

July 9, 2010

Brian Crawford, Director
Marin County Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157



Subject: Woody Riparian Vegetation Protection Ordinance

Dear Mr. Crawford:

Marin Conservation League has been tracking the progress of the Salmon Enhancement Planning (SEP) process since the challenge to the County's approval of the 2007 Marin Countywide Plan by SPAWN in early 2008. We supported SPAWN's action at the time, and have continued to follow the evolution of the County's efforts to meet the basic goal of the January 29, 2008, agreement between the County of Marin and SPAWN: "To prepare a plan that supports the restoration of natural biological and hydrological functions in the San Geronimo Creek watershed." This simple statement of purpose resulted in an extraordinarily complex sequence of events, but it remains the overriding goal of the County and, without doubt, the community. The proposed Ordinance is a first step toward achieving that goal.

Comments:

1. MCL supports the need for the Proposed Riparian Vegetation Ordinance. Any habitat restoration planning effort that touches the personal lives and properties of many humans "... takes a united community of experts and lay people forming alliances. . ." -- in other words, a collaborative and voluntary effort, as promoted by the San Geronimo Valley Stewards. We agree, but a voluntary effort, to be successful, also requires an underpinning of standards – a "level playing field" – that can be achieved only through consistent and predictable criteria, rules, and enforcement. This is the purpose of the proposed ordinance.
2. The proposed Ordinance should serve only as a stop-gap until Goal BIO-4 (Riparian Conservation) is implemented by an expanded SCA Ordinance (BIO-4.a, et seq). The 35-foot riparian area identified in the proposed ordinance as the subject of regulation is the minimum width necessary to meet the goal of "restoring biological and hydrological functions." The criteria for designating and identifying conditions in an SCA are firmly established in the 2007 Countywide Plan. The ordinance should acknowledge its relationship to this framework, and that it is only one piece of the comprehensive riparian protection that the Plan envisioned.
3. The term "woody" should not be included in the title or limit the provisions of the ordinance. During hearings on the 2005 draft of the Countywide Plan there was much discussion as to whether the term "woody" limits the nature of riparian vegetation to be protected. The term did become part of the CWP language. As pointed out by SPAWN in its letter of July 1, 2010, herbaceous species within the riparian community serve important functions: they filter pollutants, the fibrous roots of native grasses and other herbaceous plants hold soils, prevent surface erosion, and retain sediment from entering the stream; and the top growth of herbaceous plants shelters the replacement seedlings of longer lived woody spe-

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cies. The health of the habitat relies on this diversity of species and life forms. Among woody plants, species that are not obligate riparian species but frequently occur in the riparian canopy – oaks, redwoods, bays – should receive the same protections as more typical riparian species.

4. All watercourses should be covered by the Ordinance (except as defined in the CWP). In its definition of watercourses covered by the SCA, the 2007 Countywide Plan includes perennial, intermittent and ephemeral streams (limiting the latter by the length of riparian vegetation). There should be no exceptions to the proposed ordinance simply because a watercourse “is not capable of providing habitat to coho salmon or steelhead trout such as reaches on slopes greater than 4% for coho or 8% for steelhead.” (SGV Stewards’ comments of July 2, 2010) Such an exception fails entirely to recognize the role vegetation plays in moderating the quality and quantity of runoff, especially on steeper slopes – and that the entire watershed contributes to the hydrological functions and quality of salmonid habitat in lower reaches.
5. Exemptions are appropriate for vegetation and fuel management for fire protection. MCL has expressed deep concerns over the aggressive tactics often “required” in the name of fire protection – extensive vegetation removal, clearing of defensible space, and encouraging “hardscape” around homes – all of which may retard fire spread on the one hand but also impede filtration, remove natural controls for surface runoff, and contribute to downslope flooding. It will be essential to find the right balance and not allow vegetation management for one hazard to preempt proper management for the other.
6. Finally, the county should offer incentives in the form of fee reductions, exemptions, and/or programmatic permit approvals for restorative actions taken by individuals. While MCL believes strongly that regulation is an essential part of a community effort – along with transparency of the permit process – we also feel that if fees are onerous, and permit processing delays are chronic, the community’s efforts will not succeed. The idea of an annual riparian vegetation management plan exemption (as proposed by the SGV Stewards in Section 8, C) should be explored. If such an exemption is based on standards in the ordinance, backed by expert review, open to County inspection, and “endorsed” in subsequent years by easy permit renewal, such a plan could go a long way toward rewarding the efforts of willing members of the community.

Thank you for the opportunity to comment.



Nona Dennis,
President

cc: Katherine Crecelius, Chair, Marin County Planning Commission