



SIERRA CLUB MARIN GROUP

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January 12, 2005

Honorable Justices of the Court of Appeal
First Appellate District-Division 4
350 McAllister Street, San Francisco, CA 94102

RE: Respondent's January 5, 2005 Request for Modification of Opinion
Without Change in Judgment, CRC 24(d)(2), and Request for Publication.
CRC 976, 978; SPAWN et al vs. County of Marin, et al; Appellate Case
No. 105592; Superior Court Case No. CV 032133

Dear Honorable Justices:

On behalf of our 7,000 Marin County members, the Sierra Club is writing in support of the SPAWN request that you formalize, write and publish a full opinion in the above referenced decision.

We support SPAWN's request because the County of Marin does not accept that your decision applies to the way it regularly processes CEQA exemptions. This current legal proceeding arose from the County's unwillingness to carry out its CEQA responsibilities at the Hedlund site, but we urge that this be understood in the broader context of the County's similar unwillingness to conduct proper CEQA review of projects at other sensitive streamside sites as well as at the Hedlund site.

We believe that the cumulative impacts of these improper CEQA exemptions have and will continue to impact endangered salmonids, whose very survival, let alone recovery, depends on healthy riparian habitat. Therefore it is of extreme importance to the Sierra Club that the County protects its riparian habitat, as promised under existing County policies that provide for streamside conservation buffers.

Neither the Sierra Club, nor we presume the County, would relish the prospect of going to court over each specific development in sensitive streamside habitat. We urge the Court to lay out ground rules for conservation-minded organizations, for the County and for project developers that make clear that if the County has to conduct a review to determine if significant impacts will occur, then that review must occur under CEQA.

The Sierra Club therefore supports SPAWN's request for modifications without change in judgment and publication. These modifications should add sections clarifying that CEQA review is required even for projects incorporating mitigation measures at the design stage and clarifying that the standard of review should encourage further CEQA review at the exemption stage where there is a possibility of significant impacts.

Thank you for your consideration.

Gordon Bennett, Sierra Club Marin Group Chair and Chapter Executive Committee