

---

**From:** [peggycreeks@comcast.net](mailto:peggycreeks@comcast.net) [mailto:[peggycreeks@comcast.net](mailto:peggycreeks@comcast.net)]  
**Sent:** Thursday, November 07, 2013 7:52 AM  
**To:** Zackery Morazzini; Kelli Breton  
**Cc:** Steven M. Woodside; David Zaltsman; Supvsr. Steve Kinsey; Supervsr. Katie Rice  
**Subject:** Marin County Voters Request FPPC Reconsider Disqualification of Two Supervisors

---

**Marin Voters and Taxpayers Request That California Fair Political Practices Commission Reconsider Its Disqualification of Two County Supervisors From Voting on Stream Protection Ordinance and Related Future Actions.**

**From:** San Geronimo Valley Stewards  
Niz Brown, President,  
and Board of Directors: Judith Champagne, Donna McGuinn, Ann Seramin,  
Peggy Sheneman, Michael Snyder, Laura Szawarzenski, Steve Tognini, John Smithyman

**To:** California Fair Political Practices Commission  
Kelli Breton, Assistant to the Commission  
Zackery Morazzini, General Counsel  
William J. Lenkeit, Senior Commission Counsel  
Sukhi K. Brar, Counsel

**Re:** Your Advice Letter File No. A-13-083

We respectfully request you convey this letter to the Commissioners, for consideration at their meeting on November 14, 2013.

San Geronimo Valley Stewards is a California nonprofit corporation with over 300 members and supporters, focused on protecting families and fish in the San Geronimo Valley in Marin County. Our Valley is home to over 2,000 families living in in small houses near creeks, which are the spawning grounds for the endangered coho salmon.

On October 29, 2013, three of our five County Supervisors voted to adopt a temporary Stream Conservation Area Ordinance, after the FPPC disqualified two other Supervisors from voting. Our Supervisor Steve Kinsey in District 4, and Supervisor Katie Rice in District 2, received informal advice letters that they should not vote in the Stream ordinance, nor on any future matters related to the Stream Conservation Area (SCA), because they own real property located within 500 feet of the SCA. Neither Supervisor owns any property within the SCA boundaries.

**All properties within the SCA are treated alike.** The SCA is defined as a fixed number of feet setback near any "stream" (as defined). The setback footage is determined by whether the property is located within the "Inland Rural Corridor" (where the setback is 100 feet), or the "City-Centered Corridor" (where the setback ranges from 20 feet to 100 feet, depending on the size of the parcel). The "Corridors" are mapped in the 2007 Countywide Plan. There is no discretionary staff or legislative decision on whether a parcel is inside the SCA. The location of a parcel inside or outside the SCA

determines the "category" fixed by the 2007 Countywide Plan, which is now implemented in the temporary ordinance adopted October 29, 2013.

In addition, under the temporary stream ordinance, all parcels located inside the SCA in any part of the County are in the same "category" and are subject to the same rules concerning allowable building, exemptions, and permit requirements. The temporary stream ordinance is a land use regulation applicable to all privately owned properties inside the SCA. The temporary ordinance implements changes in land use applicable to all properties (not merely certain properties) located within the SCA anywhere in the County.

**All properties in 500 feet proximity to the SCA are affected alike.** Parcels owned by Supervisor Kinsey and Supervisor Rice are totally outside the SCA. The values of their parcels are not affected by the 2007 Countywide Plan or the temporary ordinance in any manner differently than other parcels located 500 feet outside the SCA which are owned by other persons. There is nothing special about the Rice or Kinsey parcels which make them more or less likely to be impacted by the SCA than every one of their neighbors.

**The FPPC regulations disenfranchise Marin voters.** The current FPPC regulations disenfranchise voters, by "presuming" a conflict, with no evidence of actual material economic interest. Voters in Districts 2 and 4 cast 25,910 ballots in the most recent election June 2012, in which Supervisors Kinsey and Rice won overwhelming margins. We elect five Supervisors by District. No other District Supervisor can represent the voters of Districts 2 and 4. Voters in the other three Districts of Marin will have undeserved voting power if these regulations are applied.

**Streamside homeowners need our Supervisors to consider future stream protection actions.** Approximately 1,450 parcels of land (mostly residential) in Districts 2 and 4 are inside the SCA. (Marin County Planning Commission staff report April 1, 2013, page 7.) If the FPPC regulations are not revised, these 1,450 property owners will have no representation for future actions related to stream conservation. Decisions will be made by three Supervisors who do not live here and need not be concerned about our properties,

Below are described some of the future actions likely to occur over the next two years, on which we request that our two Supervisors be qualified to vote:

- action to be taken if the temporary countywide ordinance is challenged in court;
- extension or expiration of the temporary ordinance when it "sunset" in April 2016;
- direction to County staff administering the County's new work program adopted October 29, 2013 on Stream Conservation Area Implementation, including consulting contracts for experts, hiring an ombudsman to assist homeowners, forming a citizen advisory committee, and conducting public workshops;
- consideration of narrow amendments to the 2007 Countywide Plan on stream protections;
- consideration of a permanent countywide stream ordinance.

Each of these future actions will have significant impact on the 1,450 homes located in Districts 2 (Rice) and 4 (Kinsey), as well as the health of our streams and survival of our salmon.

**Please revise FPPC regulations to accommodate environmental overlays in land use planning.** We request your Commission consider revising regulations, so as not to "presume" a conflict when considering environmental overlays to traditional zoning ordinances. Modern land use planning has progressed beyond traditional zoning districts which are the focus of your existing regulations.

For example, the 2007 Marin Countywide Plan identifies several overlays for "biological resources" in addition to standard R-1, C-2 etc zoning. The Countywide Plan adopts policies to protect, and mandates ordinances be adopted covering, the following:

- wetlands,
- riparian habitat,
- baylands,
- woodlands and trees,
- native plant species,
- bird nesting,
- watershed quality, and
- fire prevention in Wildland-Urban Interface areas.

Carried to its full application in Marin County, FPPC current regulations would result on one or more of our Supervisors being disqualified from every decision implementing our Countywide Plan, if the Supervisor lives within 500 feet of any biological resource.

--Should a Supervisor be disqualified if a bird nests outside her condominium?

--Should a Supervisor be disqualified if her yard has a native redwood tree?

An environmental regulation which similarly affects every property owner in the same category, should not disqualify the Supervisor who also falls into that category.

The "cure" of presuming a conflict within 500 feet is unnecessarily broad to prevent the alleged "injury" of official decision-making free of bias or personal financial interest. The current regulations interfere with our District electoral process, and hobbles the efficient preservation of our natural resources.

We are dedicated citizens, who perform our civic duties by voting in Supervisor elections, paying property taxes, volunteering good stewardship of our creeks and natural resources, and actively participating in local government affairs. We ask you to open the door for changes in FPPC regulations, that will allow all our Supervisors to vote on public policies which balance preservation of family homes with environmental protection.

Please give us back our Supervisors!

cc: Supervisor Steve Kinsey  
Supervisor Katie Rice  
Steven Woodside, Marin County Counsel  
David Zaltsman, Deputy County Counsel