environmental
DEFENSE CENTER

March 11, 2011

Santa Barbara County
Board of Supervisors
105 E. Anapamu Street
Santa Barbara, CA 93101
By E-Mail: ***SBCOB@Co.Santa-Barbara.CA.US***

Re: Amendments to County Code Chapter 9A, Brushing Ordinance, and Chapter 24A, Administrative Fines Ordinance

Dear County Supervisors:

The Environmental Defense Center (EDC) is writing in support of the proposed amendments to the Brushing Ordinance (Chapter 9A) and the Administrative Fines Ordinance (Chapter 24A). EDC is a non-profit public interest environmental law firm working to protect and restore the central California Coast environment through education, advocacy and, when necessary, legal action. The ordinance amendments are necessary stop-gap measures to ensure Chapter 9A can be enforced. This is an important timely issue that has come to light because chaparral habitat removal in wild-land locations far from homes has increased substantially in the last year. Hundreds of acres of densely vegetated habitats have been removed from steep slopes *without any County review or mitigation of impacts*. Moreover, *the rate of removal is increasing*. The impacts to flooding, erosion, watershed functions, habitat and rare species, water quality, and scenic vistas are significant. As discussed below, chaparral removal can also actually *increase fire risk.* The proposed amendments to Chapters 9A and 24A are urgently needed to make the ordinance enforceable.

Equally importantly, the Board should direct staff to come back with additional amendments to Chapter 9A and the Goleta-Environmentally Sensitive Habitat (ESH) Ordinance to ensure that habitat removal projects are reviewed by the County and their impacts are mitigated.

Therefore we recommend the Board:

A. Approve the proposed amendments to Chapters 9A and 24A; and
B. Direct staff to return with further amendments to
   i. Chapter 9A, and
   ii. The Goleta-ESH Ordinance.

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I. Importance of Chaparral

Chaparral is a very important native plant community in Santa Barbara County as well as globally. Chaparral occurs only in some Mediterranean climates. Chaparral constitutes only a small percent of the Earth's surface and is one of the rarest biomes on earth. (See Figure 1)

Figure 1. Global distribution of Chaparral

Chaparral provides the following community benefits:

- Erosion Control
- Watershed Maintenance / Groundwater Recharge
- Scenic Backdrop
- Recreation
- Wildlife Habitat / Biodiversity
- Carbon Sequestration to combat Climate Change

Local Chaparral habitats harbor many unique species, some found nowhere else in the world.[1] Chaparral in Santa Barbara supports rare and protected species including the ringtail (*Bassariscus astutus*), a Fully Protected mammal.[2] In addition, federally threatened California red-legged frog (*Rana aurora draytonii*) and California Species of Concern California newt (*Taricha torosa)* also depend on and spend much of their time in Chaparral. Our local Chaparral community harbors at least 40 special-status species.[3] (See Table 1)

[1] One species found only in Santa Barbara Chaparral is a walking stick: *Timema cristinae* (*Phasmato-dea, Timemidae*).
[2] Ringtails are "Fully Protected" pursuant to California Fish and Game Code section 4700.
[3] Information derived from Santa Barbara County EIRs primarily including the 2008 certified FEIR for Santa Barbara Ranch.

Table 1: Special Status Species in Santa Barbara County Chaparral Habitats

Black-flowered figwort	*Scrophularia atrata*
Cooper's lip fern	*Cheilanthes cooperae*
Hoffman nightshade	*Solanum xanti var. hoffmannii*
Hoffmann's sanicle	*Sanicula hoffmannii*
Side blotched lizard	*Uta stansburiana.*
Cream-flowered eardrops	*Dicentra ochroleuca*
Late-flowered mariposa lily	*Calochortus weedii var. vestus*
Lompoc yerba santa	*Eriodictyon capitatum*
Santa Barbara honeysuckle	*Lonicera subspicata subspicata*
Nuttall's scrub oak	*Quercus dumosa dumosa*
Plummer's baccharis	*Baccharis plummerae*
Refugio manzanita	*Arctostaphylos refugioensis*
Robinson's pepper grass	*Lepidium virginicum var.*
Santa Barbara bed straw	*Galium cliftonsmithii*
Santa Lucia phacelia	*Phacelia grisea*
Santa Ynez false-lupine	*Thermopsis macrophylla*
South Coast Range morning glory	*Calystegia collina ssp.*
Trask's yerba santa	*Eriodictyon traskiae var. smithii*
Triple-awned grass	*Aristido adscensionis*
Santa Ynez mountains walking stick	*Timema cristinae*
California horned lizard	*Phrynosoma coronatum*
Coast patch-nosed snake	*Salvadora hexalepis virgultea*
Silvery legless lizard	*Anniella pulchra pulchra*
Bell's sage sparrow	*Amphispiza belli belli*
California's thrasher	*Toxostoma redivivum*
Loggerhead shrike	*Lanius ludovicianus*
Northern harrier	*Circus cyaneus*
Prairie falcon	*Falco mexicanus*
Southern California's rufous-crowned sparrow	*Aimophilia ruficepts canescens*
American badger	*Taxidea taxus*
Mountain lion	*Felis concolor*
San Diego desert woodrat	*Neotoma lepida intermedia*
Ringtail	*Bassariscus astutus*
Pallid bat	*Antrozous pallidus pacificus*
Greater roadrunner	*Geococcyx californianu*
Lazuli bunting	*Passerina amoena*
Phainopepla	*Phainopepla nitens*
Violet-green swallow	*Tachycineta thalassina*
Blue-gray gnatcatcher	*Polioptila caerulea*
California newt	*Taricha torosa*

Ringtail (*Bassariscus astutus)*

If chaparral were removed from the Santa Ynez Mountains, ecologists and chaparral fire regime experts predict that more flammable non-native annual weeds such as thistle will invade, exacerbating rather than reducing fire hazards.[4] This is already occurring in areas of southern California including San Diego County. Flammable non-native weed infestations have now been seen in previously masticated Chaparral habitats in Santa Barbara County including East Camino Cielo.

In sum, loss of chaparral would result in:

- Significant Habitat and Special-status Species Loss
- Increased Erosion, Sedimentation and Flooding
- Increased Need for Flood Control Capitol Improvements and Maintenance Activities, Costs and Impacts to Creeks
- Reduced Groundwater Recharge
- Reduced Stream Flow
- Fouling of Stream Water with Sediment
- Loss of Pool Habitats in Streams
- Infestations by Non-Native Weeds and Increased Fire Hazard
- Conversion of Scenic Mountain Backdrop from Green to Brown

[4] Dr. Lisa Stratton. UCSB Cheadle Center for Ecological Restoration and Biodiversity. March 8, 2011 e-mail to Santa Barbara County Board of Supervisors. See also August 27, 2010 letter from Rick Halsey., Chaparral Institute, to Janet Wolf, Santa Barbara County Supervisor.

II. Santa Barbara County Known Chaparral Removal Cases - 2010-2011

Painted Cave / East Camino Cielo
2754 Painted Cave APN: 153-160-053
Date: 2010
Acreage: Initially determined by Planning and Development (P&D) staff to be 2 or 3 acres, but when queried, P&D's mapping division determined it was 7 - 8+ acres.
Status: Violation of Brushing Ordinance. Notice of Violation issued, but not enforced due to deficient existing language in Administrative Fines Ordinance.

Painted Cave
2730, 2732, 2726 Painted Cave Road
Date: 2010
Acreage: reported by P&D as < than 5 acres
Status: Removed Environmentally Sensitive Habitat (ESH) but was found by P&D not to violate the Goleta-ESH Ordinance because no "development" occurred. While somewhat less than five acres of Chaparral was removed, this was not a violation of Chapter 9A because the current threshold for a brushing permit is 5 acres.

Old San Marcos Road:
Date: 2010 and 11
Acreage: Estimated dozens to over 100 acres.
Status: Project involves removal of post-fire regenerating of Chaparral. Post-fire Chaparral is known to harbor additional rare "fire-follower" species not listed above. P&D staff reported to EDC that the Brushing Ordinance cannot be enforced and that Notices of Violations cannot be issued until Chapter 9A and 24A are amended.[5]
Note: this site is the location of an ongoing zoning violation (unpermitted structure) and an active application for permits for a proposed "barn" which is clearly a house.

Slippery Rock Ranch Area
Date: 2010 and 11
Acreage: Estimated 75 – 200 acres
Status: P&D investigated this and reported that grading near San Pedro Creek was a violation of Grading Ordinance. P&D, in response inquiries re the removal of regenerating Chaparral habitat through hand tools and use of goats as a tool for habitat type-conversion, replied that burned chaparral is not subject to the Brushing Ordinance because it is only "invasive weeds." This assessment by P&D staff (a non-biologist) was incorrect. Post-fire Chaparral contains rare plants that only sprout after fires and is sensitive Chaparral habitat. Removal of Chaparral and ESH by hand tools and goats is not exempt from Chapter 9A or the Goleta-ESH Ordinance. However P&D staff informed EDC that the County cannot issue or enforce violations of Chapter 9A until the subject amendments are made.

[5] Jeff Thomas. Pers. Comm. to Brian Trautwein, EDC. March 3, 2011.

Winchester Canyon:
Date: 2011
Acreage: reported by P&D as < 5 acres
Status: P&D responded that this was a violation of the Grading Ordinance but that Chaparral removed was < 5 acres and thus not a violation of Chapter 9A.

Note: EDC strongly supports the rights and responsibilities of residents in high fire hazard areas to implement defensible spaces around homes and access roads and to fire-proof homes. The Chaparral clearing projects, however, are located remotely from homes and are not being implemented as defensible spaces around homes or roads.

III. Primary Problems with Existing Brushing Ordinance

- Permits not discretionary; "shall be issued" if erosion control satisfactory; no CEQA or mitigation of biology, hydrology and visual impacts
- Permit trigger is too high: 5 acres every year adds up
- Exemptions could be applied overly broadly
- Appeals are to a body consisting of majority of non-governmental advocacy organization representatives
- Appeals cannot be brought to appointed or elected body
- Appeals can only be brought by applicants, not other interested parties
- Administered by Public Works, not P&D
- Not enforceable

The last five of these bullet points will be remedied through the proposed amendment. A subsequent amendment is warranted to address the other problems and make the following additional enhancements:

- Address watershed and environmental protection
- Change "natural vegetation" definition to include trees, shrubs "and/or roots"
- Require P&D to approve exemptions
- As in the Grading Ordinance, provide an exception to the exemptions for removals that may cause a significant impact
- "Approval Conditions" Sec 9A-9: Amend to allow mitigation measures beyond erosion control, including limiting areas cleared

IV. Fire Safety

In order to maximize fire safety in Chaparral neighborhoods and in the Urban-Wildland Interface:

- Sufficient defensible spaces should be created, maintained and enforced around all permitted residential structures and all access road.

- Homes should be actively fire-proofed.
- The County should actively assist homeowners with the above.
- Orchards should be encouraged, planted and maintained in foothill locations between chaparral habitats and residential neighborhoods, e.g., North Goleta.

As noted above, removing chaparral can cause invasions by more ignitable annual weeds. Therefore, limited financial resources for fire safety should focus on defensible spaces and fireproofing rather than on harmful wild-land Chaparral clearing which can introduce flammable plants and increase fire hazards.

V. Recommendations

EDC recommends that the Board:

1. Approve Current Amendments to Chapter 24A Administrative Fines Ordinance and Chapter 9A Brushing Ordinance;
2. Direct staff to return with more comprehensive changes to Chapter 9A Brushing Ordinance;
3. Direct staff to return with amendments to the Goleta-ESH Ordinance (see Attachment #1);
4. Direct Staff to include Chaparral as ESH in the GCP and Gaviota Plan via the GCP Update and Gaviota Planning Processes (see Attachment #1); and
5. Develop a process and protocols to address CWPPs, including environmental and public review. (See Attachment #1)

VI. Conclusion

Chaparral habitats are sensitive and provide many important community services including (a) controlling erosion, landslides and flooding, (b) groundwater recharge, (c) providing habitat for many rare species, and (d) providing scenic visual backdrops to our communities. Chaparral removal causes significant environmental impacts and can increase fire hazards. The County currently lacks effective planning tools to address Chaparral removal projects in part because Chapter 9A is unenforceable. The proposed amendments will address the enforceability issue, but further amendments to Chapter 9A and the Goleta ESH Ordinance are needed to balance community interests and maintain the important functions of Chaparral. Please approve the amendments and direct Staff to bring back further ordinance amendments to address the issues raised above.

Thank you for your attention to these comments.

Sincerely,

Brian Trautwein

Brian Trautwein,
Environmental Analyst

Attachment #1
Future Recommended Actions

Amend the Goleta-ESH Ordinance

The Goleta-ESH Ordinance requires "development" concurrent with ESH removal to trigger a Land Use Permit (LUP) and CEQA. Currently under the Goleta-ESH Ordinance all ESH can be removed from parcels without permits or mitigation. This is ripe for "gaming the system" wherein landowners could remove ESH with no limit, then propose development and avoid having to mitigate loss of ESH.

Recommendation: To remedy this situation and close the loophole, the Board should direct staff to bring back an amendment to the Goleta-ESH Ordinance which strikes the requirement for ESH removal to be tied to development in order to trigger a LUP. ESH removal above the thresholds set forth in the current ordinance should trigger a LUP regardless of whether development is also proposed.

Update the Goleta Community Plan (GCP)

- The GCP includes a broad definition of ESH but fails to include Chaparral as ESH.
- Chaparral is not mapped as ESH.
- Policies specific to Chaparral are absent.

The CGP sets forth criteria for determining whether an area is ESH:

1. Unique, rare, or fragile communities which should be preserved to ensure their survival in the future.

2. Habitats of rare and endangered species that are also protected by State and Federal laws.

3. Plant communities that are of significant interest because of extensions of ranges, or unusual hybrid, disjunct, or relict species.

4. Specialized wildlife habitats which are vital to species survival, e.g., White-tailed Kite habitat, butterfly trees.

5. Outstanding representative natural communities that have values ranging from a particularly rich flora and fauna to an unusual diversity of species.

6. Areas that are important because of their high biological productivity such as wetlands.

7. Areas that are structurally important in protecting natural landforms and species, e.g., riparian corridors that protect stream banks from erosion and provide shade.

Chaparral meets these criteria:[6]

1. Chaparral is unique and rare; it is one of the rarest plant communities globally. It is fragile and easily removed. When removed, it often comes back degraded and infested with weeds and is therefore fragile. Globally, only 18% of chaparral habitats remain undisturbed. According to the GCP, Chaparral is dependent on fires, which are actively controlled and suppressed, and thus Chaparral is fragile and threatened with habitat type-conversion through suppression of fires needed to regenerate Chaparral.

2. Chaparral is habitat to species protected by state and federal law.[7] As an example, the ringtail is a chaparral mammal which is a state "Fully Protected Species" pursuant to the Fish and Game Codes. "State or federally listed plant species that I can think of are Santa Ynez false lupine (state), Gaviota tarweed (*Deinandra increscens* subsp. *villosa*; federal) and Lompoc yerba santa (*Eriodictyon capitatum*; federal). One would need to review the most recent CDFG list for all the state-ranked species (e.g., 1B) that occur in the range - they probably are few in number. Some examples are Ojai fritillary (*Fritillaria ojaiensis*) and late-flowered mariposa (*Calochortus fimbriatus*)." "*Eriodictyon traskiae* subsp. *smithii* is probably the only shrub that is scattered throughout the range, but it never really appears as a dominant species." (See also #4 below.)

3. Chaparral in the Santa Ynez Mountains represents the southern range of several plant species. "Among species that are disjunct or at or very near the limits of their range include madrone (*Arbutus menziesii*), tanbark oak (*Notholithocarpus densiflorus*), Nuttall's scrub oak (*Quercus dumosa*), Humboldt lily (Lilium *humboldtii*), *Quercus parvula*, *Ribes sanguineum*, *Iris douglasii*, *Trillium angustifolium*, and *Juglans californica* - many of these are found only in the range east of Refugio Pass." "Plant endemics that I can think of are the Refugio Manzanita, the Santa Ynez false lupine (*Thermopsis macrophylla*), and *Ceanothus papillosus* var. *roweanus* (Rowe's ceanothus), the latter apparently found only in the range between Gaviota Pass and Tranquillon on VAFB."

4. Wildlife species are dependent on chaparral: Santa Ynez Walking Stick, *Timema cristina*. Only occurs in chaparral of the Santa Ynez Mountains. "There are a variety of declining or uncommon to rare species of wildlife that do inhabit our local chaparral such as Coast Range Newt (winters), Coast Horned Lizard, Coastal Western Whiptail, Coast Patch-nosed Snake, Mountain Kingsnake, Mountain Lion, and Ringtail. There may be a few other wildlife species that I am overlooking that also use hard chaparral as a preferred habitat." "The best nexus between Chaparral and listed taxa for birds is Calif. Thrasher and Mountain

[6] The following assessment was put together using information provided by local biologists and botanists: Mark Holmgren (wildlife), Paul Collins (wildlife) and Dieter Wilken (botany). Quotes in these sections are from these three chaparral habitat experts.
[7] See Table 1.

Quail. Other specialists are Gray Fox, Common Poorwill, Blue-gray Gnatcatcher, Wrentit, Merriam's Chipmunk, Calif. Quail, Calif. Towhee, Bewick's Wren, Bushtit, Lazuli Bunting, Mountain Lion, Bobcat, and Ringtail." "Kangaroo rats (*Dipodomys*) and chipmunks (*Eutamius*) have speciated in chaparral." Several special-status amphibious species depend on chaparral above Goleta, Gaviota and Santa Barbara, including California Newt and Western Pond Turtle. Western rattlesnakes are chaparral specialists. Two species which are restricted or largely restricted to chaparral are the black-chinned sparrow and sage sparrow, the latter is restricted to post fire regenerating chaparral.

5. Chaparral has an unusual diversity of species and our local Chaparral community is an outstanding, largely undisturbed example of this natural community.

6. Though low compared to wetlands and riparian habitats, Chaparral has relatively high biological productivity compared to many other communities.

7. Chaparral literally holds the mountain soils in place to prevent landslides and substantial siltation of canyon streams, and thus maintains habitat for species such as steelhead and red-legged frogs. Chaparral also enhances the watershed by slowing infiltration of rainwater and recharging aquifers which maintains streams' base flows. Without Chaparral, various aquatic species would disappear from local streams.

   "The contribution of chaparral to ecosystem stability, including sustaining biological diversity and protection of the watershed, is immeasurable. It should not be underestimated. Bottom line is that its member species are adapted to the local climate and can respond to climatic change because of its diversity. The diversity and relative abundance of dominant species in the vegetation will probably respond to climatic change, but continue to perform the same ecological functions."[8]

   Chaparral is important at carbon sequestration and provides an important ecosystem function by mitigating local contributions to climate change.

   Chaparral provides a dense cover over the Santa Ynez Mountains and is essential for wildlife movement. In this sense Chaparral provides critical ecosystem services and meets the definition of ESH.

Chaparral clearly meets all or most of these criteria and should be designated as ESH in the GCP and other County planning documents.

Recommendation: The Board should direct staff to include Chaparral as ESH in the current Goleta Community Plan Update and in other County planning documents.

[8] Dieter Wilkin, Santa Barbara Botanist. February 24, 2011 e-mail to Brian Trautwein, EDC.

C. Ensure Review of Community Wildfire Protection Plans

Community Wildfire Protection Plans (CWPPs) are being prepared for numerous communities in Santa Barbara County. CWPPs are intended to create eligibility for grants to bring additional dollars into the County to clear more areas of sensitive Chaparral habitat. These plans should be required to undergo formal approval, i.e., by Board of Supervisors, and should be subject to CEQA. If not subject to CEQA, it is possible that future Chaparral clearing projects will continue to be implemented without any environmental review or mitigation. The Board is scheduled to receive briefing on CWPPs in April 2011.

Recommendation: Direct staff to ensure that CWPPs involving land within the County's jurisdiction are brought to the Board for consideration and environmental review.