

In Brief: County Stream Protection Rules Scuttled by Lawsuit

by Ann Thomas
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A set of creek protection measures approved for county waterways in October was quickly overturned by a lawsuit brought by two environmental groups, and will remain in limbo until issues have been settled by the courts. An associated work program, including outreach activities and services for owners of properties along creeks, fortunately remains unaffected by the legal action and will be implemented in coming months.

The Stream Conservation Area (SCA) ordinance, applicable only in the unincorporated area, was approved by Marin County Supervisors following almost two years of research and dozens of meetings with community groups to solicit public input. The ordinance would have implemented the 2007 Countywide Plan's SCA policies by requiring science-based management practices beneficial to fish and other wildlife for work in the SCA; the SCA is a defined width of land on either side of county creeks.

A permit system is needed for the review of applications for construction or site modification in this area because policies in a general plan are not universally enforceable until made part of the jurisdiction's development code. This was done by adoption of an ordinance.

Friends of Corte Madera Creek Watershed supported the proposed ordinance which was approved on an interim basis to allow for testing over a 29-month period; it would then be revised as needed. The ordinance included badly-needed guidelines for activities along creeks that would improve habitat for fish, help stabilize banks and reduce flooding threat. Sleepy Hollow and Kentfield are the most critical areas of our watershed that would be affected by the SCA ordinance.

While the ordinance will not be in effect until the litigation is settled, the work program will proceed. It includes a review of current science, policies, and recommended management practices for ephemeral streams, and a new staff position to assist owners of creek properties to make property improvements in ways that also improve creek habitat.

A building moratorium in the San Geronimo Valley, which was imposed by a court until an SCA ordinance was adopted, was lifted when the ordinance was enacted in October. As of early December it had not been re-imposed by the court.



The Stream Conservation Ordinance is intended to protect creek corridors from development such as that seen here adjacent to Tamalpais Creek. Photo by Ann Thomas

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