

February 17, 2004

Summary of Conclusions

I. Statutory Interplay

Reading the Coastal Act and the Timber Productivity Act together, and harmonizing the two statutes, we reach two conclusions regarding the County's regulation of timberland production zoning (Resolution 493-99 and Ordinance 4577). First, we conclude that the Coastal Commission lacks authority to require the County to mandate additional criteria for TP zoning within the coastal zone. Second, we reject the treatment of coastal zone timber production rezoning applications as LCP amendments necessitating Coastal Commission certification. Given our determination that timber production zoning does not constitute a change in the use of timberland, we conclude that the Coastal Act does not require those rezoning applications to be certified as LCP amendments. We further conclude that treating TP rezoning requests as LCP amendments constitutes the imposition of additional criteria for timber production zoning in violation of the Timber Productivity Act.

II. Preemption

A. Zone District Regulations (Resolution 493-99 and Ordinance 4577)

We reject the reasoning of *Big Creek v. San Mateo* to the extent that it distinguishes between how timber operations will occur and where they will occur. We conclude that the County's zone district regulations impermissibly regulate the conduct of timber operations, thereby contradicting the FPA. For that reason, they are expressly preempted.

B. Riparian Regulations (Ordinance 4571)

We find that the County ordinance establishing riparian buffers conflicts with the Forest Practice Act in two ways. First, the ordinance invades an area occupied by the statute, the conduct of timber operations. In addition, the ordinance contradicts regulations promulgated under the statute. For those reasons, the riparian ordinance is expressly preempted by the FPA.

C. Helicopter Regulations (Ordinance 4572)

We conclude that the helicopter ordinance is an impermissible attempt to locally regulate the removal of timber. Because the removal of timber falls within the definition of timber operations under the Forest Practice Act, that statute expressly preempts the helicopter ordinance.

D. Other Regulations (Resolution 494-99 and Ordinance 4578)

Ordinance 4578 and Resolution 494-99 never became effective. For that reason, any controversy concerning those measures-whether at the trial or the appellate level - is not justiciable.

DISPOSITION

We reverse the judgment, and we remand the matter to the trial court with instructions to enter a new and different judgment invalidating Ordinances 4571, 4572, and 4577, and Resolution 493-99.

Plaintiffs shall have costs on appeal.