APPENDIX B: HISTORY OF LOGGING REGULATION IN SANTA CRUZ COUNTY

Commercial logging throughout the state remained unregulated until 1937, when San Mateo County adopted the first timber harvest ordinance in the state (Arvola, 1976). In 1945, the State enacted the original Forest Practice Act, which pre-empted county regulations (Arvola, 1976). The act gave sole authority to regulate to the California Department of Forestry and Fire Protection (CDF) and the state Board of Forestry.

In 1971, the state Forest Practice Act was ruled unconstitutional by the State Supreme Court (*Bayside v. San Mateo County*), because the majority of seats on Board of Forestry were allotted to the timber industry, creating a situation of self-regulation by the industry. According to the Public Law Research Institute (PLRI, 2006):

> Under the 1945 Act's self-regulatory system, private timber owners had exclusive authority to promulgate rules governing forest practices, with few mechanisms to ensure protection of the environment. The court held that by delegating such broad legislative power to persons with a pecuniary interest in logging, the Act violated the state and federal Constitutions and [d]enied due process of law to the interested and affected public.

The outcome of this 1971 decision was that state regulation under the Forest Practice Act was suspended. During that time, Santa Cruz County adopted a county ordinance to regulate logging. Under the county's authority, timber harvest applications were subject to review under CEQA. Applications involved public hearings, and the County Board of Supervisors could order changes in timber plans to address public concerns. The county had authority to require sureties to ensure compliance with county rules.

In 1973, the Z'Berg-Nejedly Forest Practice Act (FPA) was enacted by the state legislature, re-establishing the authority of state to regulate timber harvest. For a complete treatise on the FPA, refer to Duggan and Mueller (2005). The FPA re-created the Board of Forestry with a majority of "public seats." The FPA did not pre-empt county authority to regulate timber harvest within their jurisdictions, so from 1973- 1982 commercial logging was regulated by both the California Department of Forestry and Fire Protection (CDF) (now known as CalFire) under the California Forest Practice Rules (CalFire Forest Practice, 2007) & the county.

In 1976, the state legislature enacted the Forest Taxation Reform Act, which "changed the method of taxing timber in California by replacing the ad valorem tax on standing timber with a yield tax on harvested timber. The resulting *timber yield tax* is imposed on every timber owner who harvests timber or causes it to be harvested on or after April 1, 1977" (California Board of Equalization, 2007).

In 1982, the state legislature enacted the Timber Productivity Act (California Government Code Section 51100-51104), zoning 5.4 million acres of land throughout state, for timber production (TP) and compatible uses. The state required counties to assess each parcel based on its ability to grow trees. All qualifying lands were required to be zoned to TP, unless the landowner could show why another zoning would be more appropriate.

In 1983, the state legislature pre-empted the counties' authority to regulate timber harvest (Senate Bill 856). Since then, counties were required to gain approval from Board of Forestry for special rules to apply within their jurisdictions, but which could be enforced only by CDF.

During the 1990s, logging operations throughout the state increased after the state Board of Forestry introduced a new type of operation into the Forest Practice Rules. These operations required no environmental review, and so were called "exemptions." A state commission investigating the problem found:

> The number of emergency notices and exemptions totaled slightly more than 1,500 in 1989. By 1993, the number had skyrocketed to more than 8,000: 1,100 emergency notices and 6,959 exemptions. This far outstripped the 1,206 regular Timber Harvest Plans submitted for approval in 1993" (Little Hoover Commission, 1994).

Logging under exemptions proliferated in residential areas throughout Santa Cruz County, including the San Lorenzo River watershed (Santa Cruz County Planning Department, 1998, 1999). Conflicts increased over issues such as road damage by logging trucks, threats to public health and safety, nuisance, and lack of local control.

In addition, large out-of-county timber owners, who had depleted their timber land holdings on the North Coast, had been buying up thousands of acres of forest land in Santa Cruz County. In the 1990s, these timber companies began to log these lands intensively throughout the county. The County documented environmental damage and examples of inadequate enforcement by CDF with respect to some of the timber harvest plans in its justification packet for the County's proposed 1998 and 1999 rule changes to the Board of Forestry (Santa Cruz County, 1998, 1999).

Also in the 1990s, local environmental groups began focusing on the impacts of logging on drinking water. Local water suppliers were publicly criticized for commercially logging their water-supply forest land. In 1995, Citizens for Responsible Forest Management, a local non-profit, sued the City of Watsonville, contesting the city's plan to log the heart of the city's watershed, known as Grizzly Flat. While the group ultimately lost in court, they publicized the impacts of logging on water quality, through an effective media campaign.

In 1999, about 50 citizens complained to the Santa Cruz City Council about the city's continued logging of its watershed lands and the resulting impacts on water quality. The City Council responded by placing a moratorium on any further logging, appointing a task force to address the issue, and by providing $250,000 in funding for the preparation of a watershed management plan. The task force oversaw a team of consultants, which wrote the watershed management plan for the city's 3,880 acre holdings around Newell Creek, Laguna Creek, and Zayante Creek. In 2002, the Planning Analysis and Recommendations Report for the watershed was completed. The overall recommendation, to meet the city's primary goal of preserving water quality and quantity for protection of health and safety, was to limit land uses to those that improve water quality and restore ecosystem function. More specific recommendations included an end to the city's commercial logging program, since it contributed to erosion, and was counterproductive to ecosystem restoration (Swanson Hydrology and Geomorphology, 2002; Herbert, 2004).

In November 2002, the Santa Cruz City Council unanimously approved a motion to end commercial logging on the city-owned watershed lands and adopt other task force recommendations to protect and improve water quality (Santa Cruz City Council, 2002).

In 1998, Santa Cruz County Board of Supervisors submitted a county rule package prepared by the county planning department (Santa Cruz County Planning Department, 1998) to the Board of Forestry, proposing protection of old-growth trees, no-cut zones around streams, improved road construction standards, and allowing county planners to visit timber harvest operations. All of the proposed substantive changes were rejected by the Board of Forestry, after the local timber industry lobbied against the rules (Herbert, 2004).

In 1999 the county board of supervisors prohibited commercial logging in most zones outside of TP, removing approximately 22,000 acres from potential use as timber. However, any property owner wishing to rezone to TP could do so by simply filing an application, as long the property exceeded the county-designated 5 acre minimum parcel size and was capable of growing timber.

Shortly thereafter, in 2000, Big Creek Lumber sued the County of Santa Cruz, (Big Creek Lumber Co. v. County of Santa Cruz) challenging, among other things, the County's authority to prohibit logging outside the TP zone. The timber company argued that only the state had the authority to regulate the conduct of logging operations. The County argued that zoning authority gave counties the power to limit the location of land use activities to certain zone districts. The issue worked its way through Santa Cruz County Superior Court, the Sixth District Court of Appeals, and eventually to the State Supreme Court, which ruled in the county's favor in 2006.

In May 2007, the County Board of Supervisors changed the minimum parcel size eligible for rezoning to TP to 40 acres, but allowed for exceptions with discretionary review. The board also approved a six month grace period that allowed landowners wishing to rezone to TP under the old standard of a 5 acre minimum parcel size (Santa Cruz County Board of Supervisors, 2007).

ACKNOWLEDGMENTS: Appendix B

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