

# County Restricts Logging to Large Forest Parcels

## Small Timber Proposals Will Have to Seek Special Hearing

**By Michael Thomas**

Santa Cruz County is now the toughest place in the state for small landowners to get permits for logging. The County Board of Supervisors has adopted new standards that prohibit rezoning parcels of less than 40 acres for timber harvest without a special appeal and approval by county supervisors.

Supervisors voted three to two in favor of the new limits at a May 22 meeting after hearing emotional testimony from a slew of landowners and a number of activists intent on protecting the Santa Cruz Mountains from the buzz of chainsaws, particularly near homes.

The new ordinance rules out an estimated 1,500 parcels totaling 19,000 acres of forest land. However, the owners of those forest tracts have until the end of 2007 to apply for rezoning before the new restrictions take effect.

Beyond Jan. 1 of 2008, supervisors say that exceptions could still be made on a case-by-case basis to allow rezoning of smaller parcels.

"By setting the 40-acre minimum, we are not saying we won't rezone anything under that," said Supervisor Mark Stone, who voted with supervisors Neal Coonerty and Jan Beautz to approve the new limit.

"This gives us a lot more flexibility," Beautz said.

Supervisors Tony Campos and Ellen Pirie voted against increasing the minimum lot size for timber harvests from five to 40 acres.

### **Supreme Court Preserved Powers for County**

Last year, the county scored a partial victory at the state Supreme Court, winning the authority to limit timber harvest to lands zoned for timber production. However, the court determined that only the California Department of Forestry can regulate how the logging is actually conducted. Several other public agencies, including the Regional Water Quality Control Board, also play a role in reviewing logging plans for specific parcels.

In the wake of the court's decision, a number of local landowners applied for timber production zoning. Under state law, county supervisors were forced to approve rezoning requests if the land met certain state standards and the county's minimum lot size, which previously stood at five acres.

As a result, more than 3,000 acres of forest land was rezoned for timber production earlier this year, frustrating logging opponents.

And while some counties have set the minimum lot size for timber zoning as high as 80 acres, Santa Cruz is the only county in the state that will not allow logging on forest lands with other zoning designations. Some counties allow some timber harvesting without rezoning, or lands with zoning classifications such as agricultural use.

Standards for case-by-case review of small parcels have not been established, but would likely focus on proximity to residential areas.

"We have to be very careful to not get into how timber harvest happens," Stone said, referring to the limits the court placed on the county's authority.

### **Not an Easy Decision**

The decision to set a 40-acre minimum came after several extended public hearings in which landowners pleaded with the Board to shun rules that would prevent them from making money off their land. Some have suggested that without occasional revenue from logging, they would have to develop their property instead.

Tom Ward, who owns apple orchards in Bonny Doon, said his neighbors maintain large holdings as timber and act as good stewards of the land.

"This keeps those lands from being developed," Ward said.

Bruce Smith owns two timber parcels of less than 10 acres near Skyline Drive in Santa Cruz County. He says that keeping the land in timber is an economic decision.

"It's managing the forest," Smith insisted.

Although timber production zoning places strict limits on new construction, in many cases homes already exist on properties that are targeted for logging.

"Those watersheds are already impaired," Betsy Herbert of the San Lorenzo Valley Water District told the Board. "All of those impacts add up. Clear-cutting is not the only forest practice that has impacts."

Logging opponent Jodi Frediani of Bonny Doon argued that the logistics of harvesting on small tracts can create additional impacts.

"Small parcels provide less options for the placement of logging roads and log landing [areas]," Frediani said.

For example, she complained that the State Department of Forestry allows logging roads to be built close to streams if there is no other place to put them.

Supervisor Pirie voted against the new limit, saying she would have preferred a more moderate increase.

"Timber harvest can be done responsibly and with environmentally sound practice on a 20-acre parcel," Pirie said.

Owners of parcels between five and 40 acres will still be able to apply for exceptions to the new zoning rule. However, Bob Berlage, spokesman for Big Creek Lumber, fears that those applications will become "political footballs," attracting heated opposition from the same logging opponents that urged the board to adopt the new standard.

Much of the impetus for the 40-acre standard came from a desire to preserve neighborhood integrity, but county staff surveyed forest parcels and found surprisingly little correlation between lot size and proximity to residences.

"This creates a regulation that affects a huge number of people to avoid an impact that's not even connected to it," Berlage said.■

# CalAm Loses Request to Move Eminent Domain Case to Another County

**By Michael Thomas**

Unless CalAm scores a last minute reversal through appeal, the fate of Felton's water system will be decided by a local court and a local jury. In May, Santa Cruz Superior Court Judge Paul Burdick denied a request from CalAm to move the eminent domain case to a court in another county.

Attorneys for CalAm and the San Lorenzo Valley Water District, which is pursuing the system using \$11 million in bond funds approved by Felton voters, will return to court on Jun. 21 for a case-management conference.

It's possible a trial date could be set at that conference.

"These things are generally pretty high priority," said the Water District's Betsy Herbert. If purchased or taken through eminent domain, the Felton water supply and system will be operated by the San Lorenzo water district. "We wouldn't be surprised if the case is set for the fall."

However, CalAm could also appeal Burdick's decision and FLOW activists have previously suggested that the company would try to delay trial for as long as possible.

"We are evaluating our options," said CalAm spokesman Kevin Tilden. "We believe you have a mandatory right to a change [in court venue] if your business is not based in the county."

Herbert said that argument fell through.

"CalAm was claiming that they were perceived as an outsider, but they have been doing business in the county ... for a long time," she said.

Tilden said CalAm is concerned about prior and future press coverage tainting the jury pool. Additionally, CalAm objected on the grounds that Judge Jeff Almquist supported the emerging effort to seize the Felton water system when he was a county supervisor, prior to being appointed to the Superior Court. Burdick insisted that Almquist, who is presiding over criminal cases, would have no impact on the conduct of the civil trial that lies ahead.

Though CalAm is strenuously defending its ownership of the Felton water system, CalAm's parent company, American Water, is about to be sold off as an Initial Public Offering.

According to Herbert, the district's lawyers are still pushing the PUC to order the divestiture of Felton water as a condition of the parent company's sale.

In October of last year, the PUC rejected that demand, but an appeal is now underway.