

“Pillah” Talk[©]

with J. William Yeates

An ongoing series of interview with pillars in the legal community

By: Joe Marman

Bill Yeates' practice focuses on environmental and land use consultation and litigation involving CEQA (California Environmental Quality Act), NEPA (National Environmental Policy Act), and other land use and environmental laws. He advises state and local governments and environmental organization on environmental law and policy. He is the author of the Community Guide to the California Environmental Quality Act.

Q. Can you briefly describe what you have been doing in your practice in the last decade?

A. Well, I began my career as a California Coastal Commission lobbyist when I came out of law school in 1978. The California's coastal land use program was approved in 1972 by the voters mainly in response to the big Santa Barbara oil spill, Sonoma County's approval of the Sea Ranch development plan, which prevented public access to 11 miles of California coast, and another big development project in Dana Point. The California Legislature approved the 1976 Coastal Act. The Coastal Act is unusual because it is one of the few laws where state law takes precedence over the local land use laws.

In 1984 I went on my own as a lobbyist for environmental and sport and commercial fishing organizations.

Q. Considering your current occupation as a protector of wildlife, that may seem inconsistent to promote commercial fishing.

A. Well, my clients were salmon trollers who used trolling lines, which are very “selective” and have little waste product as far as fishing goes. These fishermen also taxed themselves through salmon stamp fees, which provides funds

to the Department of Fish and Game for salmon restoration. The ocean salmon fishery is regulated by a regional federal management council under the Magnuson-Stevens Fishery Conservation and Management Act. When I was at the Coastal Commission, I had worked with the salmon trollers in opposing off-shore oil drilling along California's near shore waters.

In 1987, I hired Mike Remy with Remy & Thomas to represent a coalition of organizations opposed to the trophy hunting of mountain lions. Years before, Governor Reagan had signed into law a moratorium that prevented the hunting of mountain lions. Unfortunately, in 1985 Governor Deukmejian vetoed an extension of this hunting moratorium. In 1987, the Fish and Game Commission proposed a hunting season, and my group, known as the Mountain Lion Coalition filed a lawsuit challenging the Fish and Game Commission decision for failing to comply with the California Environmental Quality Act, (CEQA). We were successful and stopped the proposed hunting season.

Later I helped draft Proposition 117, which was called the California Wildlife Protection Act. Volunteers gathered signatures for this initiative measure and it was put on the ballot and passed in 1990. The law prohibits the trophy hunting of mountain lions and provides for \$900 million over 30 years to preserve wildlife habitat.

Q. Do you have any life's heroes?

A. Well, I learned a lot from Mike Remy, who passed away three to four years ago, when I joined Remy & Thomas in 1990. He converted me from being a lobbyist to a litigator. Also, my former boss, Peter Douglas, when I was at the



J. WILLIAM YEATES

Coastal Commission was an important mentor and role model.

Q. How long have you been in your current practice?

A. Since 1994, I have been a sole practitioner, but expanding to include my associates Keith Wagner and Jason Flanders. In November, I will be forming a new partnership with Charity Kenyon. Charity is a well-recognized appellate and 1st Amendment lawyer. Her clients include the Sac Bee, McClatchy, and other newspapers and TV stations. She is looking forward to expanding her practice to include environmental issues, and I am looking forward to working with someone with her wealth of appellate experience.

Q. Do you have any recent cases that were interesting?

A. We just won a case against the City of Rancho Cordova, on behalf of our client, the California Native Plant Society, because the city did not adequately mitigate the loss of habitat and allowed city growth in improper locations.

We are also representing the Sierra Club and Sierra Foothills Audubon Society in a lawsuit challenging Placer County's approval of the Placer Vineyards project in western Placer County for failing to protect irreplaceable grassland and vernal pool habitat. We are also challenging the City of Rocklin's approval of residential development with Clover

Continued on page 8

“Pillah” Talk

Continued from page 7

Valley on behalf of the Clover Valley Foundation and Sierra Club.

In the Placer Vineyard case, the County of Sutter also filed a separate action against Placer County. The Town of Loomis filed a separate action against the City of Rocklin in the Clover Valley case. Both cases involve the adverse consequences of growth loss of open space and valuable native plant and wildlife habitat and traffic congestion.

We just had a recent victory on appeal in Tuolumne County Citizens for Responsible Growth v. the City of Sonora. In this case the City of Sonora attempted to piecemeal or segment a Lowe’s Home Improvement store. Rather than look at the entire project the city tried to chop it up into smaller pieces to avoid environmental review.

Another interesting case has been the Protect The Historic Amador Waterways v. Amador Water Agency case. This case involves a 140 year-old water canal that dates back to the California’s hal- lowed gold rush period. The water agency wanted to change its water delivery route from the leaking canal to a pipeline.

My client wanted to preserve the historic canal and the Jackson Creek watershed that had come to depend upon the leaks from the canal. We prevailed on appeal, and then my clients settled with the water agency. All parties are now working with the new Sierra Nevada Conservancy and other partners to look at ways to enhance and restore the Jackson Creek watershed while preserv- ing the canal to deliver water that serves the natural resources in the watershed. Hopefully, one of those win-win cases in the end.

A few years ago we represented the Sierra Club, Sierra Foothills Audubon Society, and California Oak Foundation challenging Placer County’s approval of a large residential development at what was Bickford Ranch. In this case the Town of

Loomis filed a separate action, too.

We prevailed at trial, but the County and developer appealed. It looked like we were headed toward years of protracted litigation, but fortunately my clients and the developer reached an accommodation regarding the protection of oak woodland habitat. The developer agreed to provide a fund of \$6 million dollars for local land trusts to acquire oak woodland habitat to offset the losses at Bickford Ranch.

We got a very unusual settlement in a recent case, where we represented environmental groups against the City of Roseville over the city’s approval of the West Roseville Specific Plan, which authorized the development of over 5,000 homes on native grassland and vernal pool habitat. In this case the developer was very motivated to settle and urged us to go into mediation. So we did. My clients were able to get several million dollars for the acquisition of grassland and vernal pool habitat, but, in addition, all future sales of the homes within the West Roseville Specific Plan Area will have a percentage of the selling price go to local land trusts for additional acquisition or the maintenance and operation of existing habitat areas.

Q. Do you think there should be changes made to the laws that impact the areas of law practice that you would like to comment on?

A. Yes. I think our land use laws need to encourage development that reduces vehicle miles traveled, so we can reduce the generation of greenhouse gases. Over 40% of California’s greenhouses gases are generated by the transportation sector of our economy. AB 32, authored by Assembly Speaker Fabian Nunez and Assembly Member Fran Pavley and signed into law by Governor Schwarzenegger requires the California Air Resources Board to regulate greenhouse gasses in order to reduce our generation of greenhouse gases to 1990 levels. Every Californian and especially future generations has a stake in the implementation of this law. One way to reduce green-

house gases and our dependence on oil is to promote land use development plans that discourage sprawl and encourage infill. If Californians have more efficient and safe transportation options that get us out of our cars, we can substantially reduce greenhouse gas emissions.

The Sacramento Area Council of Governments (SACOG) prepared a “Blueprint” whereby the counties of Placer, Sutter, Sacramento and Yolo agreed on the plan to recommend a more dense growth plan, which would reduce unnecessary traffic and preserve habitat. Senator Darrel Steinberg is currently authoring SB 375, which encourages cities and counties to implement these “blueprint plans” for better transporta- tion, more compact development plans, and protection of our agricultural and natural lands.

Q. Do you generally have juries decide your cases?

A. We generally bring our cases by seeking a Writ of Mandate in either an administrative mandamus or traditional mandamus proceeding. On behalf of our clients we challenge a governmental agency’s decision or for failure to act. There is a confined administrative record that includes all the information and evi- dence that was before the public agency, so there is no discovery. Cases are gener- ally decided on the briefs.

Q. Do you have any opinion on how Bush has been changing the environmental laws over the time he has been in office?

A. I think Bush Administration’s polices on environmental policy show that the federal government is just out of touch with the rest of American society. The lack of leadership on global warming is typical.

Here in California and many other states, the elected leaders, like Governor Schwarzenegger, have simply taken the lead and filled the leadership void created by the Bush Administration.