear to be a basis for it in the land use plan. There are no land use plan policies that address development on landslides specifically, rather the topic is encompassed in general geologic safety policies. These policies are generally written to be implemented on a project-specific basis after geotechnical evaluation. There is nothing in the land use plan or other zoning provisions to suggest a certain category of development is prohibited on landslide areas. To the contrary there is some logical testimony in the record that some logging of landslide areas may be desirable to relieve the gravitational burden on them. The objectives of the land use plan policies can be met through specific mitigation measures. Furthermore, the policy only applies to landslide areas in non-TP zones where timbering is allowed (i.e., "PR" and "M-3") with no rationale given or apparent. As modified above, the prohibition will then only apply to M-3 zones, which are limited to mines, which by their nature involve substantial earth-moving.

Remedies: The legal deficiency regarding the landslide prohibition could be remedied by including a clear, objective indication of where it applies. Unfortunately, that does not appear possible at this time. The County does have a landslide map prepared in 1975. However, the map can not be referenced for this purpose because in addition to being dated, it is of too large a scale (1:62,500) to be accurate for determining exactly where it

applies, identifies some of the suspected landslide sites with non-dimensional symbols (delineations in two dimensions are needed to determine with particularity the areas it applies to), and depicts deposits rather than recent or active landslides.

Thus, at this time, in the absence of having objective locational criteria available and a justifiable policy basis, the landslide prohibition element of the proposed amendment needs to be deleted. If so modified, according to Suggested Modification D, then the amendment can be approved as being consistent with the land use plan.

The Commission notes that it does not have authority outside of the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The County could choose to develop regulations on this subject that apply exclusively outside of the coastal zone and put them into effect without Commission review.

Furthermore, the Commission notes that the suggested modification to the Land Use Plan would provide clearer criteria for the County with regard to determining where additional "TP" zoning can occur. The County can use its rezoning authority to limit "TP" zoning and hence logging in areas it deems inappropriate, which might include some landslide locations.

B. Roads: Change design criteria for roads

1. Description.

This proposed amendment makes a minor change in the design standards for private roads and driveways in Section 16.20.180h of the *County Code*. These are defined only as those which serve "habitable structures or parcels". For gradients between 10 and 15% oil and screenings (a relatively unsophisticated paving method) will always be required. The current regulation requires oil and screenings only in high erosion areas. For gradients less than 10% 6 inches of drain rock or base rock is proposed to be required. The current regulation has no such requirement.

2. Standard of Review

The most relevant policy of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* is:

6.5.1 Access Standards: Require all new structures...to provide an adequate road for fire protection in conformance with the following standards:...

(c) The access road surface shall be "all weather," which means a minimum of six inches of compacted aggregate base rock, Class 2 or equivalent, certified by a licensed engineer to 95 percent compaction and shall be maintained...

Other policies address erosion control and prevention of sedimentation which could adversely affect streams and other sensitive habitats.

3. Analysis

The proposed amendment wording mirrors the land use plan policy wording. Although the stated purpose of the policy is fire protection, it is worthwhile as a means to prevent erosion of the exposed "dirt road" surface and consequent sedimentation. Therefore, this amendment is approved as consistent with the land use plan. It would not apply to roads used exclusively for timber production purposes, as the ordinance only address access routes to "habitable structures or parcels." To the extent that a road might be exempt from County regulation by virtue of being preempted by the Forest Practices Act or some other state or federal statute, then obviously the County could not apply this provision. However, the County could make a recommendation to the appropriate authority to follow this standard.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The County gave this set of amendments a "Negative Declaration" under CEQA, finding no adverse impacts. The Commission concurs in this finding, for the reasons discussed in these findings, and provided the suggested modifications are made. The Commission notes that concerned citizens claimed an environmental impact report was necessary. However, the Commission finds that the information available is sufficient to make the necessary findings. There is nothing in the record to prove that not allowing some timber harvesting, which the amendment does, would have a significant adverse impact on the environment. If there were a case where logging was deemed an environmental benefit, then there are options, including: undertaking an alternative measure, rezoning the property in question to a zone which allows logging, or applying for a permit (if one is needed) under various County provisions to do selective tree removal that does not fall under the State purview. A last resort would be to seek a further amendment to the local coastal program to allow the specific circumstance. This amendment does not permanently affect the environment as restricting certain logging at this time would not prevent it from occurring in the future through a subsequent amendment. As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified would have on the environment.

**SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR
AMENDMENT NO. 3-98**

ATTACHMENTS

FULL TEXT OF PROPOSED AMENDMENTS

ZONING PORTIONS WHICH ARE NEW ARE IN BOLD
DELETIONS ARE SHOWN BY STRIKE-OUTS

CORRESPONDENCE FOLLOWS

*TN 4c
Exhibits*

SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR
AMENDMENT NO. 3-98

ATTACHMENTS

FULL TEXT OF PROPOSED AMENDMENTS

ZONING PORTIONS WHICH ARE NEW ARE IN BOLD
DELETIONS ARE SHOWN BY STRIKE-OUTS

CORRESPONDENCE FOLLOWS

Proposed General Plan Amendments:

~~Revise Table 1-7 (General Plan Resource and Constraints Maps) as shown on the attached pages~~
(minor)

Add Policy 5.12.14, as follows:

5.12.14 Zone Districts Where Timber Harvesting is Allowed

Allow timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, only in the Timber Production (TP), Parks, Recreation and Open Space (PR), and Mineral Extraction Industrial (M-3) zone districts.

ORDINANCE _____

ORDINANCE AMENDING COUNTY CODE SECTIONS 13.10.312(b) - ALLOWED USES IN THE AGRICULTURAL ZONES, 13.10.322(b) - ALLOWED USES IN THE RESIDENTIAL ZONES, 13.10.332(b) - ALLOWED USES IN THE COMMERCIAL ZONES, 13.10.342(b) - ALLOWED USES IN THE INDUSTRIAL ZONES, 13.10.342(b) - INDUSTRIAL ZONE DISTRICT USES CHART, 13.10.352(b) - PARKS, RECREATION AND OPEN SPACE USES CHART, 13.10.362(b) - ALLOWED USES IN THE PUBLIC AND COMMUNITY FACILITY 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 AND 16.30.050 - RIPARIAN CORRIDOR EXEMPTIONS, AND ADDING COUNTY CODE SECTION 13.10.378 - TIMBER HARVESTING RELATED HELICOPTER REGULATIONS AND SECTION 13.10.695 - LOCATIONAL CRITERIA FOR TIMBER HARVESTING

SECTION I

Subsection (b) of Section 13.10.312 - Uses Allowed in Agricultural Districts of the County Code is hereby amended to read as follows:

(b) Allowed Uses.

1. The uses allowed in the agricultural districts shall be as provided in the Agricultural Uses Chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit processing review, or "Approval Level", required for each use in each of the agricultural zone districts is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123. All Level V or higher Approvals in the "CA" and "AP" zone districts are subject to the special findings required by Section 13.10.314(a) in addition to those required in Section 18.10.230.
2. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Agricultural zone districts.**

SECTION II

Subsection (b) of Section 13.10.322 - Residential Uses - of the County Code is hereby amended to read as follows:

(b) Allowed Uses.

1. The uses allowed in the residential districts shall be as provided in the Residential Uses Chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit processing review, or "Approval Level", required for each use in each of the residential zone districts is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123.
2. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Residential zone districts.**

SECTION III

Subsection (b) of Section 13.10.322 of the County Code is hereby amended to delete the following use from the Residential Uses Chart:

	RA	RR	R-1	RB	RM
Timber harvesting, small scale, subject to the Timber Harvest Ordinance (Chapter 16.52)	P	P	--	--	--

SECTION IV

Subsection (b) of Section 13.10.332 - Commercial Uses - of the County Code regarding commercial uses is hereby amended to read as follows:

(b) Allowed Uses.

1. The uses allowed in the commercial districts shall be as provided in the Commercial Uses Chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit processing review, or "Approval Level", required for each use in each of the commercial zone districts is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123.
2. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Commercial zone districts.**

SECTION V

Subsection (b) of Section 13.10.342 - Uses in Industrial Districts - of the County Code is hereby amended to read as follows:

(b) Allowed Uses.

1. The uses allowed in the industrial districts shall be as provided in the following Industrial Uses chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit processing review, or "Approval Level", required for each use in each of the industrial zone districts is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123. For purposes of this Chapter, a Mining Approval is a Use Approval.
2. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Industrial zone districts, except in the M-3 zone district pursuant to the Uses Chart.**

SECTION VI

Subsection (b) of Section 13.10.342 - Mine Site Interim Uses - of the County Code is hereby

amended by amending the Industrial Uses Chart to read as follows:

INDUSTRIAL USES CHART

USE	M-1	M-2	M-3
-----	-----	-----	-----

Mine site interim uses, such as:

- | | | | |
|--|--|---|---|
| 1) Agricultural uses subject to the regulations of the "A" District; | Allowed at Approval Levels required by Section 13.10.312 or Chapter 16.52 | | |
| 2) Timber harvesting, subject to the regulations of Chapter 16.52 of the County Code Section 13.10.695. | — | — | P |

SECTION VII

Subsection (b) of Section 13.10.352 - Timber Harvesting- of the Parks, Recreation and Open Space Uses Chart of the County Code is hereby amended to read as follows:

"PR USES CHART"

USE	PR
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Timber Harvesting, subject to Section 13.10.695.	P
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SECTION VIII

Subsection (b) of Section 13.10.362 - Public and Community Facility Uses of the County Code is hereby amended to read as follows:

(b) Allowed Uses.

- The uses allowed in the Public and Community Facilities district shall be as provided in the Public and Community Facilities Use Chart below. A discretionary approval for an allowed use is known as a "Use Approval" and is given as part of a "Development Permit" for a particular use. The type of permit

processing review, or "Approval Level", required for each use in the zone district is indicated in the chart. The processing procedures for Development Permits and for the various Approval Levels are detailed in Chapter 18.10 PERMIT AND APPROVAL PROCEDURES. The Approval Levels given in this chart for structures incorporate the Approval Levels necessary for processing a building permit for the structure. Higher Approval Levels than those listed in this chart for a particular use may be required if a project requires other concurrent Approvals, according to Section 18.10.123.

2. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Public and Community Facility zone district.**

SECTION IX

Subsection (b) of Section 13.10.372 - of the County Code is hereby amended by amending the "Timber" use of the Timber Production Zone district to read as follows:

"TP" USES CHART

USE	TP
Timber: Growing, harvesting: the cutting and removal of timber and other forest products, and work incidental thereto, including helicopter yarding of timber pursuant to Section 13.10.378, (Subject to a Timber Harvest Permit pursuant to Ch. 16.52) subject to Section 13.10.695 of the County Code.	P

SECTION X

Chapter 13.10 of the County Code is hereby amended by adding Section 13.10.378 to read as follows:

13.10.378 Timber Harvest Related Helicopter Operations

- (a) **Helicopter yarding of timber shall only be permitted for timber harvested from properties zoned TP. Appurtenant helicopter service and log landing areas must be sited within the Timber Harvest Permit (THP) boundaries on property which is either zoned TP or is zoned on another zone district where timber harvesting is an allowed**

use. Helicopter flights for log transport between the area where the felling is occurring and the landing must occur only over property contained within the approved THP.

(b) No helicopter flight may occur within 1,000 feet horizontally of an inhabited residence.

SECTION XI

Subsection (a) of Section 13.10.382 - Uses in the Special Use "SU" District of the County Code is hereby amended to read as follows:

(a) Allowed Uses.

1. All uses allowed in the RA and R-1 Zone District shall be allowed in the Special Use "SU" District where consistent with the General Plan and when authorized at the highest Approval Levels specified in the Uses Chart in Section 13.10.322(b) for those districts.
2. All uses allowed in Zone Districts other than RA and R-1 shall be allowed in the Special Use "SU" District where consistent with the General Plan and when authorized at the highest Approval Level required by all such districts but no lower than Level V.
3. **Timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, are not allowed uses in the Special Use "SU" Zone District.**

SECTION XII

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) Timber harvesting requiring approval of a Timber Harvesting Plan by the California Department of Forestry is allowed, in addition to the TP zone, ^{only in those zone districts} which specifically list timber harvesting as an allowed use.

(b) Within those zone districts (except the TP zone), timber harvesting shall not occur within the following areas:

- 1) riparian corridors, defined as:
 - i) 50-feet from the bank full flow line of a perennial stream
 - ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

2) a residential buffer, measuring 300-feet from the exterior walls of any residential dwelling located on adjacent properties not zoned TP.

3) in 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.

(c) Within the TP zone district, timber harvesting shall not occur within riparian corridors, defined as:

i) 50-feet from the bank full flow line of a perennial stream

ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

SECTION XIII

Subsection (h) of Section 16.20.180 - Design Standards for Private Roads, Driveways and Bridges - of the County Code is hereby amended to read as follows:

~~(h) In all cases, where road gradients exceed 15 percent, 1-1/2 inches of asphaltic concrete shall be provided. (EXCEPTION: aggregate base and asphaltic concrete may be omitted if a structural section of 4 inch concrete is used.) Where road gradients exceed 10 percent and a high erosion hazard has been identified by field review, oil and screen may be required at the discretion of the Planning Director. Road surfacing shall meet the following standards, based on the road gradient: 0 to 10 percent gradient - 6 inches of drain rock or base rock; 10- 15 percent gradient - oil and screenings; greater than 15 percent gradient - 1 1/2 inches asphaltic concrete (EXCEPTION: aggregate base and asphaltic concrete may be omitted if a structural section of 4 inch concrete is used).~~

ROADS "

SECTION XIV

Section 16.30.050 of the County Code is hereby amended to read as follows:

16.30.050 Exemptions. The following activities shall be exempt from the provisions of this chapter.

(a) The continuance of any preexisting nonagricultural use, provided such use has not lapsed for a period of one year or more. This shall include change of uses which do not significantly increase the degree of encroachment into or impact on the riparian corridor as determined by the Planning Director.

(b) The continuance of any preexisting agricultural use, provided such use has been exercised within the last five years.

~~(c)~~ All activities done pursuant to a valid County Timber harvest permit.

~~(d)~~ (c) All activities listed in the California Food and Agricultural Code pursuant to the control and eradication of a pest as defined in Section 5006, Food and Agriculture Code, as required or authorized by the County Agricultural Commissioner.

~~(e)~~ (d) Drainage, erosion control, or habitat restoration measures required as a condition of County approval of a permitted project. Plans for such measures shall be reviewed and approved by the Planning Director.

~~(f)~~ (e) The Pajaro River Sediment Removal Project, under Army Corps of Engineers Permit No. 21212S37, issued May 1995, or as amended.

SECTION XV

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 XVI

This Ordinance shall take effect on the 31st day after final passage outside the Coastal Zone, and shall become effective upon certification by the California Coastal Commission within the Coastal Zone.

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

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

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM: _____
County Counsel

Correspondence

Law Offices of
DENNIS J. KEHOE
Law Corporation

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

RECEIVED

February 5, 1999

FEB 05 1999

(HAND DELIVERED)

CALIFORNIA COASTAL COMMISSION
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Application of Santa Cruz, County, No. 3-98, Proposed Major Amendment to the Santa Cruz County LCP and Implementing Ordinances.

Dear Coastal Commissioners:

The undersigned represents Big Creek Lumber Company (Big Creek) and Homer (Bud) T. McCrary, the vice president of Big Creek. Big Creek and the McCrary family are long-time timberland owners and the operators of a mill in Santa Cruz County. Big Creek employs many County residents and provides financial benefits to land owners with timber resources, to local employees, and the County of Santa Cruz through the payment of timber yield taxes and property taxes. Most of the timber harvested by Big Creek in Santa Cruz 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. Furthermore, Big Creek owns more than 2,000 acres of timber resource lands in Santa Cruz County. Much of this acreage is located within the Coastal Zone in Santa Cruz County. Big Creek and Mr. McCrary have a great interest in the vitality of and access to the timber 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.

Historically, Santa Cruz County has allowed commercial timber harvesting in zones such as A, RR, RA, and SU. Currently there are thousand of acres of non-TPZ timberland lands available for and capable of growing trees for timbering for commercial usage located in the Coastal Zone. 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 resources. Also, Big Creek has entered into and would, otherwise, enter contracts for timber with such land owners. Application 3-98 prohibits any timbering of such

non-TPZ timberlands.

I.

**THE CALIFORNIA COASTAL ACT REQUIRES THE PROTECTION AND
THE ENHANCEMENT OF TIMBER RESOURCES INCLUDING
HARVESTING AS A COASTAL ORIENTED, PRIORITY LAND USE.**

Timber harvesting is an integral part of the economy and history of Santa Cruz County for more than a century. Second, timber harvesting will continue in response to the need for forest products by the growing population in California.

Third, timber resources including harvesting is a primary natural resource of this State which must be promoted and encouraged in accordance with State laws.

"Inasmuch as the planned production of trees is distinguishable from the production of other products of the **soil only** in relation to the time elapsing before maturity, the production of trees shall be considered a branch of the agricultural industry of the State for the purposes of **any** law which provides for the benefit or protection of the agricultural industry of the State." (emphasis added) Food & Agricultural Code §22

Moreover, the State Legislature has determined that California agriculture helps to feed the world and fuels 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 Legislature has declared that it is in the public interest to enhance agricultural production in order to bring this industry to the high degree of efficiency evidenced in the other industries. Food & Agricultural Code §54032(b) In addition, agricultural commodities" include forest products. Food & Agricultural Code §58554

Furthermore the State Legislature has determined that agriculture, as an important natural resource, must be encouraged and enhanced as a matter of State policy. For example, §1 of Statutes 1993, Chapter 812(SB850) provides, in part, as follows:

"The Legislature hereby finds and declares all of the following:
(a) Agriculture is the State's leading industry and is important to the State's economy.
(b) The continued productivity of agricultural lands in California is important in maintaining a healthy agricultural economy."
(Statutory Notes, Public Resources §21050)

Thus, the preservation and enhancement of productivity of agricultural lands, including timberlands is an overriding legal imperative as declared by the State Legislature.

Under the California Coastal Act, "the maximum amount of prime agricultural land shall be maintained in agricultural production to assure the production of the areas' agricultural

economy...." Public Resources Code §30241 (All references to Code sections, unless otherwise noted, are the Public Resources Code.) Further, the California Coastal Act mandates that "the long-term productivity of soils and timberlands shall be protected...." (emphasis added) §30243

Application 3-98 of Santa Cruz County is legally insufficient with respect to environmental documents and, therefore, must be summarily denied by the Coastal Commission. Moreover, Application 3-98 is violative of State declared law and policy including the California Coastal Act. Among other items, the productivity of timberland resources is severally curtailed and adversely regulated by Application 3-98.

A. California Environmental Quality Act (CEQA).

The County's PROJECTS encompass not only lands within the Coastal Zone but also the entire jurisdiction of Santa Cruz County. An EIR is required whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur. The "fair argument" standard creates a low threshold for requiring the preparation of an EIR. Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 297, 310 A Negative Declaration is disfavored in that it has a "terminal effect" on the environmental review process. 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)

Here, Santa Cruz County is attempting to use a "Negative Declaration" with no mitigation conditions. Such a "Negative Declaration" submitted to the Coastal Commission as a purported "environmental document" is legally insufficient to provide the environmental information required for the Coastal Commission to act in any other way than to deny the application.

B. Coastal Commission.

The County is the lead agency in this matter and has taken the first discretionary action. Further, the Coastal Commission's certification of the LCP is subject to CEQA's requirement. Public Resources Code §21080.9; 14 CCR §15265

In addition to the foregoing, this LCP amendment submittal must include, among other

items, the proposed policies and standards related to the amendments to allow a review for "conformity with the requirements of the Coastal Act"; contain an analysis that "demonstrates conformity with the requirements of Chapter 6 of the Coastal Act"; and contain "environmental review documents" pursuant to CEQA requirements for the amendment to the LCP. 14 CCR §13552(b)(d)(e) Here, the Santa Cruz County has failed to do the necessary analysis; has not submitted the required environmental documents to the Coastal Commission; and has failed to demonstrate conformity with the Coastal Act. Thus, County's application must therefore be denied.

II.

SIGNIFICANT ADVERSE EFFECTS TO THE ENVIRONMENT WILL OCCUR AS A RESULT OF PROPOSED APPLICATION 3-98.

A. Outdated County Timber Resource Map.

The County has submitted, among other document, a map entitled "Timber Resources" approved by the Board of Supervisors on May 25, 1994. The primary basis of the County map is the outdated 1974 PROS report prepared by Reberia & Sue. (Parks, Recreation, and Open Space) There are significant timber resources not designated in the current submittal by the County with particular reference to the foregoing "Timber Resources Map." Furthermore, there are significant timberlands within the Coastal Zone that are not designated on the County Timber Resource Map and not zoned TP. For example, you are referred to the enclosed photograph of a map prepared from recent aerial photographs (1994); data from the United States Government, USGS; and County documents subsequent to 1995. The enclosed map delineates the Coastal Zone in the "North Coast" Area. A similar map will be delivered to you early next week upon completion of the same with respect to the "Bonny Doon" Area within the Coastal Zone.

Referring to the enclosed map, there are large holdings by the State of California for park purposes including Big Basin State Park, the Wilder Ranch State Park, and the recently controlled Coast Land and Dairy properties. Excluding these public holdings, over one-third (33.33%) of the existing timber resources in the North Coast Area, alone, are not designated as such on the out-of-date County "Timber Resource Map" and are not zoned TP, all of which are within the Coastal Zone and some of which is owned or controlled by Big Creek Lumber Company.

Due to the proposal before the Coastal Commission, all of the areas referenced above (designated in red on the enclosed map) will be eliminated from timber production. This is diametrically contrary to the mandates of State law including, but not limited to, the California Coastal Act. The essence of the County application is to eliminate timber production and timberlands rather than protect "the long-term productivity of soils and timberlands." §30243

B. The County's Negative Declaration Is An Insufficient Environmental Document.

The County proposal impacts, adversely, the conduct of timber operations through riparian corridor prohibitions, restriction of helicopter utilization for the removal of cut timber, and enacts cost prohibitive regulation of all private roads including logging roads. (As noted below, each one of these County regulations was included in County's recommendations to the State Board of Forestry for amendments to the State Forest Practice Rules.) All of the foregoing will eliminate significant State-wide timber resources; and adversely regulate the conduct of timber operations, all to the substantial detriment of declared State policies. Further, since significant timber resources cannot be harvested, the economy will be adversely affected and the lands will be converted, in due time, to residential uses. In essence, the County wants to squeeze timbering out of the County through excessive regulation and it wants the control in timbering, itself, rather than the State Board of Forestry.

Enclosed are the following exhibits, all of which confirm that there will be significant adverse impacts to the environment by this County project. The County has stubbornly refused to do anything other than issue a meaningless Negative Declaration. Had this been a private land owner and/or developer project, the lead agency clearly would have required the preparation of an EIR. Nevertheless, the County is blithely attempting to skate through requirements of CEQA.

The exhibits are as follows:

EXHIBIT A: Enclosed photo of the North Coast portion of the Coastal Zone. (The Bonny Doon area map will be submitted next week.)

EXHIBIT B: Correspondence of Robert O. Briggs, Rancho del Oso, Davenport, California, December 8, 1998.

EXHIBIT C: Correspondence dated November 23, 1998, of Dr. Joe R. McBride, Professor of Forest Ecology in the Forest Science Division of the Department of Environmental Science, Policy, and Management and Professor of Landscape Ecology in the Department of Landscape Architecture at the University of California, Berkeley. Currently, he is the Chair of the Forest Science Division.

EXHIBIT D: Correspondence dated September 23, 1998, of Dr. Walter Mark, Doctorate in Plant Pathology, Swanton Pacific Ranch, California State University, Cal Poly, San Luis Obispo.

EXHIBIT E: Correspondence dated September 17, 1998, of Mark Foxx, Certified Engineering Geologist and Certified Professional in Erosion and Sediment Control.

EXHIBIT F: Correspondence dated October 12, 1998, of Raymond M. Rice, Hydrologist and Registered Professional Forester.

EXHIBIT G: Correspondence dated October 15, 1998, of Jeffrey Redding, Masters Degree Urban Planning with specialization in Environmental Planning and Resource

Management from UCLA.

EXHIBIT H: Analytical Study dated October 22, 1998, of Mike Jani, Registered Professional Forester, Certified Soil Erosion and Sedimentation Control Specialist and Certified Archeological Surveys by the State of California.

EXHIBIT I: Correspondence dated November 23, 1998, by Peter A. Twight, Registered Professional Forester.

EXHIBIT J: Correspondence dated December 2, 1998, from Mark S. Rentz, Esq. Vice President, California Forestry Association, Environmental and Legal Affairs.

EXHIBIT K: Correspondence dated December 9, 1998, from James Greig, Registered Professional Forester.

EXHIBIT L: Correspondence dated December 8, 1998, Central Coast Forest Association.

All of the enclosures establish the fact that the County's project, Application 3-98, will clearly have an adverse impact on the environment including timber resources and the "long-term productivity of timberlands." §30243 An EIR analyzing these adverse effects must be prepared before the Commission can even consider this project. The Negative Declaration is an insufficient environmental document.

III. **PREEMPTION.**

The California Coastal Commission is an agency of the State of California as is the State Board of Forestry. There is preemption by law including §4516.5 and §4516.6. As indicated in subparagraph (f) of both sections, the State preemption does not apply to any timber operations on any land of less than three (3) acres and which is not zoned for timber land production. Nevertheless §4516.5(a) provides the County opportunity to make recommendations to the State Board of Forestry concerning the rules and regulations for timber harvesting and the conduct of timber operations. In the County's Application 3-98, Resolution No. 441-98, the County specifically admits as follows:

"On June 3, 1998, the Board of Supervisors considered a report prepared by the Planning Department which recommended that the Board approve the proposed Forest Practice Rules and changes, directed staff to submit the Rules package to the Board of Forestry and directed staff and Supervisor Almquist to attend the Board of Forest hearing to represent the County.... The Board of Forestry on November 3, 1998, approved a number of the proposed Forest Practice Rules changes **but did not approve those affecting riparian corridors, residential buffers, helicopter operations or the various rules regarding road construction, maintenance, or abandonment.** ... The Board of Supervisors

determines that the Forest Practice Rules adopted by the Board of Forestry are not adequate to protect the environment and neighborhoods of the County, and the Board intends to seek changes to the Forest Practice Rules as a means to reduce the impact of timbering on the environment and neighborhoods in the County. ..." (Resolution No. 441-98) (emphasis added)

The proper means of the County to object to the partial, but not total, adoption on November 3, 1998, of the County's recommendations by the State Board of Forestry is set forth in Government Code §11350 which provides that a declaratory relief action may be filed by the County against the State Board of Forestry. The County is well aware of this procedure and has previously litigated the regulations with the State Board of Forestry. See County of Santa Cruz v. State Board of Forestry (1998) 64 Cal.App.4th 826 (Regulations upheld)

Here, instead of litigating or working out its differences with the State Board of Forestry, the County is attempting an end run through the California Coastal Commission by Application 3-98. Further, the County is attempting to regulate by Application 3-98 the conduct of timber operations for such items as "riparian corridors, residential buffers, helicopter operations, and the various rules regarding road construction, maintenance or abandonment." (County Resolution 441-98, page 2, first paragraph), the very items the State Board of Forestry said no to on November 3, 1998. The California Coastal Commission must respect the preemption of the State Board of Forestry and extricate itself from this County circumvention by denying the County's application.

Should you or your staff have any questions concerning the foregoing, please contact the undersigned at your earliest convenience. The Bonny Doon Area map for the Coastal Zone will be delivered to you next week.

Very truly yours,


DENNIS J. KEHOE

DJK:jlc

Enclosures

c: California Coastal Commission, Attn: Peter Douglas, Executive Director
45 Fremont Street, Suite 2000, San Francisco, CA 94105-2219
Board of Supervisors of Santa Cruz County
Rick Hyman, Coastal Planner, California Coastal Commission,
Santa Cruz Office (Hand Delivered)
Office of Attorney General, Attn: John Davidson, Deputy Attorney General
State Board of Forestry
California Department of Forestry and Fire Protection

LIST OF EXHIBITS TO CORRESPONDENCE TO
CALIFORNIA COASTAL COMMISSION dated February 5, 1998
from Dennis J. Kehoe, Attorney at Law

- EXHIBIT A:** Enclosed photo of the North Coast portion of the Coastal Zone. (The Bonny Doon area map will be submitted next week.)
- EXHIBIT B:** Correspondence of Robert O. Briggs, Rancho del Oso, Davenport, California, December 8, 1998.
- EXHIBIT C:** Correspondence dated November 23, 1998, of Dr. Joe R. McBride, Professor of Forest Ecology in the Forest Science Division of the Department of Environmental Science, Policy, and Management and Professor of Landscape Ecology in the Department of Landscape Architecture at the University of California, Berkeley. Currently, he is the Chair of the Forest Science Division.
- EXHIBIT D:** Correspondence dated September 23, 1998, of Dr. Walter Mark, Doctorate in Plant Pathology, Swanton Pacific Ranch, California State University, Cal Poly, San Luis Obispo.
- EXHIBIT E:** Correspondence dated September 17, 1998, of Mark Foxx, Certified Engineering Geologist and Certified Professional in Erosion and Sediment Control.
- EXHIBIT F:** Correspondence dated October 12, 1998, of Raymond M. Rice, Hydrologist and Registered Professional Forester.
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EXHIBIT K: Correspondence dated December 9, 1998, from James Greig, Registered Professional Forester.

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**LIST OF EXHIBITS TO CORRESPONDENCE TO
CALIFORNIA COASTAL COMMISSION dated February 5, 1998
from Dennis J. Kehoe, Attorney at Law**

Robert O. Briggs

Rancho del Oso

3610 Pacific Coast Highway, Davenport, California 95017

727

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 harvest 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.

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Joe R. McBride
1611 Alston Way
Berkeley, CA 94703

November 23, 1998

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

Dear Supervisors:

This letter is to express my concern over the proposed changes in county ordinances and zoning which seek to limit timber harvesting in Santa Cruz County. I am opposed to these changes because of the impact they would have on the timber resources of the county, the lack of an appropriate environmental review of their potential impact, and their restrictions on the conduct of operations which are governed by state regulations. My concerns over these issues are based on my knowledge and experience in forestry and land use planning in California and my attendance at Santa Cruz Timber Technical Advisory Committee meeting in 1997 and 1998. I am a Professor of Forest Ecology in the Forest Science Division of the Department of Environmental Science, Policy, and Management and Professor of Landscape Ecology in the Department of Landscape Architecture at the University of California. I currently serve as Chair of the Forest Science Division.

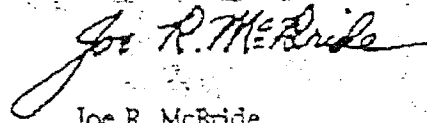
It is my conclusion that the proposed changes in county ordinances and zoning will affect timber resources in Santa Cruz county. The restrictions proposed by these ordinances and zoning changes will eliminate the timber supply from that portion of the county where these changes apply. It will, furthermore, have a ripple effect in reducing timber production from the adjacent Timber Production Zone. America is a net importer of forest products, many of which are harvested in foreign countries where environmental regulations are minimal, if non-existent. When we fail to properly manage and utilize our timber resources, we off-loading onto forest ecosystems in other countries a demand for forest products which has had and continues to have devastating effects on these forest ecosystems. I think it is time for us to recognize the consequences that local restriction of timber harvesting will have forests outside of our local area. To borrow a phrase in common currency in Santa Cruz county, "It is time to think globally and act locally".

My second concern is with the lack of appropriate environmental scrutiny that was given to the proposed changes in county ordinances and zoning. The negative declaration issued concerning these changes disregards the positive environmental benefits proper forest harvesting can have on the forest where natural processes, such as periodic natural fires, have been eliminated to protect human safety. The negative declaration also fails to recognize the exurban growth promoting consequences of the proposed changes in county ordinances and zoning. It is my opinion, based on my observations in other coastal counties in California where timber harvesting has been restricted, that the proposed changes will stimulate further residential construction. The impacts of this development were not properly addressed in the issuing of the negative declaration.

My last concern has to do with the use of locational criteria to limit the conduct of operations in the harvesting and management of forest properties in the county. The State of California, through its Forest Practice Act, has given authority over the conduct of operations to the State Board of Forestry. The proper way to adjust or amend rules concerning the conduct of operations is through petitioning the State Board of Forestry for the adoption of specific rules to govern forest harvesting in the county. I am aware that an attempt to establish certain rules for Santa Cruz county recently failed before the State Board. That should not be interpreted to mean that the process has been forever terminated. The Board of Forestry has expressed its concerns with the proposed rule package, but continues to be willing to work with the county to develop a workable set of rules. In my opinion, control of conduct of timber harvesting operations by rules should continue to be pursued through appropriate channels rather than through the use of locational criteria.

I ask your consideration in these matters. Your responsibility as members of the Board of Supervisors is to all of the citizens of the county and to the future of the county. I hope that you will weigh the long term ramifications of these proposed changes in county ordinances and zoning on all of the people in the county and the future role of the forests in the county.

Sincerely,



Joe R. McBride

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.



EXHIBIT

D, Page 1 of 2



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,



Walter R. Mark
Director

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

Mark Foxx
CEG #1493
CPESC #857

9/17/98



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) sedimentation. 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 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 81 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 site 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 seasonal and lower standard (but longer since they at a 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).

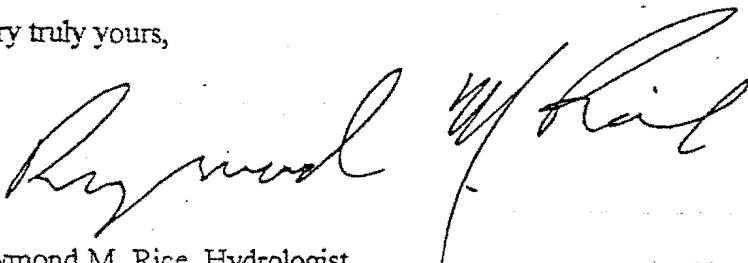
The provision of no-cut corridors on Class I, Class II, and especially Class III watercourses will discourage cable yarding. This too will favor tractor yarding and more sediment.

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 a 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,



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 Creek, 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-3 to GS-9 on
the Sierra and Cleveland National Forests.

1956-60 - Forester (Forest Influences) GS-9, and
Research Forester (Watershed Management)
GS-11, PSM 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, PSM 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, PSM
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 1985. Lectured and studied at the Laboratory of Erosion Control, Department of Forestry, Kyoto University.

F 5 B

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.

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. . ."

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 to 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

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Dennis Kehoe/Santa Cruz Timber Harvest Ordinance
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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

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 (13.10.312—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, 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, 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 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: 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 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.H. 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 patterns of circulation or movements of people and/or goods.

* See item "Energy and Natural Resources # 3, above

LAND USE/HOUSING

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, 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 13.10.378 (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 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 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, 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" 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, 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 fragile 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 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: 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 13.10.312(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 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 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 "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 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, 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 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, 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 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, 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.

Redwood Empire

A DIVISION OF PACIFIC STATES INDUSTRIES, INC.

P.O. BOX 156 • 31401 McCRAY ROAD • CLOVERDALE, CA 95425
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Mardi Wormhoudt, Chair
Board of Supervisors
700 Ocean Street
Santa Cruz, CA 95060

23 November 1998

Dear Ms Wormhoudt and Members of the Board:

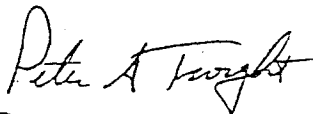
This letter is being submitted to you on behalf of Roger and Michelle Burch to again express opposition and objection to the County's proposed General Plan and Ordinances. As land managers for Mr. and Mrs. Burch, we have participated in the entire process the County of Santa Cruz has precipitated to change timber harvesting regulations and zoning restrictions. There are several of your ordinance rules and zoning restrictions which may very well take between 15 and 30 percent of the value of their various properties. The proposed riparian restrictions alone on one of their TPZ properties will take an estimated 25% of the value of the next harvest or over \$500,000 from one harvest alone. Non-TPZ properties will suffer more dramatic losses.

The proposed General Plan Amendments and Ordinances which restrict logging on slopes over 70% and on active (within the last 10,000 years) landslides have never been adequately demonstrated to be necessary to protect public health, safety, and general welfare. The proposed General Plan amendments and Ordinances which create residential buffer zones and restrict harvesting in stream side riparian areas usurp State regulations. The proposed restrictions have not been shown either necessary or effective to protect against a threat to public health, safety, and general welfare.

There are substantial errors in the some of the photos, descriptions and testimony being used to justify your rules and zoning. The photos presented to the Board of Forestry have not been verified as to their location, or what they actually portray. Many of them could have been taken anywhere since even expert RPFs who know the timber harvest plans well cannot verify them. Many of the photos indicate only that large storms cause many human and natural structures to fail.

Although you have made major commitments to approving the general Plan Amendments and their supporting Ordinances restricting landowners rights to use their property, you should carefully consider the accuracy of the information supporting the restrictions, the necessity for the restrictions, and the effects of the restrictions on the future of the County, its environment, and its budgets. Such consideration should require you to delay action for further investigations, and/or reject the proposed changes outright.

Sincerely yours,



Peter A Twight, RPF for Roger & Michelle Burch



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23 November 1998
Mardi Wormhoudt, Chair
Board of Supervisors
700 Ocean Street
Santa Cruz, CA 95060

Re: County Forest Practice Rule/ Zoning Justification Photos

Dear Ms Wormhoudt and Members of the Board:

There are substantial errors in some of the photos and descriptions being used to justify your rules and zoning. The photos presented to the Board of Forestry have not been verified as to their location, or what they actually portray. Many of them could have been taken anywhere since even expert RPFs who know their timber harvest plans cannot verify them. These photos show 3 things:

1. That streams are protected from surface erosion, and the amount of the residual stand retained show there is no need for a no-cut riparian corridor. There is no scientific evidence that a denser canopy is needed for water temperatures for fish or any other reason.¹

2. The photos show the need for long term erosion control maintenance and that the County Erosion Control Ordinance is not enforced. The erosion portrayed would not have happened on a property being managed for timber production. It is typical of the "abandoned" properties your zoning and rules will create.

3. Many of the photos indicate only that large storms cause many human and natural structures to fail. Streamside riparian zones typically store logs and debris until a really large storm series, such as occurred last winter, mobilizes them and carries them to a new resting place². I am truly surprised to see such pictures representing a justification for new riparian rules when at least one of your County Staff knows they show a common natural watershed process. The only way such log jams could be prevented is to log streamside zones and remove all logs, stumps and debris from them. Actually spending the County Stream Clearance Tax money on cutting all logs in riparian areas would help bridges, but would be bad for fish and wildlife.

The following photographs are actually from Corralitos Creek this month³ and should indicate to

¹ The canopy on the Gamecock THP measures above the standard requested by Dave Hope of your Staff. In addition see: CDF Biologist Brad Valentine, August 8, 1996, Letter to T Osipowich, & Peter H Caferata in Watercourse Temperature evaluation Guide, 1990, CDF, page 4; DF&G Watershed Academy 1996, Bechta et al, 1987. Stream Temperatures and Aquatic Habitat: Fisheries and Forestry Interactions; Gaylon Lee, SWRCB PILOT MONITORING PROGRAM SUMMARY . . . January 1997, page 42.

² State Watershed Academy # 2. May 5-9 1997. DF & G

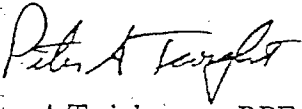
³ The three photos in Corralitos Creek that were presented to the Board of Forestry are false or misrepresentations

23 November 1998 Board of Supervisors

you that you are deceiving yourselves as to the causes of landslides, and the value of legislating against logging on landslides.. These photographs show three things:

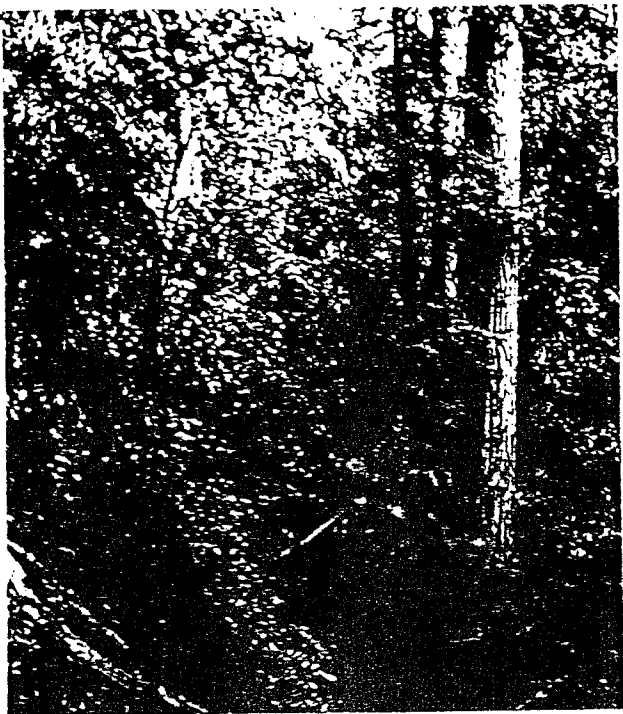
1. Some landslides are excellent timberland that have no unnatural impacts to the environment from activities on them, therefore restrictions on logging are an unjustified taking of property;
2. Some landslides should be logged and have been logged to protect residential housing. This and number 1 above show the folly of your Rule against logging on landslides that are or have been active within the last 10,000 years
3. The residential housing your zoning and rules will encourage are the real sources of environmental impacts on Corralitos Creek.

Sincerely yours,



Peter A Twight RPF #2555

of fact.



This slide area of about 20 acres is creeping a few millimeters per year. This makes it "active." However it is so big and deep that nothing will "trigger" activity. It is not a good place for a house, but is an excellent place to grow timber as shown. It has been harvested twice since the original clearcut.



Dried up sag pond above Toe of slide below. The slide is creeping slowly into the stream which is undercutting it, allowing it to continue creeping. If the stream were not present, the slide might stop. Activity on the slide surface has no effect according to geologists.

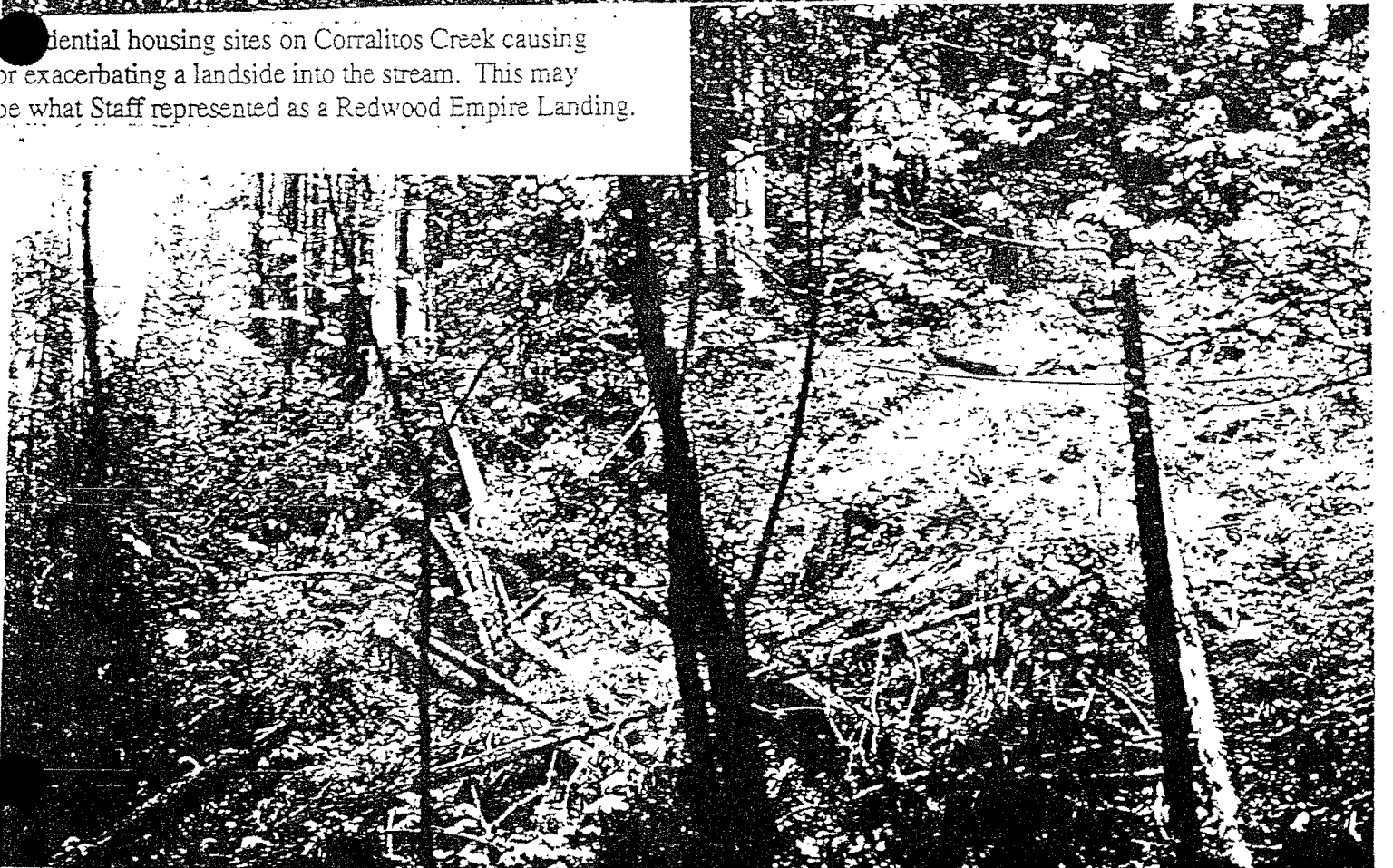


EXHIBIT 7, Page 4 of 6





Residential housing sites on Corralitos Creek causing or exacerbating a landslide into the stream. This may be what Staff represented as a Redwood Empire Landing.



Landslide into Corralitos Creek near a residential parcel. Note pipeline through the slide.

EXHIBIT T-6

Photo on the left shows a large slide into Corralitos Creek. There has been no logging in its vicinity, but there are several houses, one just above the slide. Is it a septic problem? Road or roof drainage?



The photos on the right are below residences. The lower picture is of a slide that was logged in the mid 1980's to remove weight and leverage from the slide to slow or stop its movement. The lower part of the slide, next to the road, has moved again.

CALIFORNIA FORESTRY ASSOCIATION

December 2, 1998



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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 Almquest 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 Almquest'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.

We 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,

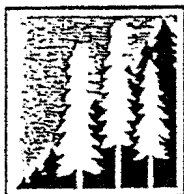

Mark S. Rentz
Vice President of Environmental
and Legal Affairs

MSR/ta

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

CALIFORNIA FORESTRY ASSOCIATION

November 23, 1998



BOARD OF SUPERVISORS
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Re: Board of Supervisors Public Hearing to Consider Amendments to the
California Forest Practice Rules

Dear Supervisors:

The California Forestry Association (CFA) submits the following comments to the Board of Supervisors ("Supervisors") on the behalf of our members. 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 (RPFs) who do business in Santa Cruz county, as well as persons who own land in the county.

CFA recognizes the increasing complexities that counties like Santa Cruz are facing as the expansion of residential development into the forested countryside continues to accelerate. As we approach the 21st Century the rural counties and the Board of Forestry (BOF) will increasingly be challenged with the responsibility to balance the needs of expanding urban populations while ensuring "forest resource management calculated to serve the public's need for timber and forest resources." *Z'berg Nejedly Forest Practice Act of 1973* ("Forest Practice Act"). See Public Resources Code (PRC) § 4512(c).

CFA staff has attended every public hearing held by the BOF on the County's rulemaking proposals. We have also provided detailed comments on the proposals. A copy of our comments is enclosed for your review. We continue to oppose the operational provisions of the County's rulemaking proposal which the BOF declined to enact at its November meeting in Sacramento.

As the Board is aware, Santa Cruz county currently has some of the most restrictive forest practice regulations 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 the Southern Sub-District Forest Practice Rules. 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." This agreement was entered into by the Directors of the California Department of Fish and Game and the Department of Forestry and Fire Protection in early 1996.

We believe that any attempt by the County to incorporate the failed operational provisions under the auspices of the County's existing zoning authority would be a violation State law.

The Forest Practice Act was enacted in 1973 to regulate forest management activities on private lands throughout the State. See PRC §§ 4511 et seq. The purpose of the Forest Practice Act is "to create and maintain an effective and comprehensive system of regulation and use of all timberlands..." *Id.* at § 4513. The Timberland Productivity Act was enacted in 1982 to further the legislative intent of the Forest Practice Act.

Government Code §§ 11340 et seq. authorizes state agencies and boards such as the Board of Forestry to adopt rules and regulations. PRC § 4516.5(a) provides, in part, that "[i]ndividual counties may recommend that the board [of forestry] adopt additional rules and regulations for the content of timber harvesting plans and the conduct of operations to take into account local needs." Emphasis added. Section 4516.5(b) authorizes the Board of Forestry to approve or deny such county proposals.

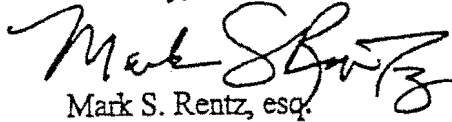
Regulating "timber operations" is solely within the discretion of the Board of Forestry. See Big Creek Lumber Company v. County of San Mateo, "Public Resources Code section 4516.5 expressly preempt[s] local attempts to regulate the conduct of timber operations." 31 Cal. App. 4th 418, 420-421. Emphasis added. PRC § 4527 defines "timber operations" to mean "the cutting or removal of both timber or other solid wood forest products,... including, but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for falling of trees, fire hazard abatement, and site preparation..." Emphasis added.

The operational proposals rejected by the Board of Forestry, and now being considered by the Board of Supervisors, clearly fall within the statutory definition of "timber operations." And it is just as clear that the State legislature intended, and the courts have concurred, that the Board of Forestry have sole authority for the passage of regulations affecting timber operations in the State of California. Once the Board of Forestry rejected the County's rulemaking proposals regarding timber operations the County is legally precluded from passing any similar rules as part of a zoning effort.

In conclusion, we believe that provisions which regulate how and when helicopter operations are to be conducted, what are the appropriate silvicultural (harvesting) prescriptions, and how roads associated with timber operations are to be maintained are certainly examples of "timber operations" that are beyond the County's authority to impose upon private forest landowners in Santa Cruz county. We are confident that the courts would strike down any such effort by the Santa Cruz County Board of Supervisors. We encourage the Board of Supervisors to strongly consider the possible legal implications associated with any effort to circumvent the statutory authority of the Board of Forestry.

If you have any questions regarding this matter please feel free to contact me at 916/444-6592.

Sincerely,



Mark S. Rentz, esq.

Vice President, Environmental
And Legal Affairs

enclosures (2)

cc: Bud McCreary, Big Creek Lumber Company
Central Coast Forest Association
Chris Rowney, Board of Forestry
Richard Wilson, California Department of Forestry and Fire Protection

CALIFORNIA FORESTRY ASSOCIATION

November 2, 1998



Mr. Robert Kerstiens
Chair, Board of Forestry
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Sacramento, California 95814

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www.foresthealth.org

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 meetings 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 21st 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* ("Forest 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 lands 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 Board with a set of proposals does not, *de facto*, establish necessity. The Board must find that the current Forest Practices 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 1037.3, "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 constraints 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

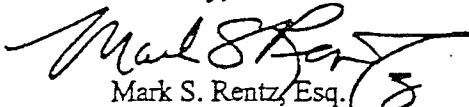
We believe that the County has failed to provide any legal justification for the 300 foot "no cut" residential buffer zone. The proponents have failed to establish any threat to the health and safety of adjacent landowners. For many landowners this buffer may impose added expenses that would preclude 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 considers 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

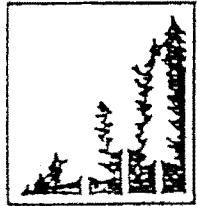
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cc: Mike Jani, Big Creek Lumber Company
Central Coast Forest Association

CALIFORNIA FORESTRY ASSOCIATION

August 28, 1998

Robert Kerstiens
Chairman, Board of Forestry
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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.

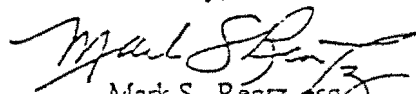
Finally, it is our understanding, from Supervisor Almquest's presentation to the Board last month, and from follow-up discussions with our members in Santa Cruz county, the County's proposal is basically an "all-or-nothing" proposal. In other words, if the Board of Forestry fails to totally acquiesce 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 Board to resist such "strong-arm" tactics. As you are aware from the advice previously provided by your legal counsel at 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 that 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



J.E. GREIG, Inc.

732

CONSULTING FORESTER

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Henderson, NV 89009-0190

(702) 564-9867 • Fax (702) 564-9876

December 9, 1998

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

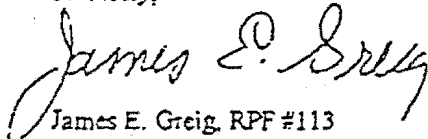
Board Of Supervisors:

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 jeopardize his lands financial viability.

Sincerely,


James E. Greig, RPF #113

JEG/mlg
cc:D. Ley

Central Coast Forest Association

December 8, 1998

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

DEC 10 1998
CLERK OF THE BOARD
COUNTY OF SANTA CRUZ

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.

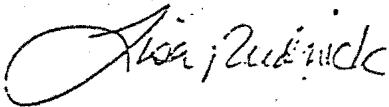
6) A serious independent statistical survey by Robert O. Briggs concerning forest growth and ground water uptake, which has significant implications on this ordinance, appears to have been intentionally misrepresented by county staff in ongoing efforts to avoid the requirement of an EIR. C.C.F.A. demands 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

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FEB 11 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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February 11, 1999

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FEB 11 1999

CALIFORNIA COASTAL COMMISSION
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Application of Santa Cruz, County, No. 3-98, Proposed Major Amendment to the Santa Cruz County LCP and Implementing Ordinances.

Dear Coastal Commissioners:

Pursuant to my correspondence to you dated February 5, 1999, enclosed herewith are the following documents:

1. The large map entitled "Timber Resources, North Coast Planning Area, Santa Cruz County". Please note that the "red" designated areas constitute significant timberlands within the Coastal Zone that are **not** designated on the out-of-date County Timber Resource Map and **not** zoned TP. These areas, excluding lands owned by the State of California, encompass over one-third (1/3) of the existing timber resources within the Coastal Zone in the North Coast Area, alone. **In addition**, there are areas zoned SU (Special Use) which, historically, have been timbered that **are** designated Timber Resources on the County Map. Nevertheless, pursuant to the Santa Cruz County Application No. 3-98, **all** of the above timber resources will be eliminated. The photo reduced copy of the foregoing map was previously transmitted to you in my February 5, 1999, letter to you. (The large maps are included only with this original letter.)

2. The large map entitled "Timber Resources, **Bonny Doon Planning Area**, Santa Cruz County". Enclosed also are photo reduced copies of the larger map. As can be seen, excluding public holdings, at least 25 percent of timber resources are **not** designated on the out-of-date County Timber Resource and are **not** zoned TP, all of which are within the Coastal Zone. The areas in "red" designate timberland resources based on more recent data than the out-of-date Timber Resources Map of Santa Cruz County. **In addition**, there are timber resources designated on the out-of-date Timber Resources Map on properties zoned other than TP, such as SU (Special Use), which, historically, have been timbered. Nevertheless, Application No. 3-98 of the County of Santa Cruz will eliminate **all** timbering from both categories. Further, over 25% percent lands in the Bonny Doon area will be eliminated for purpose of timbering as a result of the County Application No. 3-98.

3. As just one example of a single parcel **not** zoned TP and **not** designated on the out-of-date County Timber Resource Map, enclosed is an aerial photo dated 6-22-94, of APN 086-291-05 located in the **North Coast Planning Area** within the Coastal Zone. Application No. 3-98 eliminates all timber harvesting from this parcel. The parcel is zoned SU (Special se); contains approximately 1,160 acres with over 823 acres of timberland; and has approximately 15-20 million board feet of timber. This timberland is eliminated from timber resource harvesting by Application No. 3-98.

4. Enclosed is a chart listing some of the holdings of my clients in the Coastal Zone containing very significant timber resources, all of which are eliminated for timber harvesting by Application No. 3-98.

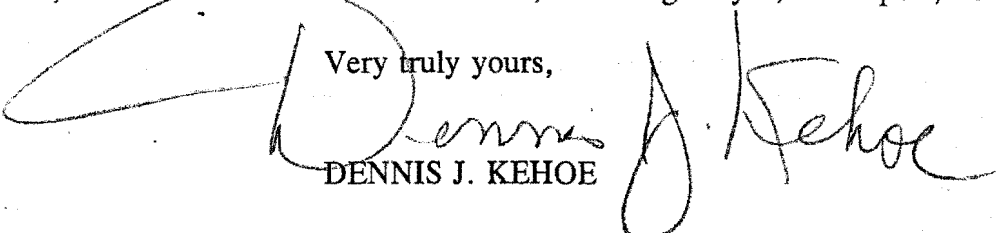
As a result logging at the turn of the century, the Santa Cruz mountains are now primarily stands of young growth redwood. Most of these forest lands are currently being managed for growth and productivity. These forest management practices have created vibrant forests which provide vital fish and wildlife habitat, recreation, aesthetics, forest products, and open space.

These forests will continue to flourish and provide such activities when using the current forest practice rules. Growth, productivity, and wildlife habitat in these forests can be maintained in perpetuity using existing forest management practices. If unreasonable and restrictive rules and ordinances, such as those in Application No. 3-98, are imposed on local forest landowners, they will be forced to consider the only available alternative land use, residential development. Application No. 3-98 significantly undercuts "the long-term productivity of soils and timberlands." Public Resources Code §30243 Moreover, Application No. 3-98 does not "substantially" advance "legitimate State interests." Nollan v. California Coastal Commission (1987) 97 L.Ed. 677, 687-688; Pardee Construction Company v. California Coastal Commission (1975) 75 Cal.App.3d 471, 479

Application 3-98 is in violation of State laws including the California Coastal Act as well as the federal and state constitutional rights of my clients to equal protection; just compensation; and due process, both procedural and substantive. The application must be denied.

Please place the undersigned at the above address on your mailing list for all notices, public notices, and staff reports concerning Application No. 3-98. Please do likewise for my clients, Big Creek Lumber Company and Bud McCrary. Their mailing address is BIG CREEK LUMBER COMPANY, ATTENTION: BUD McCRARY, 3464 Highway 1, Davenport, CA 95017.

Very truly yours,


DENNIS J. KEHOE

DJK:jlc

Enclosures

c: California Coastal Commission, Attn: Peter Douglas, Executive Director
Board of Supervisors of Santa Cruz County
Rick Hyman, Coastal Planner, California Coastal Commission, (Hand Delivered)
Office of Attorney General, Attn: John Davidson, Deputy Attorney General
State Board of Forestry
California Department of Forestry and Fire Protection

SOME OF THE AFFECTED
BIG CREEK LUMBER PARCELS-NON TPZ
INSIDE COASTAL ZONE
Forested But Without County Timber Resource Designation

<u>APN</u>	<u>ZONING</u>	<u>TOTAL ACRES</u>
057-081-28	SU	170
057-081-15	SU	106
057-111-14	SU	221
057-111-16	SU	160
057-121-02	A	81
057-121-21	A	15
057-121-25	CA	118
057-121-26	A	14.5
057-141-02	A	21
057-251-07	A	40
057-171-09	SU	20

SOME OF THE AFFECTED BIG CREEK LUMBER PARCELS-NON TPZ
INSIDE COASTAL ZONE
Forested But Without County Timber Resource Designation

SCC 3-98

06-22-94

1:15,840

BIG CREEK LUMBER

ATTN 4124 303.98

219
T58



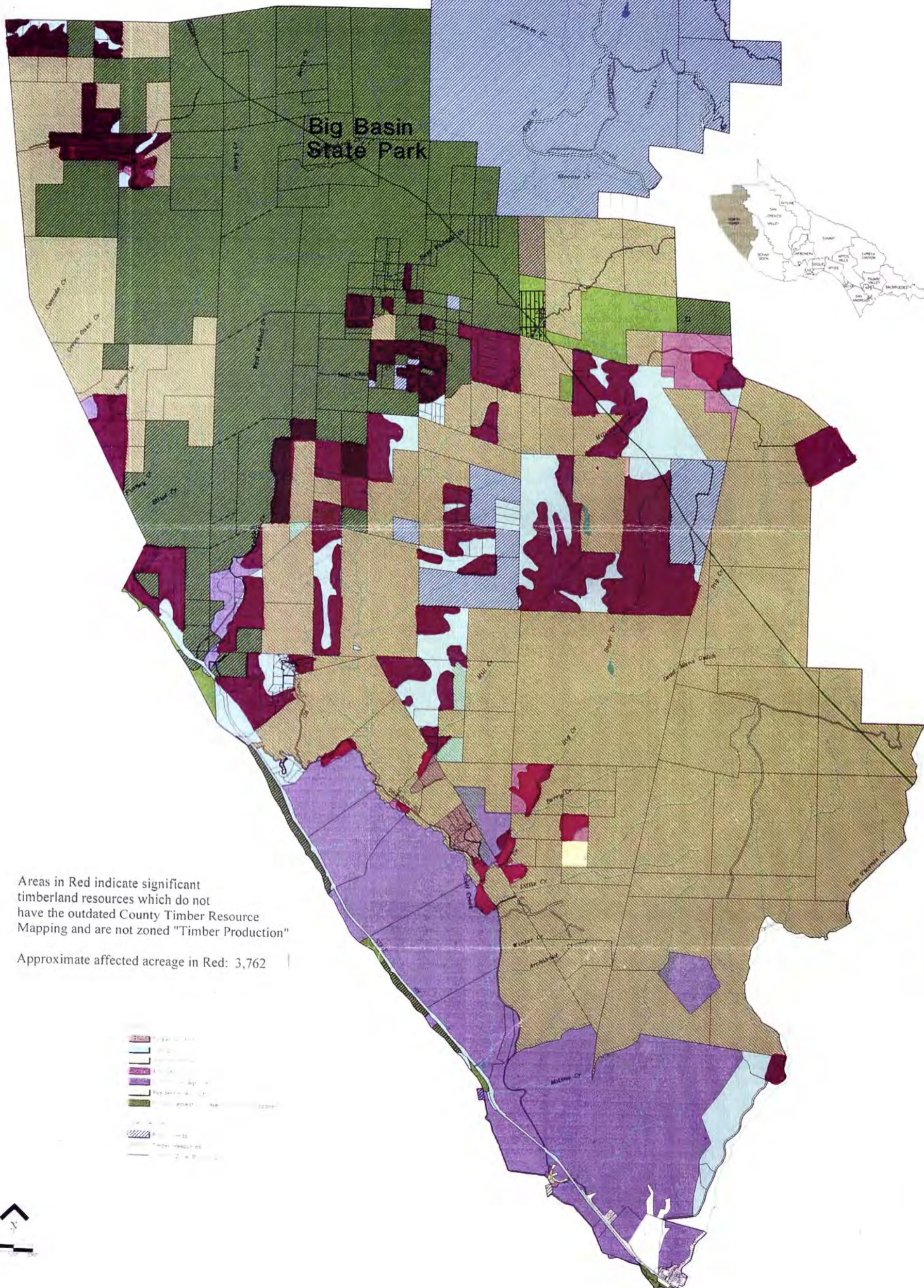
SCC03-98

Timber Resources

With Affected Zoning

NORTH COAST Planning Area
COUNTY OF SANTA CRUZ, CA.

Application No. 3-98



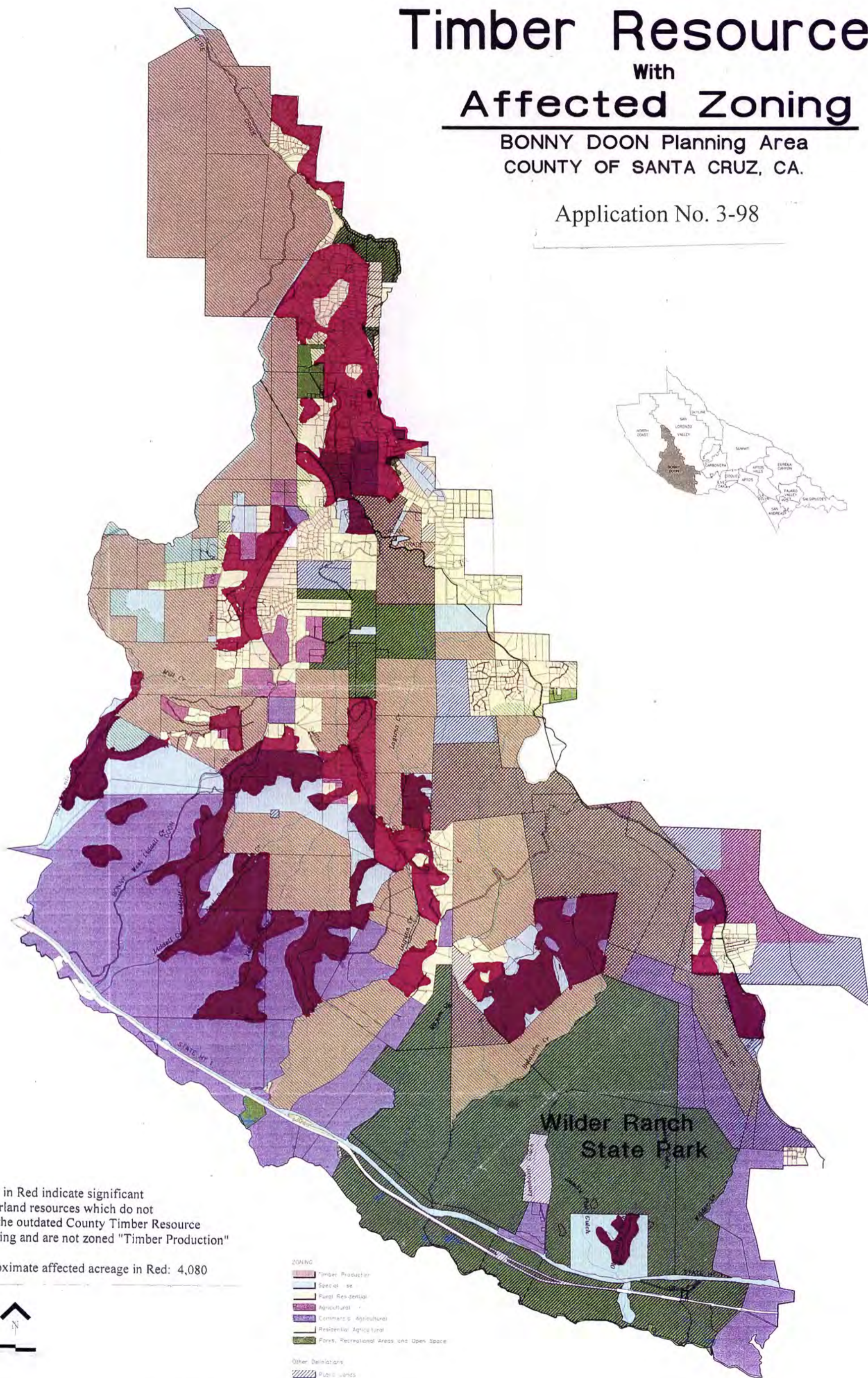
Timber Resources

With

Affected Zoning

BONNY DOON Planning Area
 COUNTY OF SANTA CRUZ, CA.

Application No. 3-98



Areas in Red indicate significant timberland resources which do not have the outdated County Timber Resource Mapping and are not zoned "Timber Production"

Approximate affected acreage in Red: 4,080

- ZONING
- Timber Production
 - Special Use
 - Rural Residential
 - Agricultural
 - Commercial Agricultural
 - Residential Agricultural
 - Parks, Recreational Areas and Open Space
- Other Designations
- Public Lands
 - Resources
 - Coastal Zone Boundary

