

REGULATIONS OR VOLUNTARY PROGRAMS TASK GROUP:

In any effort the first step is always the hardest, and the Voluntary Incentive Programs or Regulation Task Group has taken that first step, we met, we covered a lot of ground, discussed much, and mapped out an action plan. It should be noted that our task group isn't just one perspective, we have differences of opinion, and that's good. To whole point of the task groups is for people, with our various points of view, to come together and talk through the issues so the community as whole can come up with a plan the recovery of the Salmon that works for the community. We invite and encourage people to join the task group and help us.

We agreed on the following points as the starting point for the task group:

- We are not starting from scratch. There are enough regulations already in place, held by various agencies, to move forward with protecting fish and families.
- The issue before us is not a choice of either regulations or incentive based programs. The question for the community is; what is our desired objective, and what will be the best tool to achieve that objective?
- As programs are considered the following should be taken into consideration:
 1. Regulations serve to prevent actions while incentives based programs serve to encourage actions.
 2. We aren't limited to choosing between two opposing approaches. A citizen group can be created to review compliance issues at a local level prior to regulatory agencies having to step in.
 3. Before adopting any ordinance it must be understood: (1) why a new regulation is needed; (2) will the new regulation actually work to achieve the stated goal; (3) Is there an incentive based program that is more likely to achieve the stated objects.
 4. With a regulation or a voluntary incentive program education and communication are the keys to achieving the desired results.
 5. The majority of people in the valley will help if the regulatory agencies step forward with assistance.

What is the role of our Task Group?

- We will work with other task groups to strategize and develop policies and programs that will implement their ideas.
- We shall work to understand the role of the Federal Government in this process:
 - NOAA Recovery Plan public comments are due July 6, 2010
 - What will the federal government (National Marine Fisheries Services "NMFS") require?
 - Will it render what we are doing with the County moot?
- We review proposed ordinances and seek out public input on those ordinances
 - The first ordinance being considered is a Riparian Buffer Ordinance
 - See the following pages for initial thoughts on a potential Riparian Buffer Ordinance
- We create a series of what if scenarios regarding the use of one's property and potential permitting requirements.
 - By creating a series of examples property owners can better understand how the Salmon Enhancement Plan will or will not impact their property.

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In regards to the Federal Government:

NOAA has made the following comments...

- NOAA RECOVERY PLAN CENTRAL CALIFORNIA COAST "CCC" COHO SALMON
Recovery: A Collaborative Effort *"NMFS will encourage locally-led collaborative efforts to finalize this and other recovery plans, involving local communities, State and Federal entities, and other stakeholders."*
- NOAA letter, of February 3, 2010, to Supervisor Kinsey:
"The purpose of this letter is to express NOAA's National Marine Fisheries Services' (NMFS) support for the fundamental framework and priorities outlined by the San Geronimo Valley Salmon Enhancement Plan (SEP)."
"We initially had concerns about the 35-foot stream enhancement zone described in the SEP, but now have the understanding this intended to describe the zone of first priority for voluntary riparian restoration measures and is not a riparian buffer."

In regards to the Proposed Riparian Buffer Ordinance:

The following are comments that have been submitted to the County for consideration prior to developing Riparian Buffer Ordinance.

First, we would like to hear why a Riparian Buffer Ordinance needed? We aren't looking for a history of SPAWN's actions, instead the question is seeking to understand what is the objective of the ordinance and what is it suppose to achieve that the long list of existing ordinances don't achieve?

Second, we have been focused over the past few months on finding ways to encourage community members to actively and voluntarily step forward to take on watershed restoration projects and it occurs to us that regulations do not function well in encouraging positive behaviors, but rather are focused on preventing negative behaviors. Therefore we want to know, how can a Riparian Buffer Ordinance be written so it does not work against encouraging community involvement?

Third, projects will fall into three broad categories: riparian restoration, improvements to one's property, and typical maintenance and up keep of one's property. How can a Riparian Buffer Ordinance be drafted to address the unique conditions that arise with each of these project types? The following questions attempt to clarify what we are trying to understand in regards to this third question:

- Improvements: Currently the SCA allows for exceptions to full compliance with all SCA criteria if; (1) A parcel falls entirely within the SCA; or (2) Development on the parcel area outside of the SCA is infeasible or would have greater impacts. What is the method for the Riparian Buffer Ordinance to maintain this aspect of the Marin County Wide Plan?
- Maintenance: If a lot is completely within the 35' zone will a permit be required to weed the yard; what about replacing the siding; or reroofing; rebuilding/repairing an existing structure, what about planting a single tree or removing a single small tree; trimming and or pruning trees or shrubs; picking up falling branches, etc. These are all normal maintenance activities on one's property, how will the Riparian Buffer Ordinance address them?
- Restoration Projects: One of the stated objectives of the County is to avoid creating conditions were a homeowner will require more and more experts involved in order to complete even the

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simplest project. After reviewing numerous riparian buffer ordinances it appears to us that the result of a new riparian buffer ordinance would be the opposite of the County's stated objective. How can the Riparian Buffer Ordinance be written to simplify matters for homeowners? If it doesn't simplify matters then how will a Riparian Buffer Ordinance help achieve restoration by making it even harder for homeowners to do the right thing?

- Would the permit process for each of these conditions be the same? Will the County have a streamlined process for restoration projects? Will the County facilitate accessing federal funds for restoration projects?
- We don't want the Riparian Ordinance to make homeowners go beyond a reasonable level of compliance, and we stress reasonable. If the ordinance is too heavy handed people will stay under the radar. The County should want, and we need, homeowners to willingly participate in protecting the salmon.

Fourth, how will the County enforce a Riparian Buffer Ordinance? We are trying to bring the community together to achieve an implementation plan and we are concerned that a new Riparian Buffer Ordinance will only serve to have one faction of the community looking over the fence at what the other faction of the community is doing.

- No part of a Riparian Buffer Ordinance should create or endorse sending workers from any non-profit scouting into our backyards.

Fifth, why should a Riparian Buffer Ordinance only apply to the San Geronimo Valley? If protection of andronamous waterways is important the regulation should apply to the entire county, not just SGV. If a test is to be conducted, consider using the draft regulation as a guidance document to be used in the SGV for a specified duration, rather than an untested mandatory regulation. After the specified duration and time to work through these questions and other that may arise, then the County can adopt a well vetted regulation for the entire County.

- In the case where a Riparian Buffer Ordinance is drafted for a select area, the County should consider the formation of a riparian review board consisting of representatives of property owners from the select areas to determine projects consistence with standards, goals, and criteria set forth in the ordinance and the community standards.

Sixth, please consider the following exceptions/conditions in the development of a Riparian Buffer Ordinance:

- Account for lot size: The numerous Riparian Buffer Ordinances we reviewed seemed to apply to either larger areas where the vast majority of lots were of significant size, such that a 100' on both sides of the bank didn't account for a large percentage of the land area. The small lot was the exception. In the SGV a vast majority of the parcels impacted are small lots where the riparian buffer zone could encompass the entire lost with existing structures on it. Options for accounting for lot size include:

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- i. Buffer Averaging*
 - ii. Lot Zoning on a % basis, meaning that for existing lots the buffer could be 35' or 50% of the area between the existing home and the edge of bank, whichever is smaller.*
 - iii. The Ordinance must leave enough area for use of the parcel consistent with the current zoning for said parcel.*
 - iv. Riparian Buffer shall allow for a structure to be demolished and rebuilt on the existing footprint, with an identified % of acceptable expansion to the existing footprint.*
 - v. Riparian Buffer shall be limited to lot's directly adjoining a perennial stream*
- There shall be no special experts or reports needed to maintain ones property
 - The Riparian Buffer Ordinance shall account for unique variations such as different waterway conditions, size, site location along a reach, whether the waterway is andronamous or non-andronamous habitat, and the different vegetation conditions such as forest, grass land, or other.
 - No vegetation management plan or easement agreement shall be forced upon the parcel owners; rather, a grandfather program shall be developed and included in the Riparian Ordinance for existing improved parcels.
 - The Riparian Buffer Ordinance shall not automatically apply to agricultural and/or horse ranch operations in the San Geronimo Valley; rather, the County shall negotiate riparian management plans customized to unique conditions of each operation.
 - The Riparian Buffer Ordinance shall exempt projects which will not result in disturbance to the land or where on-site conditions clearly demonstrate that the site is not now occupied by riparian habitat vegetation and would not effectively respond to riparian re-vegetation.
 - The following structures, practices, and activities are permitted in the forest buffer:
 - i. Roads, bridges, trails, storm drainage, storm water management facilities, and utilities are permitted within the buffer provided that an alternatives analysis has clearly demonstrated that no other feasible alternative exists and that minimal disturbance will take place.*
 - ii. Stream restoration projects, facilities and activities approved by the department are permitted within the buffer.*
 - iii. Individual trees in the buffer may be removed which are in danger of falling, causing damage to dwellings or other structures, or causing the blockage of streams.*
 - iv. Other timber cutting techniques approved by the department may be undertaken within the buffer under the advice of Arborist, if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.*
 - Variances and exemptions must be developed for existing structures and SHALL be transferable with the sale of the property.

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- Exemptions for financial hardships shall be provided.
- Regulations within the Riparian Buffer Ordinance shall NOT require inspections of properties at anytime other than inspections associated with construction projects.

Seventh, what consideration is being made for fire protection plans within the riparian buffer?

- A noted from a fire fighter in the Valley: "Two issues have caught my attention recently are the tree ordinance and septic issues that are now in play. If the tree ordinance doesn't allow for the necessary and effective clearances for fire protection it will affect the entire county and not only the valley residents. A fire that starts in our valley or anywhere in the riparian corridor during extreme burn periods represents a threat to life and property to everybody that is downwind. The Oakland fire and the Mt. Vision fire are the two examples of firestorms that we have seen in the bay area. Marin County is overdue for a catastrophic fire like the ones we have seen in Southern California a few years ago. Bay trees, Cypress shrubs, dead or dying conifers burn with such intensity they are difficult to extinguish under the best of circumstances. In a firestorm these fuels are explosive. In a firestorm high winds and superheated air form tornadoes of fire that suck burning embers and firebrands high above the ground. Carried by the intense wind they fall like rain starting hundreds of new fires sometimes more than a mile ahead of the main one. This issue is of major importance to everyone that live in communities like Mill Valley, Tam Valley, Madrone Canyon the populated hills of Fairfax, San Anselmo, San Rafael and Larkspur to name a few. "