

**Brownstein | Hyatt
Farber | Schreck**

*A Strategic
California Merger
with Hatch & Parent*

September 18, 2009

2009 SEP 18 AM 11: 56

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

VIA HAND DELIVERY

Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Susan F. Petrovich
805.882.1405 tel
805.965.4333 fax
spetrovich@bhfs.com

RE: September 22, 2009 Hearing on Appeal of Planning Commission Action on April 8, 2009,
Granting Scheller Appeal of Issued Land Use Permit for El Encinal Barn, Case Nos. 80LUP-
00000-0024, 08APL-00000-00010

Dear Honorable Board Members:

Brownstein Hyatt Farber Schreck represents El Encinal and the King family in their appeal from the Planning Commission's action, on a 3-2 vote, granting Carson Scheller's appeal of the Land Use Permit issued in 2008 for an "as built" pole/hay barn constructed in 1988. We contend that the appeal was upheld in error and that the findings adopted in support of that decision are not supported by the evidence in the record.

The rectangular pole barn at issue is a mere 1944 square feet in size, open on its two long sides and partially closed at the two ends. One corner of the barn is located 26 feet from the top of the drainage, while the remainder of the barn angles away from the drainage, with virtually all of the barn being over 30 feet from the top of bank. As noted on Page 6 of the November 12, 2008 staff report, the drainage in question doesn't qualify as a "watercourse" for County regulatory purposes. The pole barn also is not subject to County setback requirements (November 12, 2008 staff report, Page 7). As can be seen from the attached photographs, the barn is located several feet further back from the road and drainage than mature eucalyptus trees that create the true constriction of the roadway. We also enclose an exhibit, depicting the Scheller and El Encinal properties on an Assessor's Map, and a survey of the portion of the El Encinal property upon which the barn is located.

To some, arguing over a pole barn may seem like much ado about nothing. For the King family, owners of El Encinal, the barn represents a vital part of their agricultural operation. The King family members make their living from farming and ranching. There simply is no practical alternative location for this barn other than on productive crop land. They need this barn.

We ask that the Board uphold the El Encinal appeal and the staff's issuance of the Land Use Permit for this barn.

Introduction

We thank the Planning Commission for all of their hard work on this issue. Despite the Commission's hard work, there simply is not adequate evidence in the record to support the Commission's decision or the findings that it made to support that decision. It appears that the Commission confused the 75-foot width of a private, multi-use easement granted by Consuelo King (Bill King's mother) to Ed and Audrey Scheller (Carson Scheller's parents) with the 20-foot width of access easement required as a condition of the County's approval of lot split map by which the El Encinal and Scheller parcels were separated

from one another. We ask that the Board overturn the Planning Commission's action and allow the pole/hay barn to remain in its historic location.

**The Easement Dispute Is a Private, Civil Matter between the Two Landowners;
The County Does Not Enforce Private Easements**

The easement required as a condition of approval of the lot split map was twenty (20) feet wide. Specifically, the conditions reads as follows:

All access roads and driveways serving this project shall conform to Department of Public Works, Road Division Standards. Roads to be a minimum of 20' in width, all weather surface capable of serving a 16 ton fire apparatus.

The project to which the condition applies is simply a 2-lot land division, nothing more. Except for enforcement of a County-imposed condition, the County doesn't enforce private easement rights.

Under the County Fire Department's current Development Standards, (Development Standard #1), "A driveway serving two residential lots or dwellings shall have a minimum width of 16 ft." and "A driveway serving three to nine residential lots or dwellings shall have a minimum width of 20 ft." Under the same standard, "A driveway serving 10 or more residential lots or dwellings shall have a minimum width of 24 ft." The Fire Department is considering a revised Development Standard #1 that would change these standards somewhat, maintaining the 16-foot width for a driveway serving two parcels, but requiring a minimum 20-foot wide driveway for residences on 3-4 parcels and a minimum 24-foot wide driveway for 5 or more parcels.

The Schellers, by filing their appeal from the staff's issuance of the Land Use Permit, have brought to the County what is a private, civil easement dispute that belongs in the courts, not before the Planning Commission or your Board. The sole issue is whether the pole barn meets County-mandated conditions. Clearly, it does.

California Easement Law, and Common Sense, Hold that the Parties' Intent in Creating an Easement Is Reflected by Their Conduct. It Also Is True that the Underlying Landowner Can Regain an Easement (Or a Portion of an Easement) by Prescriptive Use.

It is well-settled law in interpreting the nature of an easement that the parties' conduct can define how the easement is to be used. The conduct of Mrs. King and Mr. and Mrs. Scheller when they created the ingress/egress easement demonstrates their intent that it be confined to its historic location – a location that remains today. The Schellers' counsel has suggested that the King family seeks unilaterally to modify the conditions imposed upon the lot split map. Not true. The King family in no way has constricted the County-mandated 20-foot wide access easement. That is the only condition imposed upon the lot split map that is applicable to your Board's decision. Questions as to rights to use all of the rest of the 75-foot wide easement are purely private issues.

California Civil Code section 811 states that an easement may be extinguished "By the performance of any act upon either tenement, by the owner of the servitude, or with his assent, which is incompatible with its nature or exercise." Specifically, even if the Schellers had obtained a ingress/egress easement that encompassed the entire 75 feet of width, the erection and maintenance of the barn and other

obstructions to the easement with the Schellers' assent, extinguished the easements to the areas occupied by the barn and other obstructions.

If the Schellers contend that the barn was not built with their assent, California case law is replete with instances where the owner of land burdened by an easement has regained use of all or portions of the easement by occupying it adversely to the easement holder's exercise of the easement rights, if the occupation continues for 5 or more years. Here we have 20 years of occupation by the barn.

The absence of a County permit is irrelevant to prescriptive rights or to easement extinguishment.

In a recent case, **Scruby v. Vintage Grapevine, Inc.**, the Court of Appeal ruled that, even where the landowner burdened by a 52-foot wide non-exclusive access and utility easement had only recently encroached into the easement area with vines and vineyard structures, and where the easement holder added new paving that violated the vineyard's permit from the County, the easement holder did not have the right to use of the full width of the 52-foot easement, but only that portion necessary for ingress and egress to their property. The Court ordered the easement holder to remove the new paving and found that the vineyard owner could use the easement area in any way normally used by owners of real property as long as that use was not inconsistent with the easement, including maintaining vines, water tanks, and other agricultural structures within the easement area. The Court based its decision, in part, upon the circumstances surrounding the grant of easement and its historic use. The Scruby's historically had used only a 15-foot wide area of the easement and admitted that the vineyard uses didn't block that use. The Court stated, "Scruby has *not* been granted the right to exclusive use of each and every square inch of the easement area." 37 Cal.App.4th 697, 816. The vineyard owner in this case could not claim the protection of Civil Code section 811 or prescriptive rights, but the Court of Appeal still upheld the landowner's right to use the portion of the easement area not essential to reasonable use by the easement holder.

The Schellers received the access road for which they bargained and they were content with the road, obstructed by the barn, for over twenty (20) years. Consider the following factual circumstances surrounding the creation of this easement and the parties' conduct since its creation:

1. The access road was in existence at the time the Parcel Map was considered, approved, and recorded and at the time the Schellers purchased the 1700-acre lot from Mrs. King.
2. During this same time period, and for decades prior, the eucalyptus trees still lining the access road were in place and completely visible to the parties. The Schellers have never demanded their removal.
3. During this same time period, the parcel that the Schellers purchased was devoted to grazing and dry farming. The Schellers have not changed that use except to add two (2) residential units to the property. The access road has remained in its same location and has had the same type of use – agricultural with limited residential.
4. During this same time period, the original barn foundation constructed around the turn of the 20th Century, which consists of a slab with raised curb, was in place and completely visible to the parties. The Schellers never demanded its removal.
5. Mrs. King granted a 75-foot wide easement to the Schellers, but it was for several kinds of uses, all of which already were in existence. These included the ingress/egress road, above ground public utilities (on poles), and a water line running from a well site on the King property back to the

Scheller parcel. The fact that all of the uses described in the easement already were in place indicates the parties' intent as to where each of these uses were to occur inside the easement area.

6. The parties' intent is reflected in two agreements executed by Mrs. King and the Schellers as part of the land purchase. One is the "Road Maintenance Agreement," attached to the November 12, 2008 staff report. On Page 1, Paragraph C, the Road Maintenance Agreement recites that "Within said easement, there is presently an asphalt paved road, fifteen feet (15') in width, extensive landscaping and irrigation therefore, which entry road serves both parcels. Although the County had mandated a 20-foot wide road easement, the actual paved surface was only 15 feet wide and the parties were satisfied that this road met their needs. There was then, and continues to be, adequate room to widen the paved road to 20 feet if the County were to so require. The Road Maintenance Agreement further reveals the parties' intent as to the road by stating on Page 1, Paragraph 1, that the parties "as owners of the real property benefited by said roadway and improvements, agree to share equally in the payment of all costs incurred in its operation, management, maintenance and repair thereof, in the good condition the same now is." If the parties had contemplated a 75-foot wide road in the easement area, they would not have been so specific as to the road width and their respective maintenance obligations. So why a 75-foot width? The second agreement, called "Declaration of Water and Well Rights," provides the answer. This agreement, too, is attached to the November 12, 2008 staff report. This agreement describes a water well site granted from King to Scheller that is **75 feet square**. The well site is located entirely within the easement area. If the parties had intended that Scheller be allowed to wide the road to use all of the 75-foot width of the easement, they certainly would not have included a water well within the same area where they intended to place a road.

7. At the time that the easement was created, the King family's own well also was located entirely within the easement area. It remains there today. Does anyone truly believe that the parties intended that a road run through the King family wellsite?

8. Throughout the month-long construction period for the barn and for the next 20 years, the Schellers made no objection to the pole barn and even used hay stored in the barn. It was obvious that the entire barn was located within the easement area and was obstructing a portion of the easement area.

9. For over 20 years, the parties have used the same ingress/egress roadway in the same location without widening it and without Schellers protesting that it should be widened. The barn doesn't obstruct the County-mandated 20 feet of road width, which is all of the ingress/egress width that the Schellers expected to receive. The remainder of the easement area was for the other uses described and the barn doesn't impede those uses.

Creek Erosion Is a Red Herring Raised by Schellers to Cloud the Issue

During the Planning Commission hearing, the Schellers presented a 1 1/2 page letter from Earth Systems Pacific, making some generalizations about the drainage near the barn. The letter is based upon one site visit during a time when no water was running in the drainage. The author didn't even measure the distance from the "top edge of the creek bank" to the barn and notably failed to mention the constricting factor of the huge eucalyptus trees on both sides of the road. Instead, the author referred to "approximate" distances and made vague statements about "a potential" that the roadway's current width may be reduced in the future. The letter fails to mention or acknowledge that bank improvements could stabilize the bank and protect the roadway in the long term.

The Road Maintenance Agreement requires the Schellers and El Encinal to preserve the shared access road. If erosion should threaten the road in the future, they must work together to ensure that the road remains in good condition and repair. If that means stabilizing the drainage bank, that is what they must do.

But Darwin Sainz, a neighboring landowner, and Bill King testified before the Planning Commission that the bank of this drainage has not moved in well over 20 years. The Kings will provide photographic evidence at your hearing that demonstrates that the bank has not moved in at least 40 years.

The eucalyptus trees at the top of the bank obviously are mature. These same trees show up as mature trees on aerial photographs going back to 1977. The 1977 photograph also shows the historic ingress/egress roadway in the same location that it occupies today.

There is no adequate evidence in the record to support the Planning Commission's Finding No. 1.1.3, which concludes that potential future erosion could result in the access road not meeting minimum County standards. More to the point, the County only mandated a 20-foot wide access easement. No one guaranteed the Schellers that the road would not require maintenance and stabilization in order to remain 20 feet wide.

The absurdity of the Schellers' claim of right (and need) for more than a 20-foot wide road is revealed by the constriction of the roadway as it travels through the narrow neck of the Scheller property after leaving El Encinal. Just beyond the cattle guard (which is 20 feet wide) between the two properties, the top of the drainage closes in on the road on the Scheller parcel, sandwiching the accessway between the drainage bank and the a slope that delineates property owned by El Encinal. Even if the Schellers had a wider road where the pole barn is located, the constriction on their own property would prevent the speculative uses that they claim require a wider roadway.

The King Family Constructed the Pole Barn in 1988 in Good Faith, Having Been Assured by County Staff that They Needed No Permit to Do So

El Encinal does not claim estoppel or waiver by the County. Bill King has testified, and again will testify, that he went to the County staff before he built the replacement barn in 1988 and asked whether he needed a permit to do so. County staff assured him that he did not require a permit. He then constructed the barn, in precisely the same location and on the same foundation as the original barn, which was built long before the County had permit authority. This occurred at a time when permitting requirements in agricultural lands were ambiguous because of the repeal of much of Ordinance No. 661. The ordinance remained partially in effect as to El Encinal and other agricultural lands until the County ultimately rezoned lands subject to the Williamson Act, including El Encinal. When the King family built the barn, though, their land hadn't been rezoned and Ordinance No. 661 had been partially gutted.

El Encinal *does* claim estoppel against the Schellers. The Schellers had ample opportunity to object to the barn. Instead, they made a zoning violation complaint 20 years later. They have waived any claim that the barn impairs their easement rights, except as to a 20-foot wide strip of land that remains intact and satisfies the lot split map condition.

Staff granted the Land Use Permit because the pole barn meets all applicable County requirements.

Depicting an easement on a Parcel Map doesn't create or dedicate the easement. Mrs. King created this easement when she granted a private easement by deed, describing many different uses to occur within the easement area. The terms of the 75-foot wide easement are a private matter.

Despite the Schellers' Attempts to Argue for an Easement that Will Allow Future Subdivisions, a Winery, a Tasting Room, and Other Speculative Uses, We Ask the Board to Remain Focused on the Land Use Permit.

If the Board is satisfied that the 20-foot wide access road condition has been met, this is not a County enforcement issue. The lot split map condition was imposed solely to meet the requirements of a 2-lot land division, not future subdivisions and other intensive land uses that the County may or may not allow to occur.

The Schellers can take access across their own home parcel, depicted on the attached map. That parcel lies between Highway 135 and the 1700-acre parcel. The Schellers have no right to increase the burden on the existing easement, but that too is a private, civil matter for the courts to decide. The question is whether your Board is prepared to require that a building that contributes to the success of a productive agricultural enterprise be removed entirely or relocated onto productive cropland, simply because the Schellers now find the building objectionable or because it *might* impede some future, unknown use of the 1700 acres that was not contemplated by Mrs. King and Mr. and Mrs. Scheller when they created the easement.

Conclusion

We request that the Board consider the issue of agricultural viability and the actual parcel map condition language, applied as it would have been *when the lot split map was approved and recorded*. In so doing, the Board can conclude that the map condition is being met with the pole/hay barn in its present location and the Land Use Permit can and should stand. Any other easement issues between the parties should be left for the parties or a court to resolve.

Please grant the El Encinal appeal so the pole/hay barn can stay in service, supporting the King family's farming and ranching business.

Sincerely,



Susan F. Petrovich

Susan Petrovich
Fax # 805-965-4333

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

RE: September 22, 2009, Board Hearing, El Encinal Appeal of Planning
Commission Approval of Scheller Appeal (08LVP - 00000-00024)

Dear Honorable Supervisors:

My wife's family and I, as long time neighbors of the King's, probably know the King Family and their ranch as well as anyone.

In 1953 Mrs. Consuela King allowed Tognazzi Brothers (my wife's family) to fill a portion of said barn with bailed barley hay that was on Tognazzi neighboring property. This was due to an untimely heavy rain. A week later we moved the hay to our barns. I helped on this project and was able to observe the road, barn and the drainage ditch and all is very much the same now as it was then.

From February 15, 1965 to February 15, 1981 I was a Santa Barbara County Planning Commissioner so I have a little knowledge of the County process as I served 3 different Supervisors. I feel the issued land use permit should stand. I can verify that the King family has farmed and ranched this property all my life and my wife's family noted that the King family going back to the Orefia's has been on the ranch well over 100 years.

In 1969 Mr. Evan Pickett of the Santa Barbara Road Department and Representative of Flood Control and me as the 5th District Planning Commissioner made a tour of Highway 135 in the Los Alamos Valley and San Antonio Creek. This was because of flooding and highway damage due to heavy rains that year. One of the places we went with permission was up to Laguna Seca and stopped at the King's barn in question and they found no damage or erosion to that drainage. These gentlemen were amazed at how well that drainage stood up.

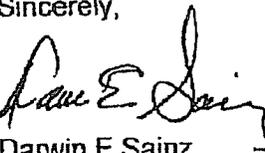
In 1980's flooding again occurred with no apparent damage. Although there have been "experts" testifying that the bank is unstable, the King's had an "expert" indicate that the bank is not highly erosive. I am not an "expert", but can testify that the bank has been stable for 60 plus years.

It is my opinion that this request to remove the barn has to do with possible sale of the Scheller property with the possibility of putting an elaborate gate at the entrance near the barn to enhance the sale. The following are key issues:

- This is a private dispute in which I believe the County should not have been involved
- County Staff issued a Land Use Permit. Let that stand don't go back on your word.
- County Fire and Flood seem to have not problems with the King's request.
- The Schellers received 2 permits for living units (trailers) some years back and nothing was said about erosion or barn removal at that time. Residents traveled the road.
- Historically the Schellers have used the road for 20= years with no complaints.
- It is only with the hope of selling the upper Scheller property that this has come up.
- County Staff supports the original issuance of permit to the King's. Let it stand.

Based on the above outlined facts, please grant the King's Appeal.

Sincerely,



Darwin E Sainz

Rancho San Julian

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Board Hearing Date September 22 2009, El Encinal Appeal of Planning Commission
Approval of Scheller Appeal : (08LUP-00000-00024)

Dear Honorable Supervisors,

This issue coming before the board on Tuesday will be one of the most important votes that Supervisors make this year indicating how seriously the county is determined to support agriculture against the wasteful and time consuming cost thrown at them by developers. The facts of this case speak for themselves, as do the motivations of both owners. Mr. Scheller has been maneuvering for the sale of his ranch at the highest profit possible for the last 10 years....this is well known....the King brothers and their children, most of whom are all working in agriculture, are trying to preserve their ranch. Easement disputes are one of the clearest leading indicators of development. The earlier lot split map required a 20-foot access road....that road exists and the barn does not block it in any way. It is already extraordinary that the county's permitting process has been dragged into what is clearly a legal dispute. Would the Supervisors really want to tear down a barn on an old and historic ranch belonging to an old and historic ranching family in this county because it would be an eyesore on someone's grandiose vision of a sales brochure?

Please uphold the El Encinal appeal.

Sincerely,



Jim Poett



Paul and Tina McEnroe
Rancho La Purisima
2085 Jonata Park Rd.
Buellton, California 93427

September 17, 2009

County Board of Supervisors
105 E. Anapamu St.
Santa Barbara, CA 93101

Re: Board Hearing date Sep. 22, 2009, El Encinal Appeal of Planning Comm.
Approval of Scheller Appeal, (08LUP-00000-00024)

Dear Honorable Supervisors:

I have been a rancher in Santa Barbara County (3rd district) since 1994. I ask that you uphold the El Encinal appeal.

The King family members have spent their entire lives ranching, and still make their living at it. They use the pole barn in question as an important part of their operation. I have reviewed the facts surrounding the Schellers' original complaint and the issuance of the Land Use Permit for what obviously was the replacement of a very old barn that was also an important ag. building. County staff obviously wouldn't have issued this permit if it didn't meet all county requirements.

People talk about agriculture and how important it is to our county. This case is a valid example of how the county can get out of the way of operating family agriculturalists, namely the King family. If two neighbors have a dispute, the county should stay out of it. The county's only concern in this issue is whether the lot split map conditions have been met. Those conditions included a 20 foot wide road to the Scheller parcel. The Schellers have more than 20 feet of available road width. If they need more for some future land use change, that's not a county issue. That should be left for the two neighbors to work out.

Please support the King family (El Encinal) appeal.

Sincerely,



Paul Mc Enroe

Sharon and Richard Kline
Rancho San Lorenzo
P.O. Box 828
Los Alamos, CA 93440

September 17, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

**Re: Board Hearing Date September 22, 2009, El Encinal Appeal of Planning
Commission Approval of Scheller Appeal, (08LUP-00000-00024)**

Dear Honorable Supervisors:

My husband and I have owned Rancho San Lorenzo, the property that borders the pole barn and entrance road to the King family for more than twenty years. We are the only neighbors who have visual access to the portion of the King property that has been challenged by Carson Scheller.

A pole barn has been located along side the entrance road to the back of the Scheller property since we purchased our property in the late 1980s. In fact, I have seen photographs from the early 1900s of a similar structure in that location. For two decades, the Scheller family has passed by this structure without comment, using the surface easement to access the rear portion of their property.

Several years ago after Ed Scheller passed away, son Carson Scheller decided to sell the ranch. He arbitrarily stated in real estate advertisements that the property could be divided into multiple parcels to enhance inflate the selling price without approval from the County or consultations with neighbors. Based on this presumption, he began to dispute access to the rear portion of his property.

This is a private easement dispute and County should not take sides. Carson Scheller is attempting to influence land use issues to justify his point of view. The barn meets all County setbacks and other requirements. A Land Use Permit (LUP) has been issued by the county. Further, the barn serves a legitimate agricultural purpose critical to the operation of the King family cattle operations for a century.

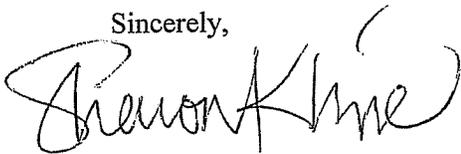
Generations of the King family have lived on the property and will continue their farming operation into the future. The Schellers, on the other hand, are eager to sell their property at great profit and move on—despite repercussions to neighbors and the established way-of-life in Los Alamos.

The Schellers have raised numerous other irrelevant issues to justify their attempt to grab additional land from the King to widen the surface easement. Tree encroachment, erosion of the creek bed, commercial access to the back of the ranch—these arguments and more have originated solely because the Schellers wish to make a profit at the expense of their neighbors.

True farmers have to watch every penny to make an adequate living and cannot afford to rebuild serviceable structures. The pole barn is attractive (remember—we are the only neighbors who actually see it) as well as useful. It provides essential storage for hay, equipment and supplies. It is simply not fair to ask the Kings to remove a legal agricultural structure to satisfy a spurious request from people who are causing dissention to make a profit.

I urge you to not take sides in this issue and allow the LUP issued for the pole barn to remain in place. The King family should not be punished because a neighbor decides to use the County Board of Supervisors to prop up his unreasonable requests.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Kline". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Sharon Kline
Owner, Rancho San Lorenzo

*Almar Ranch
P.O. Box 593
Santa Maria, CA 93456*

September 17, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Board Hearing Date September 22, 2009, El Encinal Appeal of Planning
Commission Approval of Scheller Appeal, (08LUP-00000-00024)

Dear Honorable Supervisors:

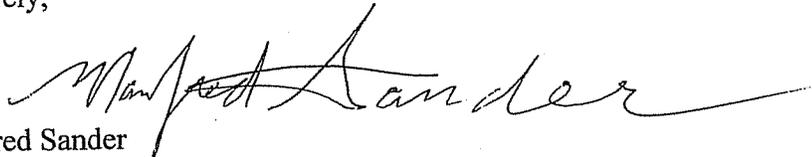
My friend for many years, Bill King told me about his troubles with Carson Scheller over an easement to land, south of the King property. The County has become involved! The 75 foot easement for a ranch road, water lines and a water well seemed to be adequate for 20 years. Now that Schellers are planning a multi-lot subdivision on their property this problem over a pre-existing barn site has cropped up.

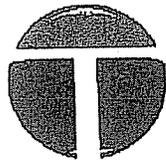
I understand from Bill that they have bent over backward to work with Carson on this matter, but he seems to be vindictive on this problem. He keeps re-setting the goal posts!

My wife and I are friends of both families and hope they can solve this problem! I feel that the County Planning Commission has over stepped their reason for getting the taxpayers involved in this personal dispute!

The King family and said ranch have been in operation for over 100 years. I hope they will be able to keep their land in agriculture instead of subdividing too.

Sincerely,


Manfred Sander



T. HAYER
REALTY, INC.

Lon E. Fletcher, Broker
W. "T" Hayer, Broker Associate

805-688-9300 Office
805-688-7600 Fax

Jennifer Nation, Realtor Associate
Dale Hampton, Corporate Officer

September 17, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu St
Santa Barbara, Ca 93101

Re: Board Hearing Sept. 22, 2009,
El Encinal Appeal of Planning Commission Approval
of Scheller Appeal (08LUP-00000-00024)

Dear Honorable Supervisors,

County Government and members of the community often speak about preserving Agriculture in Santa Barbara County. This appeal is an excellent example of how the Board can accomplish that goal.

The Williamson Act Uniform Rules are an excellent pattern to use in this appeal. If the barn is moved, agricultural ground would be wasted.

In this matter the County should not be involved in a neighbor to neighbor matter. This matter belongs in arbitration.

Sincerely,

Lon E. Fletcher
Broker
T. Hayer & Associates

September 16, 2009

Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Board Hearing Date September 22, 2009, El Encinal Appeal of Planning Commission
Approval of Scheller Appeal, (08LUP-00000-00024).

Dear Honorable Supervisors,

My name is Chuck King. I am seventy one years old. My brother, Bill, and his family are current owners of El Encinal Ranch. Even though I no longer have an ownership interest in the ranch, it is where I was raised and lived for many years. I could not have been more surprised when I was told that the Planning Commission, on a 3-2 vote, had granted Scheller's appeal of the County's issuance of a Land Use Permit for the existing pole barn on El Encinal Ranch.

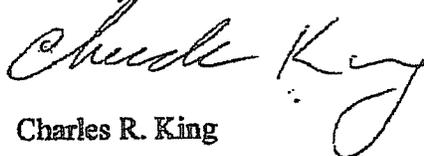
Ever since I can remember there has been a barn in the same location as the existing pole barn. The one that was there all of my life, until it was damaged in a storm in the early eighties, was a fully enclosed wooden barn which was used for the storage of supplies and equipment. A few years later the current pole barn was constructed using the same concrete foundation and floor as the previous barn, and has been used for hay storage ever since. One other thing that I remember being told by my grandmother and her ranch foreman when I was growing up there, was that the same concrete area that is now the floor of the pole barn, and was the floor of the wooden barn, had previously been utilized as a hog feeding area. So I guess if Bill is required to remove the pole barn structure, he can use the concrete flooring for a hog feedlot.

Everything else in the area is pretty much the same as it has been all of my life; the creek is in the same place, the eucalyptus trees are the same and the road which Scheller uses for access is where it has always been.

As I have been telling anybody who would listen, I think this whole thing is ridiculous. I hope and trust that you will study this situation closely and reach the same conclusion and grant my brother and his family their appeal and put an end to this nonsense.

Thank you for your consideration in this matter.

Sincerely,



Charles R. King

Branquinho
PO Box 8
Los Alamos, Ca 93440
Phone 805-344-4565 Fax 805-344-2532

September 16, 2009

Dear Santa Barbara County Board of Supervisors,

We are long time ranchers and farmers in Santa Barbara County, our operation runs from the Santa Ynez Valley to the Santa Maria Valley.

We have known the King family since we were kids, our parents were friends and neighbors, as we continue to be with the King family. We ask that you up hold the King family appeal for the pole bar.

The Kings have been in the agricultural industry for many generations; they know good ranching and farming practices and have always run their operation this way. We do not understand why the County is spending so much time and money on the King Pole Barn. The barn is a necessary tool for their operation, we do not see why they should have to go to the expense of tearing the barn down and building a new one when there is no reason to.

Our letter is short, but our feelings are strong, ranching and farming is tough enough right now without a family having to deal with a barn issue that should never have come up.

Sincerely,
John and Brandy Branquinho
Branquinho Farming and Ranching LLC

John Branquinho
Brandy Branquinho

JAMES B. RICKARD
SANTA BARBARA, CA

September 15, 2009

County of Santa Barbara
Board of Supervisors
105 E. Anapamu St.
Santa Barbara, CA. 93101

Re: Board Hearing-Sept 22, 2009
El Encinal Appeal Planning
Commission approval of
Scheller Appeal
(08LUP-00000-00024)

Dear Honorable Supervisors,

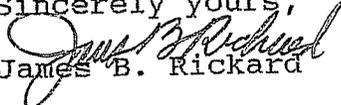
I am very familiar with the Barn in question because El Encinal Ranch belonged to my Grandmother, Acacia Orena Rickard and I have spent a great deal of time on the Ranch as a young man.

When this issue came up, Cousin William King went to the County to do the right thing and comply with the rules and regulations relative to the structure. It is my understanding that the Planning Department issued a Land Use Permit because the structure complies with County ordinances and that all County Departments reviewing the permit were in support of the issuance of the permit.

It appears to me that a great deal of time has been and is still being wasted here.

Now Honorable Board it is your turn to do the right thing and please uphold the King Family - El Encinal Appeal.

Sincerely yours,


James B. Rickard

Willy Chamberlin
P. O. Box 356
Santa Ynez, CA 93463
805 688-6341

September 16, 2009

The Honorable Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Re: September 22, 2009, Board Hearing, El Encinal Appeal of Planning Commission Approval of Scheller Appeal of a Land Use Permit previously issued by Santa Barbara County (08LUP-00000-00024).

Dear Board Members:

I am a second generation cattleman in Santa Barbara County, and a former County Supervisor. I have had a life long interest in planning issues, most particularly in the interface of urban, rural and small lot agricultural development with the established larger agricultural parcels used for commercial agricultural production. To this end I served on LAFCO, initially as the public member and then as a representative of the County Board of Supervisors.

I am both disappointed and appalled that Carson Scheller, representing the Scheller family, would appeal a Land Use Permit issued by the County of Santa Barbara in 2008 to the Bill King family (Rancho El Encinal) to build a new hay barn on an existing cement slab foundation to replace a barn that was damaged by a storm in 1983. Bill King was informed by a representative of the County's Planning Department in 1988 that no permits were required to rebuild that barn prior to rebuilding later that year. I sat dumbfounded through the County's Planning Commission Hearing as the Planning Commission upheld the Scheller appeal earlier this year.

I strongly urge and recommend that your Board grant the appeal by Rancho El Encinal (the Bill King Family), thereby over turning the appeal granted to Scheller by the County Planning Commission, which negated the LUP granted to El Encinal by the County to formally recognize the 1988 replacement of an agricultural barn originally built in the early 1900's that was damaged by a storm in 1983 (a record storm year in Santa Barbara County).

It is very common for neighbors to grant an easement for ingress, egress, varying utility needs and appropriate drainage. Consuelo King (Bill's mother) did just that when she sold the back portion of her ranch in 1986 to the Scheller family, represented by Carson's father, and included a seventy-five (75) feet easement for multiple purposes, including the use of her primary ranch driveway through the remainder of her ranchland. The only reason for granting an easement of 75 feet was to allow the various needs of the Scheller interests to be met utilizing routes to be designed that would have minimal, if any, impact on the remaining King Family agricultural holdings.

The needs of Scheller, as stipulated by various County Departments, are and can continued to be met with the agricultural barn in its existing location. The division of property when granted by the County may have indeed included a stipulation for access, which was granted and is in existence today. However that stipulation cannot possibly include exclusive right to the full 75 feet, but only to the fact that the stipulated needs of Scheller must be met within that 75 foot easement. The barn cement floor slab and the trees were in existence at the time of the land transaction. The barn cement floor slab and the subsequent construction of the barn upon that slab have never created a barrier from the time of acquisition until now, and do not create a barrier for Mr. Scheller's needs at this time.

It is apparent that future erosion in the adjacent creek was considered at the time of the creation of the easement, as a solution was identified should that ever happen. No additional width involving the existing trees and barn cement floor slab for roadway purposes was identified at that time. The next logical step if more roadway width is needed would be for Mr. Scheller to gain permission to remove the trees, as they are a greater barrier to increasing the roadway width for vehicular travel than is the barn.

I believe that the needs that are addressed within the easement are and have been met with the barn cement floor slab and replacement barn in place. A County permit for this barn should not be held hostage to the pleasures of Mr. Scheller, while the space within the easement is satisfactory to meet all conditions placed on Mr. Scheller by the division of land.

Upholding the Scheller appeal is not logical from an agricultural land use point of view, and will only serve to continue to erode the economy of agricultural operations in favor of rural development.

Please grant the appeal by El Encinal (Bill King Family) of the Planning Commission approval of the Scheller Appeal of a Land Use Permit previously issued by Santa Barbara County (08LUP-00000-00024).

Thank you for your consideration,



Willy Chamberlain

CARRARI RANCHO ALAMO
4300 Highway 135
LOS Alamos, California 93440

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, California 93101

Re: Board Hearing Date September 22, 2009, El Encinal Appeal
of Planning Commission Approval of Scheller Appeal,
(08LUP-00000-00024)

Dear Honorable Supervisors:

I have been a farmer and rancher for the past thirty-five years in Santa Barbara County. My agricultural operations primarily are located in the Third and Fourth Districts. I support the El Encinal appeal.

Farming and ranching is a tough way to make a living. The King family is an ideal example of agriculturalists who care about the land, their livestock, and long-term viable agriculture. They are active in the local agricultural support organizations. They are widely liked and respected. These are people who take pride in their operation and their word is their bond. Anything that your Board can do to help them stay in agriculture will be a credit to you and to the County that you represent.

When I heard about this pole barn dispute, I couldn't believe my ears. A neighbor watches a barn being built, even borrows hay out of it, then 20 years later files a compliant with the County because the barn has no Land Use Permit? When the staff issues a Land Use

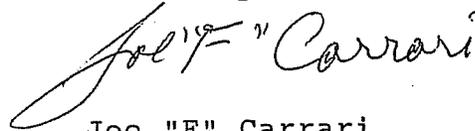
Permit because the barn completely complies with County ordinances, that was a pretty good indication that the County's involvement should have been over. I am completely puzzled as to why the Planning Commission voted to deny the Land Use Permit after it had been issued.

If the barn violated any County ordinance or a condition earlier imposed on the property, maybe I could understand this. But that isn't the case here. I understand that all County departments support the staff's original issuance of the permit. I also understand that an earlier lot split map condition required a 20-foot wide access road, and that the road exists and is unimpeded by the barn. I also understand that there are trees lining this road pre-date the lot split map and are located closer to the 20-foot wide road area than the barn. Unless there was a map condition that required those trees to be removed, they could stand there for another 100 years. I understand that there is no such condition. So what does removing this barn accomplish other than a punitive action against the King family for relying upon County staff having told them 20 years ago that they didn't need a permit for a pole barn?

This entire thing seems to be absurd to me. Please uphold the El Encinal appeal.

Thanking you in advance for your resolution in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Joe 'F' Carrari". The signature is written in dark ink and is positioned above the printed name.

Joe "F" Carrari

Dale Hampton Farming Co., Inc.

September 17, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu St
Santa Barbara, Ca 93101

Re: Board Hearing Sept. 22, 2009,
El Encinal Appeal of Planning Commission Approval
of Scheller Appeal (08LUP-00000-00024)

Dear Honorable Supervisors,

I am a long-time farmer in Santa Barbara County. My agricultural operations primarily are located in the 4th District. The purpose of this letter is to express my strong conviction that you uphold the El Encinal appeal.

I have known the King family for many years. They are life-long farmers and ranchers and I know them to be good stewards of their land. The King family are highly respected agriculturalists in our community. Why a barn that has been in this location for over 20 years has suddenly become an issue is frankly beyond me. If the truth be known, why there is suddenly opposition by a neighbor to a barn being on a location that has housed a barn since the early 1900's is very hard for me to grasp.

This barn does not appear to be in violation of any County ordinance. This appears to be a matter of a neighbor to neighbor dispute to which the County should not insert itself. Removal of this barn would most certainly do great harm to the King family ranching operation and be of no benefit what-so-ever to the neighbor. County staff, 20 years ago, made a decision and told the King family that they did not need a permit to replace their damaged barn, that is the decision that the County should stand behind today.

I respectfully request that you grant the appeal, and keep this matter in the proper prospective. It is my solid belief that this is not something the County should be in the middle of. There are, in fact, more appropriate avenues through which this neighbor can pursue his interests should he so desire.

Respectfully Submitted,



Dale Hampton

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Board Hearing Date September 22, 2009, El Encinal Appeal of Planning Commission
Approval of Scheller Appeal, (08LUP-00000-00024)

Dear Honorable Supervisors:

The King family, El Encinal Ranch, is involved in an easement dispute with a neighbor who was granted rights to use the King's driveway over twenty years ago when Consuelo King sold the back of her ranch to her next door neighbors. The King's erected a pole barn on an existing concrete pad which had supported another barn for over eighty years. Now, over twenty years since the building of the new barn, the easement holder wants the barn removed.

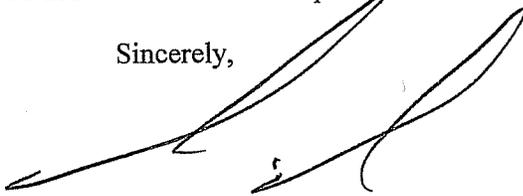
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Sincerely,



PAUL van Leer
Las Viras Ranch

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Board Hearing Date September 22, 2009, El Encinal Appeal of Planning Commission
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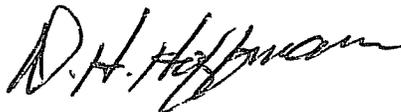
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Sincerely,



September 15, 2009

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105 East Anapamu Street
Santa Barbara, CA 93101

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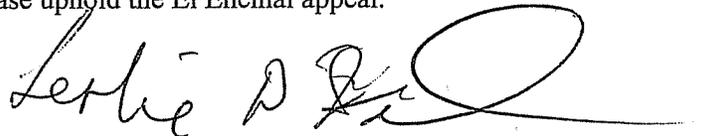
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Sincerely,



FREEMAN Ranch

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

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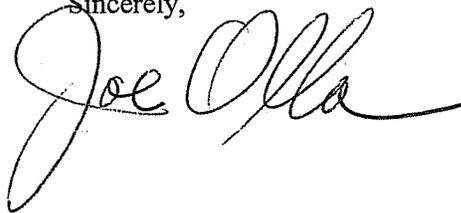
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Sincerely,

A handwritten signature in black ink that reads "Joe Olla". The signature is fluid and cursive, with a long horizontal stroke at the end.

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

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Sincerely,

Thomas O. Rickard
Rancho Rinconada, Camp 1

September 15, 2009

County of Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

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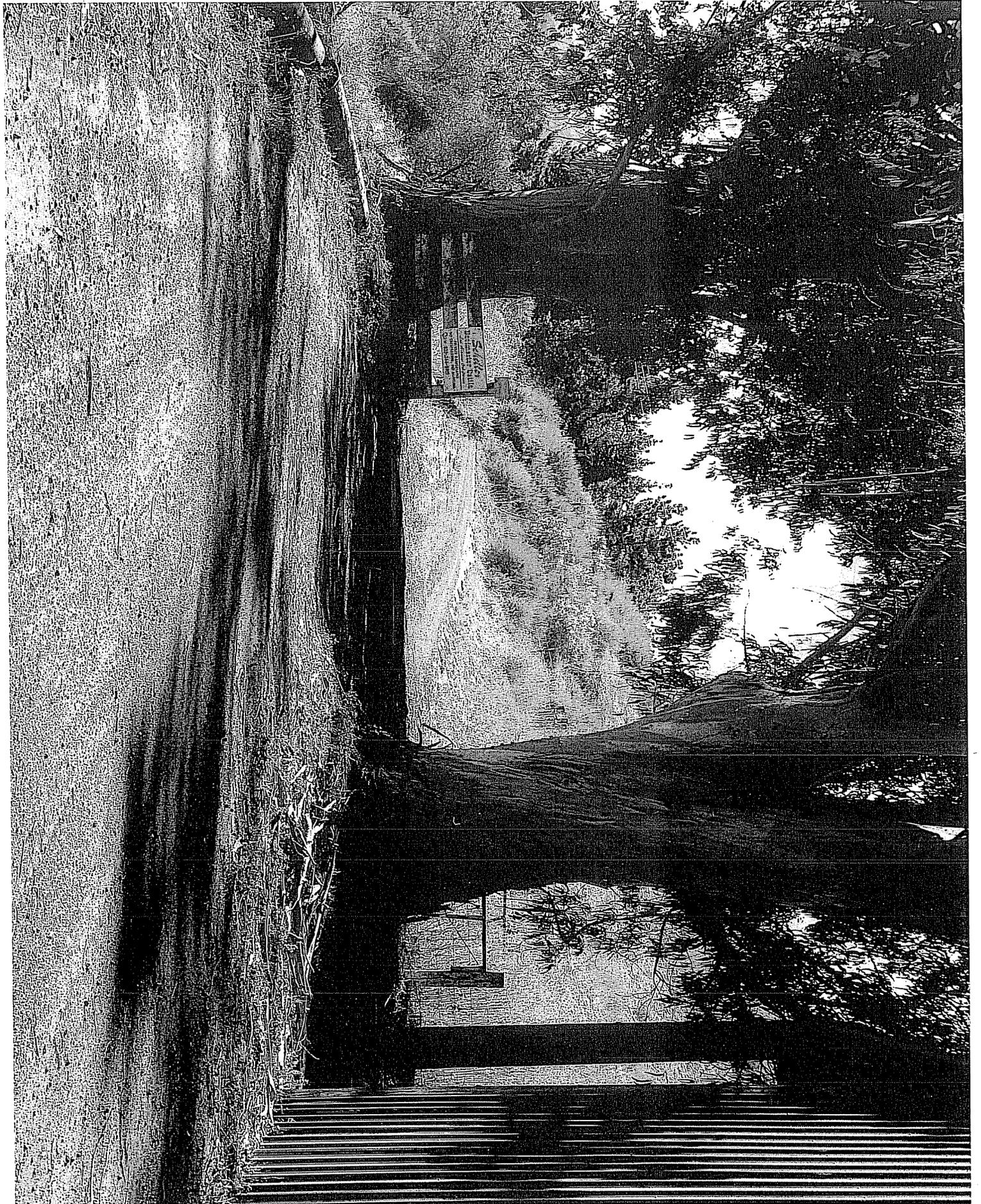
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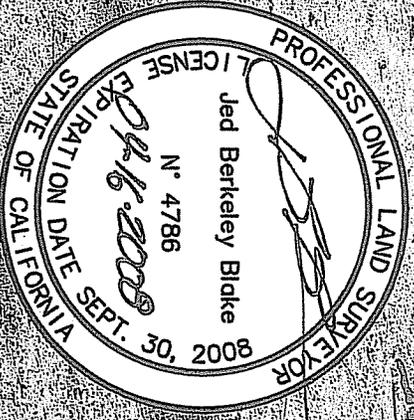
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Sincerely,





KING FAMILY POLE BARN



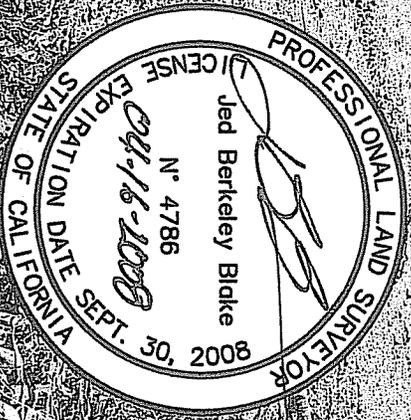
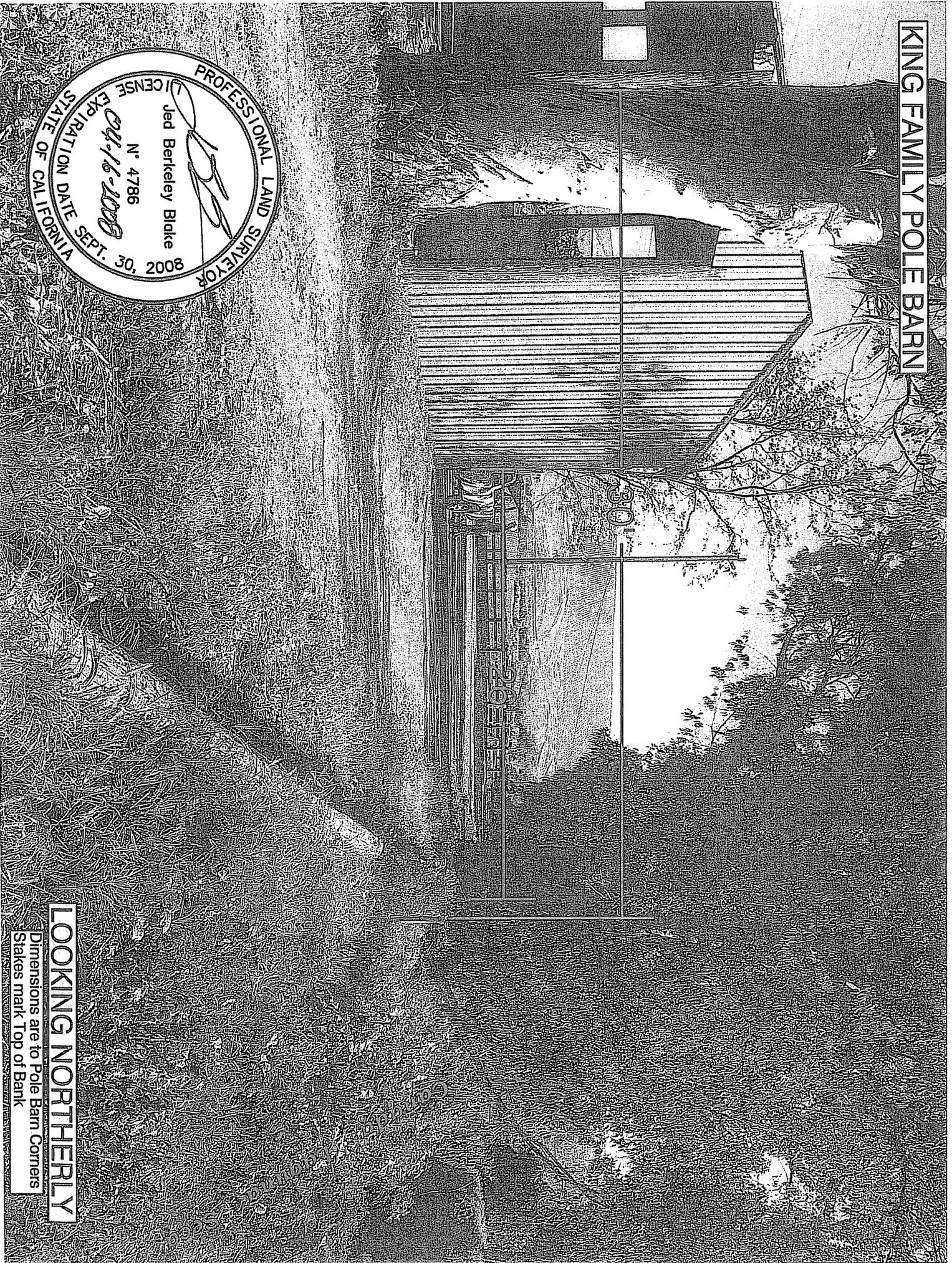
26'

30'

LOOKING SOUTHERLY

Dimensions are to Top of Bank Stakes

KING FAMILY POLE BARN



LOOKING NORTHERLY

Dimensions are to Pole Barn Corners
Stakes mark Top of Bank

