

## **Lippre, Suzanne**

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**From:** Stacy Becker <sbecker@reninet.com>  
**Sent:** Saturday, November 3, 2018 8:25 PM  
**To:** Planning Clerk  
**Subject:** Do not allow Mercer Frazer to rezone Mad River for heavy industry

Please do not let the Mercer Fraser rezoning to Heavy Industry on our Mad River floodplain. Seven cities and Community Service Districts supported the appeal in a unified effort to protect our drinking water supply. Rivers are this region's bloodlines - any threat to clean waters or impact like heavy industry in these vulnerable waterway areas are a crime against nature and people. Our waters are not for profit!

Stacy Becker

2364 Hewitt Rd., McKinleyville, CA 95519

**Lippre, Suzanne**

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**From:** Gary Rees <reesgary@yahoo.com>  
**Sent:** Friday, November 2, 2018 10:17 AM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Hash Lab on our Mad River Floodplain

Dear commissioners, please stand with all fellow citizens who depend upon a clean and pollution free Mad River by rejecting Mercer Fraser's proposed hash lab on the Mad River Floodplain.

Respectfully  
Gerald C. Rees Jr.

MCKinleyville

**Lippre, Suzanne**

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**From:** Mary Scott <marys@osfashland.org>  
**Sent:** Thursday, November 1, 2018 5:16 PM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Co.

**To:** The Humboldt County Planning Commission  
**From:** Ward Estelle, PO Box 35, CA 95534  
**Subject:** Mercer Fraser Rezoning Request for Mad River parcel

My wife and I oppose any rezoning in the Mad River Flood plain. It is unconscionable for the county to consider such a plan which would put our drinking water in jeopardy for the questionable advantage of a commercial business. I do not understand how this request is before the Planning Commission again. Please deny the request, we rely that our regulatory process here in Humboldt county will work.

**Lippre, Suzanne**

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**From:** Rosie Clayburn <rclayburn@yuroktribe.nsn.us>  
**Sent:** Thursday, November 1, 2018 5:04 PM  
**To:** Ford, John; Planning Clerk  
**Cc:** Hayes, Kathy; Joseph James; Taralyn Ipina  
**Subject:** Letter for Humboldt County Planning Commission  
**Attachments:** Signed Letter.pdf

Please find the attached letter sent on behalf of Yurok Tribal Chairman James for tonight's agenda item concerning the rezoning of several properties in Humboldt County.

Wok-hlew'

Rosie Clayburn  
Cultural Resource Manager  
Yurok Tribe

**Lippre, Suzanne**

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**From:** Jonathan Lee <jlee@humboldt1.com>  
**Sent:** Thursday, November 1, 2018 4:29 PM  
**To:** Planning Clerk  
**Subject:** Mad River floodplain rezoning

Dear Planning Commission,

I strongly oppose rezoning on the Mad River floodplain to allow Mercer Fraser to build a cannabis manufacturing facility.

Thank you,

Jon Lee  
2337 15th Street  
Eureka, CA 95501  
707-441-9347

**Lippre, Suzanne**

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**From:** Joan Romo <HumboldtRed@rocketmail.com>  
**Sent:** Thursday, November 1, 2018 3:19 PM  
**To:** PlanningBuilding; Planning Clerk  
**Subject:** Request a public workshop to be held

November 1, 2018

Dear Mr. Ford and Planning Commissioners:

This email is being submitted to request a public workshop be held to review all of the new General Plan (GP) designations along with the specific changes that are being proposed November 1, 2018 to make zoning consistent with the new GP.

We would like to be well informed about the extensive changes that can be expected once the GP and all new consistent zoning changes are put in place.

Our primary concern is maintaining the quality of our rivers, creeks and streams. The Trinity River in Willow Creek and Mad River from Korbel to the ocean is a significant part of our life style. Please help us learn how the new zoning can be used to protect these important watersheds.

We request that a copy of this email be provided to all seven Humboldt County Planning Commissioners in preparation for the November 1, 2018 meeting.

Thank you.

Sincerely,

Ted and Joan Romo  
Eureka, CA 95501

## **Lippre, Suzanne**

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**From:** p farnham <pfarnham2002@yahoo.com>  
**Sent:** Thursday, November 1, 2018 2:53 PM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser rezoning proposal on the Mad River

To the Humboldt County Planning Commission:

I would just like to remind you of one drinking water disaster associated with organic compounds and municipal water wells. In Santa Monica, California, 23 years ago, it was discovered that the gasoline additive, MTBE, had contaminated at least one of the cities drinking water wells very shortly after it had been introduced into California gasoline. The source was eventually found to be a leaking gasoline tank at a gas station a mile or so away. It caused over 200 million of dollars in damage, not only to the cities ability to produce enough water with their existing infrastructure, but to buy water from the Los Angeles Water District. Most of this cost was eventually paid by the oil companies involved.

Apparently, no one imagined that the new additive could travel so fast in underground aquifers and it took this event to highlight the surprising water solubility and unknown health effects of MBTE.

If a similar event occurs at the water wells on the Mad River, it would cause a serious emergency situation for Humboldt County. And there is no LA Water District or wealthy oil company to come to the rescue..

Another California water story that relates to this rezoning application is the problem that cities in the San Bernardino area have from perchlorates left over from industrial sites that produced rocket fuels. In some cities there, they are having to use VERY expensive purification plants to remove the perchlorate from their ground water supplies.

The County Planning Commission or the Board of Supervisors should not grant zoning changes or use permits that potentially threaten the water supplies of the public. Even if the chance seems remote now, unexpected events like those mentioned above can occur in the future. It is the County's foremost responsibility to ensure safe water and air for its residents.

Paul Farnham  
Associate Professor of Chemistry  
College of the Redwoods, Eureka CA

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**From:** Mark Benzinger <mbenzinger@mercerfraser.com>  
**Sent:** Thursday, November 1, 2018 2:00 PM  
**To:** Damico, Tracy; Planning Clerk  
**Cc:** Ford, John  
**Subject:** Essex Rezone Info  
**Attachments:** 20181101135606.pdf

See attached information package for tonight's planning commission meeting. Hard copies will be hand delivered this afternoon.

Thank you,

Mark Benzinger  
Mercer-Fraser Company  
CELL: 707-599-6371  
OFFICE: 707-443-6371



MERCER-FRASER COMPANY  
CONTRACTORS & ENGINEERS  
*Since 1870*

Clerk of the Planning Commission.  
County of Humboldt  
825 5<sup>th</sup> Street, Rm 111  
Eureka, Ca 95501

November 1, 2018

Reference: Mercer-Fraser Essex Vested Rights Showing

To Whom it May Concern:

This letter is being sent in connection with the planning commission hearing tonight concerning the rezoning of Mercer-Frasers Essex facility located at 89 Glendale Ave. Please find information concerning Mercer Frasers historical, vested operations at the site. Due to the size of the file, hard copies will all attachments and photographs will be delivered to your office prior to the hearing.

Sincerely,  
MERCER FRASER COMPANY



Mark Benzinger  
Vice President

Cc John Ford, Planning Director



diepenbrock harrison

A PROFESSIONAL CORPORATION

JOHN V. "JACK" DIEPENBROCK  
KAREN L. DIEPENBROCK  
KEITH W. McARDIE  
BRADLEY J. ELKIN  
EILEEN H. DIEPENBROCK  
MARK D. HARRISON  
GENE K. CHEEVER  
MICHAEL Y. BRADY  
LAWRENCE B. GARCIA  
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JOEL PATRICK ERB  
JOH D. RUBIN  
MICHAEL E. VINDING  
JENNIFER L. DAUER  
JEFFREY K. DONO

JEFFREY L. ANDERSON  
SEAN K. HUNGERFORD  
LEONOR Y. DICICAN  
CHRIS A. McCANDLESS  
DAN H. SILVERBOARD  
ANDREW P. TAUMAIHEN  
LAMONT T. KING, JR.  
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DAVID A. DIEPENBROCK  
JONATHAN R. HAZ  
VALERIE C. KINCAID  
BLAIR W. WILL  
KRISTA J. DUNZWEILER  
JENNIFER D. MCCRARY  
SARAH R. HARTMANN  
MARK E. PETERSON

R. JAMES DIEPENBROCK  
(1929 - 2002)

November 13, 2007

VIA FEDERAL EXPRESS

Attn: Richard Hendry, Deputy County Counsel  
County Counsel  
Humboldt County  
825 Fifth Street  
Eureka, California 95501

RE: Mercer Fraser Company; 90 Glendale Drive, Arcata, California  
(Essex Bar)

Dear Mr. Hendry:

As you are aware, this law firm represents Mercer Fraser Company ("Mercer Fraser") with respect to its north coast operations including the facility located at 90 Glendale Drive, Arcata, in Humboldt County, California ("the Essex operation"). I am writing this letter to protest Humboldt County's imposition of two "Order to Stop Work Notices," one on August 29, 2007 and again on September 12, 2007 ("the Notices"). In communications with County code enforcement staff, we have determined that the Notices were issued to bar Mercer Fraser from importing onto the Essex operation site and storing various aggregate and construction materials. For the reasons set forth in this letter, the Notices were improperly issued because Mercer Fraser has a vested right to a nonconforming use to continue importing and stockpiling aggregate and construction material at the Essex site. Mercer Fraser has been conducting this type of activity in substantially the same fashion for well over forty years. Under County ordinances and constitutional principles it has a vested right to continue to do so.

The County issued the Notices because it asserts that importation and storage of aggregate and construction materials derived from other locations is not a proper use under the current zoning for the property (AG) and further, that such activity is not expressly indicated as permitted use pursuant to Mercer Fraser's 1988 Special Permit ("SP-26-88") and the reclamation plan for the Essex operation. County staff has

400 CAPITOL MALL  
SUITE 1800  
SACRAMENTO, CA 95814

WWW.DIEPENBROCK.COM 916 492.5000  
FAX: 916 446.4535



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County Counsel  
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previously stated to Mercer Fraser that the issuance of the 1988 Special Permit superseded any then existing vested rights for the Essex operation.

As discussed herein, Mercer Fraser has legally vested rights to continue the historic, nonconforming activity of importing material onto the Essex site. Moreover, the County is fundamentally mistaken in asserting that the 1988 Special Permit implicates Mercer Fraser's longstanding nonconforming use of importing and storing construction materials at the Essex site. Indeed, as set forth herein, the importation and storage of construction materials does not fall within the definition of surface mining operations under either California's Surface Mining and Reclamation Act of 1975 ("SMARA") or Humboldt County's Mining Operations Ordinance. In other words, the reason that Mercer Fraser's 1988 Special Permit does not specifically address importation and storage of material, is because such activity does not fall under any relevant definition of surface mining operations subject to permitting requirements. For the same reason, Mercer Fraser's hot-mix asphalt and ready mix plants at Essex (also vested nonconforming uses) do not fall within any relevant definition of "surface mining operations" as of the 1988 date of the Special Permit for the Essex operation.

Thus, Mercer Fraser asserts that the County has acted illegally in refusing to acknowledge these legally vested, historic rights and in issuing the Notices prohibiting Mercer Fraser from importing material onto the site without obtaining further discretionary approvals from the County. Accordingly, Mercer Fraser intends to continue importing aggregate and construction material at the Essex operation site. In light of that fact, Mercer Fraser respectfully requests that the Notices issued against Mercer Fraser be withdrawn forthwith and the County take any action it sees fit to clear its records of the Notices.

### Background

#### A. Historical Operations at Essex.

The Essex operation is located on property situated on the Essex Bar of the Mad River, just south of Highway 299 in Humboldt County, California (APN 504-161-10). An area map depicting the Essex operation is attached hereto as **Exhibit 1** and a detailed map of the Essex operation site is attached hereto as **Exhibit 2**. Mercer Fraser has owned and operated the Essex plant site since at least the 1930's. The accompanying Declaration of Frederick O. Bott, and the attachments thereto, set forth Mr. Bott's personal knowledge of Mercer Fraser's activities at Essex from 1943 through 2001. It is critical to note that during that timeframe, Mercer Fraser's activities at Essex

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have remained essentially the same, responding over time to specific job contracts and economic conditions and the geographical scope of the operation has remained constant at all times. Mr. Bott specifically recalls that from the early 1960's through 2001, Mercer Fraser regularly imported and stockpiled at Essex aggregate, soils, and construction materials including concrete rubble. The importation and stockpiling of aggregate and construction material that has existed without interruption (subject only to fluctuations based on job requirements and economic conditions) is the very activity that the County now seeks to abate by issuance of the Notices at issue.

Gravel extraction and related processing, including the importation and storage of construction materials derived from other sources has taken place at the Essex operation since at least the early 1940s. The Declaration of Frederick O. Bott (and the various exhibits to said declaration) clearly documents the long historic nonconforming uses existing at the Essex operation site going back before 1943 when Mr. Bott started working for Mercer Fraser. Mr. Bott's declaration incorporates and discusses a substantial amount of reliable evidence (including photographs dating back to the 1940's) that substantiate Mercer Fraser's contention that for decades prior to the enactment of Humboldt County's 1965 Zoning Ordinance requiring a use permit for surface mining operations, the importation and storage of construction materials was taking place at the Essex operation.

Specifically, Mr. Bott's declaration states that beginning in the 1940's, the majority of the construction material stockpiled at Essex was imported from other locations due to the limited ability to extract from Essex gravel bar (located on the lower Mad River). During the 1940's Mercer Fraser commonly stockpiled as much as 20,000 cubic yards, or 40,000 tons of material onsite annually.

Mr. Bott's declaration also details how during the 1950's and 1960's Mercer Fraser was involved in several major freeway building projects resulting in a substantial expansion of the importation and stockpiling of material at Essex. Between 1955 and 1958, Mercer Fraser built the four-lane freeway and associated improvements (including bridges and overpasses) between Eureka and Arcata. All of the material for that vast job came from Essex. During that timeframe, Mercer Fraser stockpiled aggregate quantities, including imported materials, in the low hundreds of thousands of tons onsite. Also, Mercer Fraser's operations at Essex expanded in conjunction with the construction of the four-lane Trinidad Freeway from Little River Bridge to Trinidad (about seven miles). This project also resulted in hundreds of thousand of tons of material being imported and stockpiled at the Essex site.

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Mr. Bott's declaration incorporates a 1960 appraisal report for the Essex property (Exhibit C) which states:

The six to seven acres of bench land is used to process gravel from subject property and, in addition, to process gravel from the neighboring gravel bar properties of Cristie, Englehardt, Timmons, and Johnson. Gravel from other gravel bars is purchased on a royalty basis.

Gravel obtained from other gravel bars is stockpiled with gravel from the subject property.

(See Bussman & Trott Appraisal (November 15, 1960), Section IV (Essex), p. 5, Exhibit C to Frederick O. Bott's Declaration.)

A 1985 appraisal report (attached as Exhibit F to Mr. Bott's declaration) describes the continued importation and storage of construction materials, stating: "It has been used as a gravel bar for an extended period of time. It also has been used for the storage of rock and other material." (See Nilsen Appraisal (November 30, 1985, p. 54, Exhibit F to Frederick O. Bott's Declaration.)

Both of the above-referenced appraisal reports include photos (including the 1960 report) depicting the stockpiling of imported material at the Essex operation. This documentary evidence substantiates the fact that prior to 1965 (the year, as discussed herein that Mercer Fraser's Essex operations became nonconforming), Mercer Fraser engaged in the importation and storage of construction material at the Essex operation and that such activities have continued in substantially the same fashion since that time.

## **B. Humboldt County Land Use Ordinances.**

To provide the necessary background for our analysis, it is necessary to detail the enactment of Humboldt County's relevant zoning and land use requirements.

### **1965 Zoning Ordinance**

Humboldt County first adopted a comprehensive zoning ordinance in May of 1965 ("the 1965 Zoning Ordinance"). Section 617 of the zoning ordinance (a copy of which is attached hereto as **Exhibit 3**) pertains to surface mining and states:



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Section 617. REMOVAL OF NATURAL MATERIALS.  
Surface removal of minerals and natural materials, including building and construction materials to be used for commercial purposes, shall be allowed in any zone with a use permit. A use permit shall not be required for on-site construction of buildings, structures or underground facilities or where such removal is primarily for grading and land leveling.

(Section 617, 1965 Zoning Ordinance, **Exhibit 3**, supra.)

Thus, in 1965, Mercer Fraser's longstanding historic extraction activities at Essex became a nonconforming use. As will be discussed in greater detail below, a "nonconforming use" is one that was commenced lawfully prior to land becoming subject to new or more restrictive zoning requirements and continues thereafter in nonconformity with such zoning requirements. (See Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996) 12 Cal.4<sup>th</sup> 533, 551-552.)

The 1965 Zoning Ordinance also addressed nonconforming uses. Section 760 of the 1965 Zoning Ordinance (a copy of which is attached hereto as **Exhibit 4**) states:

SECTION 760. The lawful use of lands or buildings existing on the effective date of the application of these regulations to the subject property, although such use does not conform to the regulation applied to such property, may be continued, except as provided herein:

- A. No such use or building shall be enlarged, increased or structurally altered, nor be extended to occupy a greater area than that existing on the effective date of the application of these regulations to the subject property.
- B. Any use for which a use permit is required by these regulations shall be considered a nonconforming use until a use permit is obtained.
- C. If any such use or building, after the effective date of the application of these regulations to the subject property, is destroyed



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to the extent of 60% or more, then the subject property shall become subject to the regulations applicable to the subject property, and any subsequent use or buildings shall be in accordance with such regulations.

D. Any interruption of a nonconforming use, or the use of a nonconforming building, which continues for 6 months or more, shall be deemed to be an abandonment of such use, and subsequent use or buildings shall be in accordance with the regulations applicable to the subject property.

E. Ordinary maintenance and repair may be made to any nonconforming use or building, provided that such maintenance and repair does not exceed 25% of the actual value in any one year.

F. Any use coming within the provisions of Section 604, concerning domestic animals appurtenant to residential uses, shall, after the expiration of 6 months from the effective date of these regulations, conform to the provisions of Section 604.

(Section 760, 1965 Zoning Ordinance, **Exhibit 4**, supra.)

The 1965 Zoning Ordinance also established a number of zoning classifications including Unclassified and Agricultural-General zones. When enacted, the 1965 Zoning Ordinance provided that the region where the Essex operation property is located was zoned Unclassified. Section 405 of the 1965 Zoning Ordinance (a copy of which is attached as **Exhibit 5**) describes the allowable uses for Unclassified ("U") property as follows:

SECTION 405. As described in 306, all of the unincorporated areas of the County not otherwise classified shall be classified as Unclassified or U Zone. These areas have not been sufficiently studied to justify precise zoning, and such zoning is deferred until such studies are made. The following regulations shall apply in all Unclassified or U Zones.

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A. Principal permitted uses.

1. All uses except those specified in subsection B hereof.

B. Uses permitted with a use permit.

1. Hog farms, turkey farms, frog farms, and fur farms.
2. Animal products processing plants.
3. Cemeteries.
4. Amusement parks and commercial amusement enterprises.
5. Junk yards and garbage dumps.
6. Smelting or reduction of metallic ores.
7. Trailer camps, labor camps and labor supply camps.
8. Bag cleaning and rag works.
9. Manufacturing, refining, and storage by manufacturers or wholesalers of petroleum or petroleum products, acids, cement, explosives, fireworks, gas, glue, gypsum and inflammable fluids or gases.

C. Other regulations. Building height, site area yards and other requirements subject only to the provisions of Chapter 6, or, for any use requiring a use permit, as may be required by such permits.

(Section 405, 1965 Zoning Ordinance, **Exhibit 5**, supra.)

## **Essex Property Zoned Agricultural General**

Mercer Fraser's Essex operation property was zoned Unclassified until April of 1972 when the County enacted Ordinance 844 which rezoned the area in which the Essex operation is located, as Agricultural-General ("A-G"). A copy of Ordinance 844 is attached hereto as **Exhibit 6**.

Section 420 of the 1965 Zoning Ordinance (a copy of which is attached as **Exhibit 7**) describes the uses allowed in A-G zoned property as follows:



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SECTION 420. The Agricultural-General or A-G Zone is intended to be applied in areas in which agriculture is the desirable predominant use and rural residential uses are secondary. The following regulations shall apply in all Agricultural-General or A-G Zones.

A. Principal permitted uses.

1. Single-family dwellings and farm buildings.
2. General Agriculture, nurseries and greenhouses and roadside stands.
3. Rooming and boarding of not more than two (2) persons not employed on the premises.

B. Uses permitted with a use permit.

1. Guest houses, servants quarters, labor camps and labor supply camps.
2. Hog farms, turkey farms, frog farms and fur farms.
3. Animal feed lots and sales yards.
4. Agricultural and timber products processing plants.
5. Rental and sales of irrigation equipment and storage incidental thereto.
6. Animal hospitals and kennels.
7. Public stables, golf courses.
8. Private institutions and cemeteries.

C. Other regulations.

1. Minimum lot area, 2-1/2 acre.
2. Minimum lot width, 60 feet.
3. Maximum ground coverage, 35%.
4. Minimum yards: front and rear, 20 feet; side, 6 feet.



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5. Farm outbuildings shall not be less than 20 feet from any dwelling.
6. Maximum building height, 35 feet.

(Section 420, 1965 Zoning Ordinance, **Exhibit 7, supra.**)

In 1988, when Mercer Fraser obtained its Special Permit for the Essex operations, the property was still zoned A-G with the same allowable uses set forth in the 1965 Zoning Ordinance (see Exhibit 7, supra). As stated above, the A-G zoning was first applied to the Essex Property by enactment of Ordinance No. 844 on April 18, 1972. (See Exhibit 6, supra.)

#### **Current Zoning Classification**

Our zoning research indicates that the Essex operation site remains under AG zoning. Section 314-7.2 of the current Zoning Ordinance (a copy of which is attached as **Exhibit 8**) delineates "Principal Permitted Uses" and "Uses Permitted with a Use Permit" all of which are virtually identical to those specified for the A-G zone in the original 1965 Zoning Ordinance.

#### **C. State and Local Regulation of Surface Mining.**

##### **California's Surface Mining and Reclamation Act ("SMARA")**

In 1975, California's legislature passed the Surface Mining and Reclamation Act ("SMARA"). (Public Resources Code section 2710 *et seq.*) SMARA defines the term "surface mining operations" as follows:

"Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

- (a) Inplace distillation or retorting or leaching.
- (b) The production and disposal of mining waste.

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(c) Prospecting and exploratory activities.

(Public Resources Code § 2735.)

SMARA provides a vesting date for all surface mining operations in California. That statute states, in pertinent part:

No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has, in good faith, and in reliance upon a permit or other authorization, if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor.

(Public Resources Code § 2776.)

## **Humboldt County's Mining Operations Ordinance**

SMARA also required California counties to enact Surface Mining Ordinances to regulate mining on a local level. In 1980, Humboldt County complied with SMARA by passing its Mining Operations Ordinance. (Humboldt Co. Ord. 1373 § 1, 1/8/80; amended by Ord. 1558 § 5, 10/26/82.) A copy of Humboldt County's Mining Operations Ordinance is attached hereto as **Exhibit 9**.

Section 391-2(t) of Humboldt County's Mining Ordinance closely tracks SMARA's above-quoted definition of "surface mining operations," as follows:

(t) Surface Mining Operations. Surface mining operations means:

(1) All or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of



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minerals naturally exposed, mining by the auger methods, dredging and quarrying or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

- a. Inplace distillation, retorting or leaching.
- b. The production and disposal of mining waste.
- c. Prospecting and exploratory activities.

(2) Borrow pitting, streambed skimming, segregation and stockpiling of mined materials and recovery of same.

(3) Earth moving activities which result in excavation, fills, grades, or embankments which will not be beneficially modified by the construction of structures, landscaping or other land improvements, and which do not of themselves constitute engineered works.

(Section 391-2(t), Humboldt County's Mining Operations Ordinance.)

Section 391-6 of Humboldt County's Mining Operations Ordinance addresses vested mining rights as follows:

(a) Vested Right, Defined. A person shall be deemed to have vested rights if, prior to January 1, 1976, he has, in good faith and in reliance upon a permit or other legal authorization, if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

(b) Statement of Vested Right. Upon submission of a reclamation plan for surface mining operations proposed to be conducted on a site believed by the applicant to have vested rights, the applicant shall submit, in lieu of a permit application, a "Statement of Vested" form provided by the



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County. The Planning Director shall determine whether or not the information submitted establishes the existence of a vested right. Should the Director determine that a vested right has not been established, the applicant shall be so notified and shall be required to obtain a permit in accordance with the provisions of this chapter prior to conducting surface mining operations on the site. The decision of the Director may be appealed to the Planning Commission. Such appeal shall be made in writing within fifteen (15) days from the date of the Director's decision. If no appeal is made within this time, the decision of the Director shall be final.

(c) Reclamation Plan. A reclamation plan for an operation with a vested right shall be filed with the Planning Commission or Zoning Administrator within nine (9) months after the effective date of this chapter. The reclamation plan shall provide for the reclamation of the area disturbed by surface mining operations mined after January 1, 1976. No substantial changes shall be made in the operation during the period in which the reclamation plan is being considered for approval. The reclamation plan shall conform to the requirements and form of Section 391-8.

(d) Review. The Planning Director shall review the reclamation plan within thirty (30) working days and determine if it contains adequate information to proceed to the Planning Commission or Zoning Administrator. The Planning Department shall return the reclamation plan to the applicant for additional information or clarification if it is incomplete.

(e) Public Hearing. The Planning Commission or Zoning Administrator shall hold a public hearing on the reclamation plan. Such public hearing will be scheduled only after all of the reclamation plan requirements have been fulfilled.



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(f) Approval. The Planning Commission or Zoning Administrator shall approve, approve with conditions, or reject the reclamation plan from sixty (60) days to one (1) year of the date of submission depending on the size and complexity of the operation. The Planning Commission or Zoning Administrator will notify the operator in writing if approval will take longer than sixty (60) days. A decision by the Planning Commission or the Zoning Administrator to reject a reclamation plan may be appealed to the Board of Supervisors within fifteen (15) days from the date of that decision.

(g) Compliance. The Planning Commission or Zoning Administrator shall reject the reclamation plan if it does not comply with all of the requirements listed in Section 391-7 and Section 391-8.

(h) Extension. Should approval of the reclamation plan not be obtained within twelve (12) months after the effective date of this chapter, all of the subject surface mining operations shall be terminated and those areas mined after January 1, 1976, shall be reclaimed in a manner generally in conformance with Section 391-8, and subject to the approval of the Planning Commission or Zoning Administrator. The Planning Commission or Zoning Administrator may grant reasonable extensions of time for obtaining approval of the reclamation plan if approval is being diligently pursued by the applicant and if more time is required to fulfill all of the requirements and complete all of the procedures for such approval.

(Section 391-6, Humboldt County's Mining Operations Ordinance.)

This vesting date set forth in Humboldt County's Mining Operations Ordinance comports with the January 1, 1976 vesting date set forth in SMARA, California's statewide mining law. (Public Resources Code § 2776.)

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## D. Permitting History.

In January 1988, Mercer Fraser filed an application with the Humboldt County Planning Division for a vested rights determination for gravel extraction and processing operations and for approval of a related reclamation plan for its Essex operation. The application "project description" states that the application is for "filing a 'Vested Rights' Statement for a gravel extraction/processing operation that has been in operation since at least 1960." (See Exhibit 10.) The County is correct in asserting that the application and attached proposed reclamation plan do not explicitly refer to the importation onto the site of aggregate or construction debris materials, nor does it refer to AC hot plant, or ready mix, both of which were and continue as longstanding nonconforming uses at the Essex operation.

On November 3, 1988, the Humboldt County Planning Commission approved the application for a determination of vested rights and approval of a reclamation plan for the annual extraction of up to 40,000 cubic yards of aggregate, subject to certain conditions. The approved Special Permit (SP-26-88) does not mention importation of outside materials. (See Exhibit 11.)

CEQA review was performed and a negative declaration was issued for the project. On November 29, 1988, the County Clerk received the notice of determination. (See Exhibit 12.) Currently, the Essex operation is listed on the State's AB 3098 website. (See Exhibit 13.)

In 1994, Humboldt County issued the "Program Environmental Impact Report ("PEIR") on Gravel Removal from the Lower Mad River" ("the Mad River PEIR"). The Mad River PEIR analyzed gravel extraction operations on the Mad River, including the Essex Operation. The proposed project underlying the Mad River PEIR was "the development of an enforceable instream mining regulatory program that will operate under the authority of SMARA and any existing or future County procedures and ordinances." (Mad River PEIR, § 1.4, p. 4.) The Mad River PEIR also provides that the preferred project alternative will be implemented by "developing an adaptive management plan, and adaptive monitoring plan, and, as needed, revised reclamation plans for those eight sites that are currently permitted and have approved reclamation plans." (Mad River PEIR, § 1.4, p. 5; see also Mad River PEIR, § 6.13, p. 203.) The adoptive management plan and adaptive monitoring plan is overseen by the County of Humboldt Extraction Review Team ("CHERT") system. With regard to the importation of aggregate and construction debris material onto the Essex site, the Mad River PEIR

# DIEPENBROCK HARRISON

Attn: Richard Hendry, Deputy County Counsel  
County Counsel  
Humboldt County  
November 13, 2007  
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notes that "this site has historically been used for storage of other aggregate/rip rap materials, which creates importation and exportation traffic." (Mad River PEIR, § 5.10, p. 133, attached as **Exhibit 14.**)

## Vested Right to Continuation of Nonconforming Use

As discussed herein, ample evidence exists substantiating that for decades prior to the enactment of Humboldt County land use regulations, Mercer Fraser imported and stockpiled material at the Essex operation site. The Declaration of Frederick O. Bott and its attachments, describes in great detail Mercer Fraser's historic activities at the Essex operation and the fact that substantial amounts of material have been imported onto the site, the quantities of imported material fluctuating pursuant to job and economic conditions over the years.

The legal basis for all land use regulation is the government's police power to protect the public health, safety and welfare of its residents. (*Berman v. Parker* (1954) 348 U.S. 26, 32-33; *Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848, 861.) This authority affords a county broad latitude to regulate land uses premised on a wide range of public interests from public safety issues to aesthetic concerns. (*Ehrlich v. City of Culver City* (1996) 12 Cal.4<sup>th</sup> 854, 881-82.)

The breadth of the police power is bound to adversely impact certain private property interests. The mere fact that such interests may be adversely affected does not mean the exercise of police power is unconstitutional: "Before the ordinance may be held invalid on the ground of hardship it must be shown that there was such an abuse of discretion on the part of the zoning authorities as would justify the court in concluding as a matter of law that the ordinance is unduly oppressive and not reasonably necessary to promote the general welfare of the people of the community." (*Lockard v. City of Los Angeles* (1949) 33 Cal.2d 453, 467.)

A constitutional limitation on the government's authority arises, however, if a property owner acquires a vested right to a particular use of his or her property. In other words, if the use becomes legally "nonconforming." As stated by the California Supreme Court:

However, if the law effects an unreasonable, oppressive, or unwarranted interference with an existing use, or a planned use for which a substantial investment in development costs has been made, the ordinance may be invalid as applied to



# DIEPENBROCK HANSON

Attn: Richard Hendry, Deputy County Counsel  
County Counsel  
Humboldt County  
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that property unless compensation is paid. [Citations.] Zoning ordinances and other land use regulations customarily exempt existing uses to avoid questions as to the constitutionality of their application to those uses. "The rights of users of property as those rights existed at the time of the adoption of a zoning ordinance are well recognized and have always been protected." [Citation.]

Accordingly, a provision which exempts existing nonconforming uses 'is ordinarily included in zoning ordinances because of the hardship and doubtful constitutionality of compelling the immediate discontinuance of nonconforming uses." [Citations.] The exemption may either exempt an existing use altogether or allow a limited period of continued operation adequate for amortization of the owners' investment in the particular use. [Citations.] When continuance of an existing use is permitted by a zoning ordinance, the continued nonconforming use must be similar to the use existing at the time the zoning ordinance became effective. [Citations.] Intensification or expansion of the existing nonconforming use, or moving the operation to another location on the property is not permitted. [Citation.] "[I]n determining whether the nonconforming use was the same before and after the passage of a zoning ordinance, each case must stand on its own facts.

(*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4<sup>th</sup> 533, 551-52.)

Operating under authority of a Special Permit; as Mercer Fraser has done at the Essex operation since 1988, does not foreclose Mercer Fraser's ability to assert vested rights as to historical nonconforming use arising from the importation and storage of construction material at the site. Under California law, the mere act of applying for a land use permit does not constitute a waiver of any existing property rights (*Consolidated Rock Products Co. v. City of Los Angeles* (1962) 57 Cal.2d 515, 534; see also *City of Ukiah v. County of Mendocino* (1987) 196 Cal.App.3d 47, 50 [submission of reclamation plan pursuant to SMARA does not eliminate vested rights].)

**DIEPENBROCK HARRISON**

Attn: Richard Hendry, Deputy County Counsel  
County Counsel  
Humboldt County  
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*City of Ukiah v. County of Mendocino* (1987) 196 Cal.App.3d 47, provides the strongest argument for Mercer Fraser on this point. In that case, the First Appellate District held, a "property owner has a vested right to continue lawful uses of the property and is not required to obtain a special use permit in order to continue lawful uses." (*Id.* at p. 56.) In *City of Ukiah*, the most compelling fact was that the plaintiff's in-stream gravel mining operations predated the 1956 zoning ordinance. Those operations were permitted as a matter of right and did not require a use permit. (*Id.* at 57.) There, the plaintiff possessed a vested right to continue its existing gravel operations and was not subject to a use permit requirement for that purpose. (*Id.*) Therefore, the court held that even though plaintiff had applied for, and received a use permit for the operation, he was not required to get one, and therefore, his vested rights to continue its gravel operations was not subject to a use permit requirement for purposes of operation. (*Id.*)

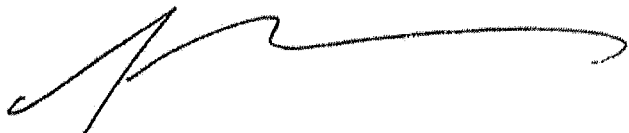
Applying the above-stated law to the facts presented herein regarding Mercer Fraser's long-standing and unchanged practice of importing material onto the Essex operation site leads to the conclusion that Mercer Fraser enjoys vested rights under Humboldt County's zoning regulations and California law governing nonconforming uses and vested rights.

Please contact my office with any questions you have regarding this matter. We appreciate your prompt attention to this matter.

Very truly yours,

DIEPENBROCK HARRISON  
A Professional Corporation

By

  
Jeffrey L. Anderson

JLA/sp

Attachments (Exhibits 1 – 14)

Enclosure (Declaration of Frederick O. Bott (and Exhibits A – F)

cc: Mark D. Harrison  
Justin Zabel  
Mark Benzinger



FEB 19 2008 RECEIVED

JOHN Y. "JACK" DIEPENBROCK
KAREN L. DIEPENBROCK
KEITH W. McBRIDE
BRADLEY J. ELVIN
EILEEN M. DIEPENBROCK
MARK D. HARRISON
GENE K. CHEEYER
LAWRENCE B. GARCIA
SUSAN E. KINGAARD
ANDREA A. HATABAZZO
JOEL PATRICK ERB
JON D. RUBIN
JENNIFER L. DAUER
JEFFREY K. DORSO
R. JAMES DIEPENBROCK
(1929 - 2002)

JEFFREY L. ANDERSON
SEAN K. HUNGERFORD
LEONOR Y. DICICAH
CHRIS A. MCCANDLESS
DAN H. SILVERBOARD
ANDREW P. TAUNIAINEN
LANOHT T. KING, JR.
DANIEL J. WHITNEY
DAVID A. DIEPENBROCK
JONATHAN R. HARTZ
VALERIE C. KINCAID
BLAIR W. WILL
KRISTA J. DUNZWEILER
JENNIFER D. MCCARY
SARAH R. HARTMANN
MARK E. PETERSON

February 15, 2008

Attn: Richard Hendry, Deputy County Counsel
County Counsel
Humboldt County
825 Fifth Street
Eureka, California 95501

RE: Mercer Fraser Company; 90 Glendale Drive, Arcata, California
(Essex Bar)

Dear Mr. Hendry:

I am writing this letter to follow up on my letter to you dated November 13, 2007 on behalf of Mercer Fraser Company ("Mercer Fraser") protesting Humboldt County's imposition of two "Order to Stop Work Notices," dated August 29, 2007 and September 12, 2007 ("the Notices") at Mercer Fraser's Essex operation located at 90 Glendale Drive in Arcata, California. As you will recall, those Notices sought to prevent Mercer Fraser from importing and storing various aggregate and construction materials at the Essex site. My November 13, 2007 letter to you sets forth Mercer Fraser's position that the Notices were improperly issued because Mercer Fraser has a longstanding vested right to a nonconforming use to continue importing and stockpiling aggregate and construction material at the Essex site.

I have attempted, unsuccessfully, several times recently to contact your office by telephone. This last Wednesday afternoon, I left you a detailed voicemail message stating that Mercer Fraser has not received any response to my November 13, 2007 letter, and informing you that in the near future Mercer Fraser intends to commence its normal operations at the Essex site, including the importation and storage of aggregate and construction materials.

Notwithstanding Mercer Fraser's intention to proceed with the commencement of normal operations at the Essex site, Mercer Fraser desires to work cooperatively with the County in both resolving any outstanding issues related to the previously issued Notices and to preemptively address any potential issues related to importation and storage of material at the Essex site that might cause the County further concern.

208-952-2609
Bill Perish

400 CAPITOL MALL
SUITE 1800
SACRAMENTO, CA 95814
WWW.DIEPENBROCK.COM 916 492.5000
FAX: 916 446.4535

**DIEPENBROCK HARRISON**

Attn: Richard Hendry, Deputy County Counsel  
County Counsel  
Humboldt County  
February 15, 2008  
Page 2

We look forward to your response at your earliest convenience.

Very truly yours,

DIEPENBROCK HARRISON  
A Professional Corporation

By

  
Jeffrey L. Anderson

JLA/sp

cc: Mark D. Harrison  
Justin Zabel  
Mark Benzinger



MERCER-FRASER COMPANY

MAY 13 2008

RECEIVED

May 9, 2008

Kirk A. Girard, Director  
Humboldt County Community Development Services  
3015 H Street  
Eureka, California 95501-4484

**RE: Mercer Fraser Company; 90 Glendale Drive, Arcata, California  
(Essex Bar)**

Dear Kirk:

Thank you again for taking the time to meet with me and representatives of Mercer Fraser Company to discuss Mercer Fraser's Essex facility located at 90 Glendale Drive, Arcata, in Humboldt County, California ("the Essex operation"). Specifically, last week we met to address the County's issuance last year of two "Order to Stop Work Notices" ("the Notices"). Subsequent to the issuance of the Notices, Mercer Fraser submitted voluminous evidence indicating that the storage of imported construction materials at Essex has been part of the operations since well before the County instituted zoning for the area or any permit requirement. I believe that our meeting was very productive and I am pleased that our discussion resulted in a resolution of this matter, as set forth below. This resolution, we hope, will negate the need to resolve the matter through the courts.

As has been addressed in prior correspondence from my office to the County, and as we discussed in our recent meeting, Mercer Fraser believes that the County wrongfully issued the Notices due to a lack of acknowledgement that Mercer Fraser has a valid nonconforming use to import aggregate and construction recycle material to the Essex operation site for storage and sale. In this letter I will not restate the historical facts, all of which have previously been presented to County staff, supporting Mercer Fraser's vested rights to continue to import and store aggregate and construction recycle materials at the Essex operation. Instead, the purpose of this letter is to

JOHN V. "JACK" DIEPENBROCK  
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JARA H. HARTMANH  
MARK E. PETERSON

400 CAPITOL MALL  
SUITE 1800  
SACRAMENTO, CA 95814

WWW.DIEPENBROCK.COM 916 492.5000  
FAX: 916 446.4535

## **DIEPENBROCK HARRISON**

Kirk A. Girard

May 9, 2008

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recapitulate and confirm the actions that Mercer Fraser and the County will undertake to resolve this dispute without the need for further legal action on either party's part. I appreciate your input and willingness to address these issues proactively and I agree with you that the following course of action is in the best interest of both Mercer Fraser and Humboldt County.

Specifically, Mercer Fraser will submit an application for a grading permit for the site. Mercer Fraser's grading permit application will explicitly state that importation and storage of aggregate and construction recycle materials will be covered under the grading permit. I have checked and I agree with you that Humboldt County's Grading Ordinance contemplates that the County's issuance of a grading permit is a ministerial act and not a discretionary permit. (Humboldt County Ord. 331-12 (E)(1), (9) [grading permits properly issued upon submittal of application and fees, as per the California Building Code].) Thus, upon submittal of a complete application and payment of the appropriate fees, the County would issue Mercer Fraser the above-described grading permit.

Concurrently, Humboldt County staff will address Mercer Fraser's Essex operation property in the context of its ongoing General Plan Amendment process. Specifically, you agreed that it would be appropriate for the County to modify the General Plan and applicable zoning for the Essex operation property in order to more accurately reflect the historic and ongoing land use at the Essex operation and dispel any confusion regarding Mercer Fraser's continued use of the facility in the future. Finally, we agreed that during the pendency of the County's General Plan Amendment and any associated rezoning of the property that Mercer Fraser will continue to conduct the importation and storage of aggregate and construction material at the site. This activity will occur both under the auspices of the grading permit and under Mercer Fraser's assertion that it has long established vested rights to conduct such activity.

To summarize, the ultimate effect of our agreement is to nullify the issuance of the Notices. Moreover, your Department will refrain from further enforcement actions against Mercer Fraser so long as Mercer Fraser moves forward expeditiously to obtain the aforementioned grading permit.

**DIEPENBROCK HARRISON**

Kirk A. Girard

May 9, 2008

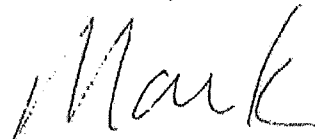
Page 3

Again, on behalf of Mercer Fraser, I appreciate your time and consideration related to this matter. Please contact my office with any questions you have regarding this letter or Mercer Fraser's ongoing Essex operation. We look forward to working with you and your Department in this regard.

Very truly yours,

DIEPENBROCK HARRISON  
A Professional Corporation

By

  
Mark D. Harrison

JLA/sp

cc: Justin Zabel  
Mark Benzinger

**Lippre, Suzanne**

---

**From:** Marijane Poulton <marijanep@hotmail.com>  
**Sent:** Thursday, November 1, 2018 12:44 PM  
**To:** Planning Clerk  
**Subject:** zoning change on Mad River flood plain

Please register my opposition to ANY Heavy Industrial zoning within any of our county floodplains. With the massive and unpredictable changes in our weather and fire conditions, the potential for massive environmental disasters indicate that areas near floodplains or wetlands need Extra Protection, not less.

Thank you

Marijane Poulton  
PO Box 649  
Trinidad, CA 95570



**Lippre, Suzanne**

---

**From:** jen knight <instructorknight@yahoo.com>  
**Sent:** Thursday, November 1, 2018 10:14 AM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Re-zoning

Dear Planning Department Representative,

I am writing to oppose the rezoning to Heavy Industry for cannabis manufacturing facilities on the Mad River floodplain just upstream from the Humboldt Bay Municipal Water District intake wells as proposed by Mercer Fraser. HBMWD has opposed this rezoning and I believe professional courtesy and good judgement is in order to comply with their wishes. Additionally, as a citizen of Humboldt County, I oppose the rezoning as well.

Thank you for passing on my opposition to the Planning Commission.

Kindest Regards,  
Jennifer Knight  
844 4th Ave.  
Westhaven

## Lippre, Suzanne

---

**From:** Jennifer Kalt <jkalt@humboldtbykeeper.org>  
**Sent:** Thursday, November 1, 2018 9:58 AM  
**To:** Trisha Lee  
**Cc:** Planning Clerk  
**Subject:** Re: NO MERCER FRASER REZONING OR HASH LAB

Thank you!

Jennifer Kalt, Director  
Humboldt Baykeeper  
Office: 415 I Street in Arcata  
Mail: 600 F Street, Suite 3 #810, Arcata, CA 95521  
[www.humboldtbykeeper.org](http://www.humboldtbykeeper.org)

On Thu, Nov 1, 2018 at 9:49 AM Trisha Lee <[trishale@sonic.net](mailto:trishale@sonic.net)> wrote:  
To Whom It May Concern,

Mercer Fraser Co. is requesting rezoning to Heavy Industry to allow cannabis manufacturing facilities on a parcel in the Mad River floodplain just upstream from the Humboldt Bay Municipal Water District's intake wells. This is unacceptable. Please deny this rezoning and deny any Hash Lab or anything that could harm our water supply.

I am unable to attend the meeting today, so please accept this short comment instead.

Sincerely,

Patricia Lotus  
[trishale@sonic.net](mailto:trishale@sonic.net)  
Eureka, CA

**Lippre, Suzanne**

---

**From:** J Taylor <jftaylor@suddenlink.net>  
**Sent:** Thursday, November 1, 2018 9:56 AM  
**To:** Planning Clerk  
**Subject:** Per Appeal by Mercer-Fraser

Please vote to deny the use of the Mad River Watershed area for a Hash processing plant.  
Absolutely ridiculous location; put the profit *\*after\** people.  
Please move the lab to a spot *\*away\** from our primary water source.

Jennifer F Taylor, PhD  
Arcata Business Owner & Resident

--

"Be the change you wish to see in the world" Mahatma Gandhi

\*\*\*\*\*

**Lippre, Suzanne**

---

**From:** Trisha Lee <trishale@sonic.net>  
**Sent:** Thursday, November 1, 2018 9:37 AM  
**To:** Planning Clerk  
**Subject:** NO MERCER FRASER REZONING OR HASH LAB

To Whom It May Concern,

Mercer Fraser Co. is requesting rezoning to Heavy Industry to allow cannabis manufacturing facilities on a parcel in the Mad River floodplain just upstream from the Humboldt Bay Municipal Water District's intake wells. This is unacceptable. Please deny this rezoning and deny any Hash Lab or anything that could harm our water supply.

I am unable to attend the meeting today, so please accept this short comment instead.

Sincerely,

Patricia Lotus  
[trishale@sonic.net](mailto:trishale@sonic.net)  
Eureka, CA

**Lippre, Suzanne**

---

**From:** Brent Mitchell <zephyrx7722r@gmail.com>  
**Sent:** Thursday, November 1, 2018 8:08 AM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Rezoning

I am opposed to the rezoning of the Mercer Fraser parcel on the Mad River. It is my wish that the Planning Commission show common sense and say no to Mercer Fraser. Brent Mitchell McKinleyville

**Lippre, Suzanne**

---

**From:** Laurie Edwards <laured60@yahoo.com>  
**Sent:** Wednesday, October 31, 2018 9:47 PM  
**To:** Planning Clerk  
**Subject:** Proposed Mercer-Fraser pot project

“Bone-headed” just about sums it up for this one. I truly hope the Planning Department exercises its due diligence for the common good here and does not approve the plan to allow marijuana product processing right above the intake wells for most of Humboldt County’s municipal water supply. Time to put your collective feet down and consider the welfare of the majority of the citizenry rather than the interests of a corporation. This location is just ludicrous—it’s absolutely astounding that it’s even being considered. Please make this bad idea go away once and for all! Thanks.....

Laura Edwards  
707-839-0411  
Or 707-839-6402 (Registrar, McKinleyville High School)

Sent from Mail for Windows 10

## Lippre, Suzanne

---

**From:** Ted Pease <ted.pease@gmail.com>  
**Sent:** Wednesday, October 31, 2018 7:56 PM  
**To:** Planning Clerk  
**Cc:** Sundberg, Ryan; Wilson, Mike; Bohn, Rex; Bass, Virginia; Fennell, Estelle  
**Subject:** Please Kill Mercer Fraser Cannabis Plant Proposal

TO: Humboldt County Planning Commission  
FR: Ted Pease & Brenda Cooper, Trinidad

We reference the notification below from Jennifer Kalt of Humboldt Baykeeper regarding Mercer Fraser's effort to reopen its proposal to build and operate a cannabis processing facility on the Mad River upstream of Humboldt's water supply. This was a terrible idea earlier this year and is still contrary to the interests of the citizens and environment of Humboldt County.

Please reject once and for all Mercer Fraser's ability to consider pursuing this project in such an environmentally sensitive location.

Sincerely,

\_\_\_\_\_  
Ted Pease  
PO Box 996  
Trinidad, California 95570  
707-677-5222  
[ted.pease@gmail.com](mailto:ted.pease@gmail.com)

Working together to safeguard Humboldt Bay.

Is this email not displaying correctly?  
[View it in your browser.](#)



On Thursday, Nov. 1 at 5:30pm, the County Planning Commission is set to review rezoning for hundreds of parcels, including two that were the subject of much controversy earlier this year.

Mercer Fraser Co. is requesting rezoning to Heavy Industry to allow cannabis manufacturing facilities on a parcel in the Mad River floodplain just upstream from the Humboldt Bay Municipal Water District's intake wells. The HBMWD appealed this project after the Planning Commission approved it under the condition that the zoning be changed at a later date. Seven cities and Community Service Districts supported the appeal in a unified effort to protect our drinking water supply.

Mercer Fraser Co. withdrew the project in mid-April, shortly before the June primary election in which 5th District Supervisor Ryan Sundberg lost his bid for re-election. At the time, Supervisor Sundberg stated that he was certain this project was scrapped for good, and that he would resign immediately if it were to come back after the election.

It's baaack!!

Please join concerned residents at the County Planning Commission hearing on Thursday, Nov. 1, to help kill this zombie project once and for all.

You can also send an email to the Planning Commission via the County Planning Clerk: [planningclerk@co.humboldt.ca.us](mailto:planningclerk@co.humboldt.ca.us).

\*\*\*

[DONATE NOW](#) to support our work!

\*\*\*

Happy Halloween!  
Jennifer Kalt, Director and  
Jasmin Segura, Bay Tours Coordinator

Mailing address:  
600 F Street, Suite 3 #810  
Arcata, CA 95521

Office:  
415 I Street  
Arcata, CA 95521  
[www.humboldtbykeeper.org](http://www.humboldtbykeeper.org)

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**Lippre, Suzanne**

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**From:** Maggi Draper <maggi@humboldt1.com>  
**Sent:** Wednesday, October 31, 2018 7:41 PM  
**To:** Planning Clerk  
**Subject:** Zoning Change agenda item comments for Nov. 1 County Planning Commission meeting

Dear Humboldt Planning Commission and County Supervisors:

Please include this letter in the packets of the Commissioners.

I have already submitted input (via email submitted 1/17/2018) into this matter of Mercer Fraser's cannabis processing goals and zoning changes in my watershed. As you know, Mercer Fraser Co. is requesting rezoning to "Heavy Industry" to allow cannabis manufacturing facilities to operate in the Mad River floodplain - just upstream from the Humboldt Bay Municipal Water District's intake wells. Much more reasonable zoning would be AE. The HBMWD, correctly, appealed this project after the Planning Commission approved it under the condition that the zoning be changed at a later date. Seven cities and Community Service Districts supported the appeal to protect our drinking water supply. This proposal went away, and it should have stayed away.

The purpose of paying government positions such as the County Board of Supervisors that you serve, is for the citizenry to fund protection of health and safety and get services on an efficient scale: water, sewer, fire and crime protection etc. Your job includes protecting our water supply. We do not pay government salaries with our taxes so representatives may rubber stamp unreasonable proposals from corporations that endanger our health and safety.

Here, our very intake water wells are practically adjacent to the Mercer Fraser real estate; and butane, petrochemical, toxic spills, errors, or daily operations can poison the water we drink. I am informing you of an important aspect to consider as a matter in the comment record on this zoning proposal. As a citizen who gets this water from my tap, in the event of a spill or problem, I and many others may have standing to sue for reckless decision-making in a situation where this zoning change was made by someone who knew, or should have known, that danger that could result in harm to persons drinking water from those wells. While Boards/commissions are protected somewhat by the law, egregious endangerment is likely inconsistent with State law. Approximately 88,000 people drink water in the HMBWD. In this particular matter, the the planning commission and the Board of Supervisors - and each person on them individually - has full knowledge of possible health impacts resulting from this zoning change gained from Humboldt County water supply experts who have already objected to this proposal and zoning change's possible impact to the water supply. In the event of toxicity in the water from the zoning change, the problem would easily be traced to recklessness in zoning, if this matter is not carefully thought through with cooperation and agreement among all related agencies, consistent with all laws, zoning, and regulations for water safety in California.

The State Water Resource Control Board emphasizes cooperation among agencies: "Coordination with the U.S. Environmental Protection Agency (**USEPA**), state agencies within the California Environmental Protection Agency (e.g., DTSC, Air Resources Control Board), air pollution control districts, local environmental health agencies, and other responsible federal, state, and local agencies: (l) **promotes effective protection of water quality, human health, and the environment**

and (2) is in the best interest of the people of the state. The principles of coordination are embodied in many statutes, regulations, and interagency memoranda of understanding or agreement which affect the State ..."

Establishing a zoning change that would allow even the possibility of water contamination near the uptake wells must be prevented. Allowing Heavy Industry zoning in that area would be very irresponsible, and those who care about our health and budget should grasp that.

To quote from my last email on the subject referenced above: "Rather than simply approving this change with a tiny modification for backflow, the Commission could have found a way to create strong protections for this and any other industrial waste risk on the site, or opted to do further research before approval. What state and federal laws apply to toxins? Plenty. Apparently, there are currently 30,000 gallons of diesel fuel stored there now. In an earthquake, would we have diesel coming out of what remains of our taps? There is an existing problem, even without the cannabis project. What must the County do to mitigate risk and avoid liability for contamination in future?"

The voters, drinkers of water, are watching and Humboldt County is not Flint, Michigan. I urge the Planning Commissioners and County Supervisors they serve to come up with creative solutions and ensure the safety of our water supply now and in the future, in a manner that protects the County's legal status as well as the citizens they serve.

Thank you for your attention to this matter.

Margaret Draper

--

**Margaret Draper**  
**Attorney at Law**

**POB 176**  
**Bayside, CA 95524**

**707.826.9072**



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**Lippre, Suzanne**

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**From:** mikewallace@suddenlink.net  
**Sent:** Wednesday, October 31, 2018 6:23 PM  
**To:** Planning Clerk  
**Cc:** Wilson, Mike  
**Subject:** Rezoning of Mercer-Frasier Parcel Adjacent to Mad River

To Humboldt Co. Planning Commission-

Please do not rezone the Mercer-Fraiser property in the Mad River flood plain just upstream of our public water supply. We should not have "Heavy Industrial" zoning so close to our water supply intake wells or allow any land use that threatens our water supply. Industrial cannabis manufacturing facilities will contain/produce harmful substances that could potentially enter our water supply. The HBMWD, the agency charged with supplying clean water to the people of Humboldt County, and seven cities and Community Service Districts opposed the Mercer-Fraiser cannabis project the last time it came in front of your group. Please follow their lead to keep our drinking water safe and deny the request to rezone the Mercer-Fraiser property to Heavy Industrial use.

Thank you,  
Mike Wallace  
Eureka, CA 95503

## Lippre, Suzanne

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**From:** Janine Cox <gnefene@gmail.com>  
**Sent:** Wednesday, October 31, 2018 6:19 PM  
**To:** Planning Clerk; Miller, John  
**Subject:** Willow creek Rezoning .

County of Humboldt  
Planning Commission  
825 Fifth Street  
Board of Supervisors Chambers  
Eureka, California

October 31st, 2018

RE: County of Humboldt New Zoning Districts proposed for Inland Zoning Ordinance (GPU ZR 10.04.18), Public Meeting November 1, 2018

Dear Commissioners:

We are legal residents of Willow Creek, CA which lies within the Inland Zone for the General Plan Update. We have recently become aware that the County is quickly considering changing zoning on parcels that we have good reason to believe may economically damage us by lowering our property values, as well as effect the quality of the environment in our area. It is very hard to know whether this may be a rational fear for a few reasons:

1. To our knowledge, County Planning staff have done no organized outreach to the residents within the Willow Creek Plan Area, to inform us what was being proposed changed in the new zoning overlays and what we thought of the proposed changes.
2. John Miller, Senior Planner with the County, referenced in the only public meeting held on the proposals October 29th, the County has met its public notice requirements by publishing in the Times-Standard. We do not subscribe to the Times-Standard as our budget is tight and this is not something we can afford. Denying people who live in lower income brackets and cannot afford newspaper subscriptions is a violation of Environmental Justice laws, which specifically disallow government bodies from suppressing the voice of the lower income community. Note, this meeting on the 29th was impromptu as rumors began flying around our community that the County was quickly trying to change land use zones to land uses that many in the community are against (see Willow Creek Community Water District letters to the County regarding zoning changes). This meeting was standing-room only with residents disappointed they couldn't attend because they had to work.
3. We are landowners adjacent to a parcel that we are very concerned proposed land uses could threaten the desirability of our neighborhood and subsequently our property values, as well as potentially threaten the quality of the environment surrounding our home. We never received any notice from the County by phone call, letter, or personal contact that a zoning change was being proposed right directly behind our backyard.

We find the failure of County Planning to reach out to residents in the Willow Creek Plan Area in regards to zoning changes disappointing and disturbing. We request the Planning Commission hold in abeyance any further approving of zoning changes in the Willow Creek Plan Area until our community has had a chance to understand what is being proposed, why it is being proposed, and what possible community concerns are. This is how planning is supposed to work. We request these meetings and outreach efforts occur as soon as possible so the rumor mill in the area can be addressed through education and outreach. Thank you for your serious consideration of our request.

4. The air quality has become horrible and no one should be forced to breath this obnoxious smell every waking hour.. There is no place to go and get away from it, because someone in the position of power has taken those rights away from us..
5. Our Community has seen a jump in crime and we personally have had someone attempt to break in to our home, This new resource that the county seems to be so eager to instill into our little town has attracted many who we would rather not come here. It also seems like ,many of these people (Certainly not all of them ) don't live in this area, so why do they have any sway in what areas are rezoned here.
6. As far as the Bigfoot Golf and country club area. It is residential , the largest concentration of homes in willow creek are in this area.

7. Mercer Frasier , is in a school area and next to our Water treatment plant. I don't know one person who thinks it is a good idea to place any marijuana facilities in that area. I certainly would value the children over Marijuana every day of the week. And am disappointed the the county doesn't value our children on the same level as do we. Or the fact that our water treatment plant is located there.

None of these things belong within the community they should be located outside the community. Would you want them in your front or backyard ?

Sincerely,

John and Janine

126 Village way

Willow creek, Ca. 95573

## Lippre, Suzanne

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**From:** Leah Overton <LOverton@ncfab.com>  
**Sent:** Wednesday, October 31, 2018 2:52 PM  
**To:** Miller, John; Planning Clerk; Sundberg, Ryan  
**Cc:** Timothy Crowley; Paula Crowley  
**Subject:** Rezoning Letter  
**Attachments:** Rezoning Letter.pdf

Hello,

I have attached the Rezoning letter in this email. Thank you and have a wonderful day.

Best,

*Leah Overton*

Administrative Assistant  
**North Coast Fabricators**  
4801 West End Road Arcata, CA 95521  
ph (707) 822-4629, fx (707) 822-6271

North Coast Fabricators is a Certified Women Owned Business. YEAH!

CONFIDENTIALITY STATEMENT: This communication and any accompanying or attached documents are confidential and intended for the sole use of the addressee(s). If you received this message in error, please immediately telephone North Coast Fabricators at (707) 822-4629, and delete this message and any attachments without copying it. Thank you.

John Miller

c/o Humboldt County Planning Department

3015 H St. Eureka, Ca. 95501

[jpmiller@co.humboldt.ca.us](mailto:jpmiller@co.humboldt.ca.us)

Dear Mr. Miller,

My name is Tim Crowley. My Wife Paula and I are adamantly opposed to the rezoning of the B.F.G. and CC.

Big Foot Golf and Country Club has been the heart of the social and recreational activities of Willow Creek for generations. We fully understand the ebb and flow of society. Currently the golf course is closed due to economic changes, as well as a history of poor management and poor public relations.

Paula and I both feel strongly that any zoning changes that allow even the slightest chance for Bigfoot Golf Course to enter into the Cannabis Business, including but not limited to – cultivation, manufacturing, retail sales of any type, and distribution, will have serious adverse affects on us and our neighborhood.

As I'm sure you are aware, the existing large Cannabis permitted operation at the old mill site has had a devastating effect to our community.

A) The potent smell that has engulfed our valley.

B) The number of Transients and their dogs make shopping in our town most unpleasant, to the point where many local women feel endangered by the everyday task of going to the market.

C) "Involuntary exposure to the concentrated chemicals emitted by the cannabis operations triggered severe headaches, asthma, episodes and other respiratory problems."

D) "Our neighborhood's cannabis presence has forced itself to the forefront of our everyday lives and introduced a persistent fear to our health, sanity and physical safety. Many neighbors are so distraught and intimidated that they are planning to move away, leaving behind invested time and resources, memories

and plans, and their attachment to a place – to their homes – with the dimly perceived goal of somehow starting all over in a place like our street used to be.”

Many members of the Willow Creek Community do not approve of the mill site cannabis operation and are absolutely not in favor of any additional cannabis activities around our children, grand-children, elderly, or visitors.

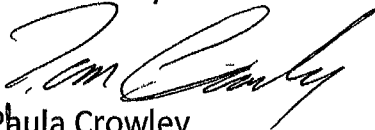
The mismanagement of the golf course has already eroded away a substantial percentage of our real estate’s value. Allowing cannabis into the middle of our homes would cause an additional drastic reduction in property values.

We are all just individuals, however collectively we will form a formidable group that will seek, by any legal means, to be compensated by Humboldt county for the financial and social destruction caused by this rush to accommodate these cannabis businesses you are allowing to slither into our community.

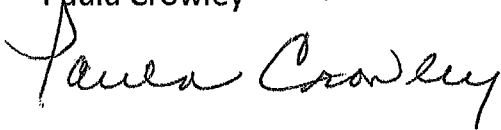
We respectfully request that no zoning changes be forced onto us. No cannabis activities of any type should ever be allowed to have a place in our neighborhood.

Sincerely,

Tim Crowley



Paula Crowley





**Lippre, Suzanne**

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**From:** Don Allan <allan707@suddenlink.net>  
**Sent:** Wednesday, October 31, 2018 2:35 PM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Re-zone on Mad River at Glendale

I may not be able to make it to the planning commission hearing on Thursday, Nov. 1 at which time the Planning Commission will consider re-zoning the Mercer Fraser property along the Mad River at Glendale, which would open the door for MF to re-submit an application for a cannabis processing facility, which is the likely outcome of re-zoning this parcel. I urge the Planning Commission to maintain the existing zoning with the intent of eventually removing all industrial uses from the property rather than "grandfathering" in a non-conforming use that includes use and storage of petroleum products and other toxic chemicals in close proximity to the banks of the Mad River, with a high potential for accidental discharge into the river in the vicinity of the Humboldt Bay Municipal Water District pumps. Clean drinking water for the Humboldt Bay area is essential and changing the zoning to allow industrial use is bad planning. Changing the zoning to conform to the use is backwards planning and in this case it's also bad planning. Please deny the zoning change and any future cannabis processing facility applications for this property.

Don Allan

821 2nd Ave., Trinidad, CA 95570

**Lippre, Suzanne**

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**From:** Ross Taylor <rossntaylor@sbcglobal.net>  
**Sent:** Wednesday, October 31, 2018 2:06 PM  
**To:** Planning Clerk  
**Subject:** Hum Co. new zoning districts

Dear Planning Commission members:

I am writing this email to express my concern regarding the issue of rezoning parcels located in the floodplains of rivers, such as the lower Mad River near the Humboldt Bay Municipal Water District's facilities where nearly 90,000 Humboldt County residents obtain their residential water. The proposal to rezone all inconsistent parcels from IR to Heavy Industrial (MH) fails to consider the characteristics and locations of each site; such as the Mercer-Fraser Glendale parcel and the potential threats that heavy industrial uses would pose to the Mad River water supply. It also appears that rezoning of floodplain areas to Heavy Industrial is also inconsistent with BR-S5 and the County's Streamside Management Ordinance. Finally, besides potential threats to the Mad River water supply, the mainstem of the Mad River is designated by National Marine Fisheries Service as critical habitat for Coho Salmon, Chinook Salmon and Steelhead; thus heavy industrial uses in or adjacent to the floodplain may constitute a "take" under the Endangered Species Act.

Sincerely,  
Ross N. Taylor  
American Fisheries Society Certified Fisheries Professional (CFP #3438)

**Lippre, Suzanne**

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**From:** Ginni Hassrick <hasgin@reninet.com>  
**Sent:** Wednesday, October 31, 2018 1:01 PM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser on the mad river

*I am horrified at even the suggestion that they would build this on land fronting our main driving water source? Have you all gone bananas? Any type of earthquake, flood, etc. could result in a catastrophic water hazard. Please don't allow this construction anywhere near the Mad River.*

*Ginni Hassrick, Bayside*

*Sent from my Verizon Wireless 4G LTE DROID*

## Lippre, Suzanne

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**From:** Debbie Marshall <dm-marshall@sbcglobal.net>  
**Sent:** Wednesday, October 31, 2018 12:58 PM  
**To:** Planning Clerk  
**Subject:** Fw: Fwd: Mercer-Fraser permit

Why is the Mercer Fraser permit on the Mad River being reconsidered? I still **adamantly oppose this project!**

Below are previous comments from Supervisor Sundberg regarding this project.

From Ryan Sundberg on FaceBook, April 18, 2018:

I am happy to announce the Cannabis Permit and the Rezone for the Mercer Fraser property in Glendale has been withdrawn. I have been working with the company for weeks now, and want to thank Mercer Fraser for a successful outcome.

**From:** "Sundberg, Ryan" <[RSundberg@co.humboldt.ca.us](mailto:RSundberg@co.humboldt.ca.us)>  
**Date:** January 26, 2018 at 8:16:42 AM PST  
**To:** Debbie Marshall <[dm-marshall@sbcglobal.net](mailto:dm-marshall@sbcglobal.net)>  
**Subject:** Re: Mercer-Fraser permit

Hello Ms. Marshall,

I will be watching this project very closely since our water source is something we can not mess around with. I had a very productive meeting last Tuesday with the Water District and Mercer Fraser. The water district was able to provide a list of changes that would give the District 100% comfort in the protection of the Raney Wells. Thank you for the email and your participation.

My best,

Ryan Sundberg

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**From:** Debbie Marshall <[dm-marshall@sbcglobal.net](mailto:dm-marshall@sbcglobal.net)>  
**Sent:** Monday, January 22, 2018 8:37:18 AM  
**To:** Sundberg, Ryan  
**Subject:** Mercer-Fraser permit

Ryan,

I am a McKinleyville resident therefore my drinking water comes from the Mad River. I am not opposed to cannabis production but I do **adamantly object** to any manufacturing facility adjacent to the River. It is your responsibility to protect our water. The Mercer-Fraser cannabis manufacturing facility has the potential to contaminate the Mad River. No facility that uses hazardous materials should be allowed near the River. I highly recommend you do not approve this permit. Thank you for your consideration of this matter.

Debbie Marshall



**Lippre, Suzanne**

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**From:** Terri Bonow <t.bonow@hotmail.com>  
**Sent:** Wednesday, October 31, 2018 11:52 AM  
**To:** Planning Clerk  
**Subject:** Please protect our water rights and purity!!!

Hello,

I am writing to state that the Mercer Fraser hash lab planned above the water sources on Mad River are not a smart, fair or safe way to plan land use around our cities water sources. Why are you even considering it?

Please consider water purity, fairness and the right of people over powerful business owners.

*Terri Wade-Bonow MLIS*  
*t.bonow@hotmail.com*  
*707-616-1023*

## Lippre, Suzanne

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**From:** Pamela Cahill <northcoastpam@suddenlink.net>  
**Sent:** Wednesday, October 31, 2018 11:30 AM  
**To:** Planning Clerk  
**Subject:** Mercer Frasier rezone

Please do not rezone to heavy industrial the parcel on the Mad river owned by Mercer Frasier. It is up stream from our county water source and if any spill from heavy industry should happen, our water will be polluted. Also the Mad River is still a good river for fishing. A spill could ruin that beautiful resource. Looking at past flooding, earthquakes and mistakes by workers in other industries, spills are not far fetched make- believe possibilities. They happen.

Please say no on rezoning!

Sincerely,  
Pam Cahill,  
Bayside

## Lippre, Suzanne

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**From:** Suzanne Simpson <suzanne.simpson.litzky@gmail.com>  
**Sent:** Wednesday, October 31, 2018 11:04 AM  
**To:** Planning Clerk  
**Subject:** Mercer Fraser Co./Mad River Project

Hello Members of the Planning Commission:

I'm writing to ask that the Planning Commission NOT allow the Mercer Fraser facility that processes cannabis along the Mad River.

Any type of facility like this can potentially be a nightmare for our community's water system, the farmers, animals, and others that depend on a clean ecosystem.

Besides weather related flooding, earthquakes can cause damages to infrastructure and river flows.

**Please vote no on Mercer Fraser cannabis plant.**

Thank you,  
Suzanne Simpson  
Arcata

Suzanne Simpson  
Home: 707/822-5583  
Cell: 707/601-7956  
[www.locallygrownthefilm.com](http://www.locallygrownthefilm.com)  
[suzanne.simpson.litzky@gmail.com](mailto:suzanne.simpson.litzky@gmail.com)  
[www.suzannesimpsonartist.com](http://www.suzannesimpsonartist.com)  
[www.locally-delicious.com](http://www.locally-delicious.com)



**Lippre, Suzanne**

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**From:** Checks and Balances Environmental <checksandbalancesenvironmental@gmail.com>  
**Sent:** Tuesday, October 30, 2018 10:41 AM  
**To:** Planning Clerk  
**Subject:** Correct address for comments on Inland Zoning changes, area of interest Willow Creek

Hello,

Two things:

1. Please email me the agenda for the Planning Commission meeting on November 1st.
2. Please email me the correct mailing address for submitting comments on the Zoning changes proposed for the Willow Creek Plan Area. We have been communicating with John Miller, Senior Planner but want to make sure my letter goes to the correct addressee.

Thank you,  
Lisa Roberts  
Resident, Willow Creek

--  
Lisa E. Roberts  
Founder, Checks and Balances Environmental, LLC  
(707) 362-6248

*Our mission is simple: Checks and Balances Environmental exists to help others in their efforts to find short or long-term strategies to managing natural resources with objectives of maintaining biodiversity and healthy ecosystems utilizing sound science, integrity, honesty, and compassion.*

Find us online at: [checksandbalancesenvironmental.net](http://checksandbalancesenvironmental.net)

## Lippre, Suzanne

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**From:** Meridian Photo <jwilhelm@meridianphoto.com>  
**Sent:** Monday, October 29, 2018 8:33 AM  
**To:** Planning Clerk  
**Subject:** Glendale re-zoning

Dear Planning Department,

I submitted a letter last week to Mr Ford and CC'd the Clerks (it's pasted below). I received no confirmation of receipt so I'm resending to the Planning Clerk as suggested by the website. I'll be showing up this Thursday for the public commenting and hope to hear acknowledgement of my concern before then.

Thank you kindly,

Joseph

Joseph Wilhelm — (707) 826-7184  
[meridianfineart.net](http://meridianfineart.net) / [meridianphoto.com](http://meridianphoto.com)

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Dear Mr Ford,

I am concerned about the Humboldt County Planning Commission's decision to recommend a vote on the proposed rezoning of the Glendale area Industrial lands.

I have lived and worked in Glendale for twenty years and in that short time I've seen a lot of change. Glendale is a work in progress, and I'm concerned about rezoning without community input. I understand that the GP was a long drawn-out nightmare. I'm not wanting that for the rezoning process, but it's only open and fair to give the residents and working class folks a chance to share a vision that makes Glendale a better place to live, work, and play. Rezoning may have detrimental consequences for the residents as well as for the Mill Creek watershed.

Glendale is abuzz with activity, resources, beauty, and nature. The neighborhood is a mix of livelihood and living and it's a community worth caring about. Even the Roosevelt Elk love it here. However, Glendale has been neglected for a long time - blight, thievery, careless driving, and illegal drug activity are now major issues. Without a holistic vision and unity among those who live and work here, we'll fall short of our potential which is to be a safe productive community that's beautifully recovered from blight.

Glendale can be a community where we look out for one another and see our diversity as our biggest asset. In doing so, we need to manage our open space, agricultural land, waterways, and industry with concern for the residents and wildlife who also live here. It is for these reasons I urge you to recommend community input prior to a recommendation and final vote by the Supervisors.

Glendale deserves a better future for everyone.

For a photographic overview of the Glendale area please visit: <https://josephwilhelm.com/glendale-september-2018>

Thank you kindly,

Joseph Wilhelm

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**Lippre, Suzanne**

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**From:** jim cotton <jimcotton47@gmail.com>  
**Sent:** Monday, October 29, 2018 8:23 AM  
**To:** Planning Clerk; jpmiller@co.humboldt.ca.gov  
**Subject:** Zoning changes in Willow Creek

49 Trinary Acres  
PO Box 1495  
Willow Creek, CA

I'm a resident of Willow Creek, Humboldt County. I understand that Humboldt County Planning Department is updating its General Plan to change the land use designation and zone districts throughout the county.

I feel that Humboldt County has not performed sufficient outreach so that I can be fully informed of the implications of the new land use and zone district designations for property in and around the Willow Creek area.

I request an extension to the timeline on any decision to finalize changes to the General Plan by the Planning Department or Board of Supervisors.

I also request that Planning Department Director, John Ford, set up a meeting in Willow Creek for community residents with sufficient lead time so that it can be well advertised and therefore well attended.

Thank you,

James Cotton and Kim Puckett

**Lippre, Suzanne**

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**From:** Trude Frazer <trudelou@outlook.com>  
**Sent:** Sunday, October 28, 2018 7:41 PM  
**To:** Planning Clerk  
**Subject:** More information needed General Plan

Mr. John Ford  
Humboldt County Plain Director

Mr. Ford,

I only last week came aware of some specifics in the new General Plan soon to be forever adopted of some concern to me. Many of my neighbors have told me they are also needing to know more.

I would like to suggest your office could improve the approval process through a public workshop to explore the land uses which will no longer require Special Permits.

The conservation of the watersheds of the Mad and Trinity Rivers are the source of all we love and hope to pass on to the future. It seems essential that the citizens be informed and it may prevent future misunderstandings.

Please prove a copy of my email to each of your fellow Humboldt County Planning Commissioners.

Thank you for your work and hopefully your support.

Trude Frazer

**Lippre, Suzanne**

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**From:** Janine Cox <gnefene@gmail.com>  
**Sent:** Sunday, October 28, 2018 2:49 PM  
**To:** Planning Clerk; Miller, John  
**Subject:** Rezoning in Willow Creek, Ca.

John & Janine Cox  
126 Village Way  
PO Box 1050  
Willow Creek, CA

I'm a resident of Willow Creek, Humboldt County. I understand that Humboldt County Planning Department is updating its General Plan to change the land use designation and zone districts throughout the county.

I feel that Humboldt County has not performed sufficient outreach so that I can be fully informed of the implications of the new land use and zone district designations for property in and around the Willow Creek area.

I request an extension to the timeline on any decision to finalize changes to the General Plan by the Planning Department or Board of Supervisors.

I also request that Planning Department Director, John Ford, set up a meeting in Willow Creek for community residents with sufficient lead time so that it can be well advertised and therefore well attended.

Thank you  
John & Janine Cox

**Lippre, Suzanne**

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**From:** Susan Tool <susanlt2012@gmail.com>  
**Sent:** Sunday, October 28, 2018 1:16 PM  
**To:** Planning Clerk

Susan Tool  
287 Forest View Drive, P.O. Box 801  
Willow Creek, CA

I'm a resident of Willow Creek, Humboldt County. I understand that Humboldt County Planning Department is updating its General Plan to change the land use designation and zone districts throughout the county.

I feel that Humboldt County has not performed sufficient outreach so that I can be fully informed of the implications of the new land use and zone district designations for property in and around the Willow Creek area.

I request an extension to the timeline on any decision to finalize changes to the General Plan by the Planning Department or Board of Supervisors.

I also request that Planning Department Director, John Ford, set up a meeting in Willow Creek for community residents with sufficient lead time so that it can be well advertised and therefore well attended.

Thank you,

Susan Tool

**Lippre, Suzanne**

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**From:** frank onstine <franko301@live.com>  
**Sent:** Saturday, October 27, 2018 2:06 PM  
**To:** Planning Clerk  
**Subject:** General Plan

Dear Sirs:

I am writing to request a public meeting to review the new General Plan designations as well as specific changes that are being proposed Nov 1. We would like to be informed about changes that can be expected once the GP and zoning changes are put in place

Of particular concern is the quality of our rivers. We would like to know how zoning can be used to protect these essential resources.

Thank you,  
Frank Onstine  
Blue Lake  
Sent from my iPhone



**Lippre, Suzanne**

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**From:** jacquebollmann <jacquebollmann@gmail.com>  
**Sent:** Friday, October 26, 2018 5:30 PM  
**To:** Planning Clerk  
**Subject:** Rezoning of Gold Course, Willow Creek

I am opposed to the plan to rezone our golf course. We already have a commercial grow, that many of us don't want. We are trying to sell our home because we are surrounded by grows. We live by the golf course. Property values will and are already falling. Health is a huge concern. Being allergic to the smell, closing off my breathing is not a good thing. And the crime that this industry is bringing into WC is horrific. Please dont let this happen.

Mr and Mrs. Rick. (Jacque) Bollmann

**Lippre, Suzanne**

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**From:** Liz/Steve Brunner <mmsdbrunner@gmail.com>  
**Sent:** Friday, October 26, 2018 4:04 PM  
**To:** Planning Clerk  
**Subject:** Re-Zoning of Willow Creek Area

I am a resident of Willow Creek at 243 Forest View Dr. I recently learned that the Humboldt County Planning Department is considering changing the zoning in and around the Willow Creek area. The Planning Department has failed to notify the residence in Willow Creek of the proposed zoning changes. I request that any vote on the proposed zoning changes be delayed until such time that the Humboldt County Planning Department can schedule a public meeting in Willow Creek to inform the citizens of the proposed zoning changes and take public comment.

Respectfully,

Steve Brunner  
PO Box 24  
Willow Creek, CA 95573

707-502-9199  
[mmsdbrunner@gmail.com](mailto:mmsdbrunner@gmail.com)

**Lippre, Suzanne**

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**From:** Scott Frazer <genescottf@gmail.com>  
**Sent:** Friday, October 26, 2018 1:19 PM  
**To:** Planning Clerk  
**Cc:** Sundberg, Ryan; Wilson, Mike  
**Subject:** Humboldt Co. General Plan and "zoning changes consistent" with GP  
**Attachments:** River\_Zone\_Gen\_Plan\_Designations.docx

Please send this letter to Mr. John Miller, Planning Director Ford and all 7 Planning Commissioners.

Thank you.

Scott

Mr. John Miller

Humboldt County Planning Dept.

3015 H Street

Eureka, CA 95501

Oct. 25, 2018

Dear Mr. Miller:

This letter is submitted to seek public workshops on the proposed zoning changes that are being considered to make specific zoning "consistent" with the major revisions made to the Humboldt Co. General Plan. Please insure that this letter is forwarded to Planning Director Ford and all 7 Planning Commissioners.

My primary concern is that many of the citizens of Humboldt County are unaware of the large number of landuse changes that are going to be set in motion when these proposed changes in zoning are put in place.

One of my most immediate concerns is that changes along the Mad River between Blue Lake and Arcata, as well as the Trinity River in Willow creek are likely to open the door to more intensive land use on the banks of these important recreational corridors. Protecting our sources of drinking water and the existing high quality riparian habitat should be given first priority in any future changes.

I would like to have the opportunity to review the scale and specific locations of land use changes along our important river corridors before approval is given to what may be a massive amount of new development.

If the Nov. 1, 2018 Planning Commission agenda item is going to consider immediate approval of zone designations, I wish to register my concern that this will be controversial and should be delayed until communities are well informed about the dramatic changes that can be expected immediately and for many years in the future.

Thank you for your consideration.

Scott Frazer

P.O. Box 203

Bluelake, CA 95525

**Lippre, Suzanne**

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**From:** Marvin Samuels <marvhum@gmail.com>  
**Sent:** Friday, October 26, 2018 11:40 AM  
**To:** PlanningBuilding; Planning Clerk  
**Subject:** Letter for Planning Commission November 1, 2018 meeting  
**Attachments:** Humboldt Planning Commision November 1, 2018 meeting letter.docx

Would you please include the attached letter as part of the Planning Commission package for the November 1, 2018.

Thank you  
Marvin Samuels  
Blue Lake, Ca.

Mr. John Ford, Humboldt Co. Planning Commission

October 26, 2018

Dear Mr. Ford:

This letter is submitted to request a public workshop to review all of the new General Plan (GP) designations along with the specific changes that are being proposed Nov. 1, 2018 to make zoning consistent with the new GP.

A number of my friends and neighbors followed this lengthy process with some interest over the past decade and have just recently started to hear that less public notification will likely occur as "Special use" permits are issued. Public meetings will not always be held to inform neighbors about new projects or creation of smaller parcels on existing agricultural lands for example.

We would like to be well informed about the extensive changes that can be expected once the GP and all new consistent zoning changes are put in place.

One of our primary concerns is maintaining the quality of our rivers, creeks and streams. The Trinity River in Willow Creek and Mad River from Korb to the ocean are significant components of our life style. Please help us learn how the new zoning can be used to protect these important watersheds.

I request that a copy of this letter be provided to all seven Humboldt Co. Planning Commissioners in preparation for the Nov. 1, 2018 meeting. Thank you.

Marvin Samuels, Blue Lake, Ca.

Sincerely,

**Lippre, Suzanne**

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**From:** Larry Miller <essexmill@gmail.com>  
**Sent:** Friday, October 26, 2018 9:08 AM  
**To:** Planning Clerk  
**Subject:** Fwd: Glendale Community and Landowner Outreach Plan

Begin forwarded message:

**From:** Larry Miller <[essexmill@gmail.com](mailto:essexmill@gmail.com)>  
**Date:** October 25, 2018 8:07:50 PM PDT  
**To:** <[bjrhumboldt@gmail.com](mailto:bjrhumboldt@gmail.com)>  
**Subject: Glendale Community and Landowner Outreach Plan**

To: John Ford, Humboldt County Planning Director

Subject: Proposed Zoning Changes re: Mad River Watershed; Glendale

Date: October 25, 2018

From: Pamela Miller

cc: Humboldt County Planning Commission

The McKinleyville Municipal Advisory Committee voted 5-0 on July 25, 2018 to send a letter urging the Humboldt County Board of Supervisors to protect, preserve and enhance the Mad River stressing the importance of the community's drinking water source, fishing and swimming. The Mad River has been overlooked for years due to cumulative natural and human caused effects. The Glendale area in particular has been used as a dumping zone for trash, car bodies, poached deer heads and guts and homeless camps. There are people who live there and have a vision of riparian repair, clean tributaries and wildlife corridors that co-exist with resource extraction.

I would like to refer you the Proceedings of the Mad River Symposium, sponsored by Office of Dean of Public Services and Department of Geology and Earth Science of Humboldt State College, April 16-17, 1971. All the river stakeholders communicated scientific and anecdotal information with each other that helped make difficult decisions for that time workable and respected.

Please take your time on this. The community is reaching out to you and would like you to reach out to them.

## Lippre, Suzanne

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**From:** Meridian Photo <jwilhelm@meridianphoto.com>  
**Sent:** Thursday, October 25, 2018 4:35 PM  
**To:** PlanningBuilding  
**Cc:** Hayes, Kathy; Planning Clerk  
**Subject:** Glendale is a work in progress

Dear Mr Ford,

I am concerned about the Humboldt County Planning Commission's decision to recommend a vote on the proposed rezoning of the Glendale area Industrial lands.

[REDACTED] have lived and worked in Glendale for twenty years and in that short time I've seen a lot of change. Glendale is a work in progress, and I'm concerned about rezoning without community input. I understand that the GP was a long drawn-out nightmare. I'm not wanting that for the rezoning process, but it's only open and fair to give the residents and working class folks a chance to share a vision that makes Glendale a better place to live, work, and play. Rezoning may have detrimental consequences for the residents as well as for the Mill Creek watershed.

[REDACTED] Glendale is abuzz with activity, resources, beauty, and nature. The neighborhood is a mix of livelihood and living and it's a community worth caring about. Even the Roosevelt Elk love it here. However, Glendale has been neglected for a long time - blight, thievery, careless driving, and illegal drug activity are now major issues. Without a holistic vision and unity among those who live and work here, we'll fall short of our potential which is to be a safe productive community that's beautifully recovered from blight. [REDACTED]

Glendale can be a community where we look out for one another and see our diversity as our biggest asset. In doing so, we need to manage our open space, agricultural land, waterways, and industry with concern for the residents and wildlife who also live here. It is for these reasons I urge you to recommend community input prior to a recommendation and final vote by the Supervisors. [REDACTED] Glendale deserves a better future for everyone.

For a photographic overview of the Glendale area please visit:

<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fjosephwilhelm.com%2Fglendale-september-2018&data=01%7C01%7Cplanningclerk%40co.humboldt.ca.us%7C560ab57822c843f8ec5208d63ad2761a%7Cc00ae2b64fe844f198637b1adf4b27cb%7C1&sd=HARNAz9iL52uzWYPjeNBqIXNSILf4gXVFn5IVYYo4ok%3D&reserved=0>

Thank you kindly, [REDACTED]

Joseph Wilhelm

Joseph Wilhelm — (707) 826-7184  
meridianfineart.net / meridianphoto.com



**Lippre, Suzanne**

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**From:** Ken Miller <tamer1@suddenlink.net>  
**Sent:** Wednesday, October 24, 2018 11:08 PM  
**To:** Planning Clerk; PlanningBuilding  
**Subject:** re-zoning hearing

Dear Commissioners and Mr. Ford,

Mercifully, I cannot access the 5GPU Staff Report, but I understand it refers to re-zoning that has widespread implications and potential consequences.

Please develop a plan for reaching out to communities and landowners to get input before proceeding with such impactful changes.

Respectfully,

Ken Miller