

# Siskiyou County



# Sheriff's Department

JON LOPEY  
Sheriff

June 24, 2011

RECEIVED

Mr. John McCamman, Director  
Department of Fish and Game  
1416 9<sup>th</sup> Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

*Neil  
Tour G.  
Swanwick*

JUL 18 2011

DFG  
DIRECTOR'S OFFICE

Dear Director McCamman:

The purpose of this letter is to thank you for your recent correspondence, which summarized the issues discussed during a meeting I recently attended at KSYC Radio. I also wanted to take this opportunity to reaffirm my legal right and obligation, pursuant to federal and state law to coordinate with the California Department and Fish and Game (DFG), all programs, activities, or projects conducted within Siskiyou County which impact law enforcement, the economy, or social programs. I appreciate your willingness to discuss the DFG Watershed-wide Permitting Programs during the meeting and thank you for taking the time to listen to the views of those present at the meeting. As I related to you during the meeting, I strongly believe that the programs initiated by DFG, while intended to enhance the environment and help fish habitat, can be potentially detrimental to public health and safety. Since my primary goal is the delivery of effective public safety programs within the county, state and federal programs which potentially impact the social, economic, health, safety, traditions, and legal viability of the county at-large is a major concern.

As you will recall, I attended a meeting with local and regional DFG officials about six weeks prior to our latest session. During this meeting, Mr. Manji and Chief Carion seemed to concur with recommendations that I offered to assist the DFG with accomplishing their immediate goals (e.g., organize and attend a town hall meeting to educate the public about the efficacy and legitimacy of DFG programs; I suggested that advisories to private land owners be made prior to DFG entry onto private property if possible and/or notifications be made if stream or water flow alterations were initiated by the DFG, and, I asked that I be notified in the event that the permit process was re-initiated within Siskiyou County so that I was aware of your operations, especially in light of some adverse comments I had received from county residents pertaining to allegations of discourtesy and coercion, etc.)

I also advised the DFG authorities present that I had concerns about the constitutionality and legality of the tactics and strategies used to enforce the provisions of the programs you sought to impose on Scott

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Valley residents pursuant to the DFG Watershed-Wide Permitting Programs (e.g., Incidental Take Permit, Sections 1600, 1602 enforcement, etc.).

These same concerns were also voiced by Siskiyou County District Attorney, Kirk Andrus. While I know that the regional and local DFG officials of whom I have the highest regard, are enforcing policies promulgated at higher Headquarters, there have been policies and programs initiated in the past without proper coordination with local officials required by federal and state law. Unfortunately, a follow-up meeting was not scheduled, even after I contacted Lieutenant Harris to determine when another meeting would be conducted. I was advised that the DFG was formulating some new policies and a meeting could not be conducted at that time. Evidently, this declination to meet was not made by Lieutenant Harris but by a superior at a higher level. I would also like to make the point that I have never received anything but excellent support from the local office of the DFG, its leaders and wardens.

After discussing water use issues with Scott Valley residents and listening to views of many Siskiyou County farmers, ranchers and citizens in Scott Valley and other parts of the county, and after observing the devastating economic loss sustained by Siskiyou County for many years due to the decline in tax revenues arising from years of federal and state policies and programs which have favored the protection of the natural environment over the interests of Siskiyou County citizens (human environment) I have formulated the opinion that if this trend continues, I will be incapable of providing even rudimentary public safety services to the citizens we serve, since even minor economic impacts to small businesses, farming, recreation, mining and other elements of the agricultural industry will spell economic ruin for Siskiyou County. As you may be aware, most of our citizens derive their livelihoods from these enterprises and agencies like mine survive on the tax revenues generated by property ownership and employment. Most of our citizenry has told me that their government cares more about frogs, fish and birds than they do about people.

Due to steep economic declines and loss of jobs, many in the timber, mining and other outdoor industries, sharp declines in tax revenues have resulted in deep cuts to law enforcement. The Siskiyou County Sheriff's Office, which is primarily a general fund department, has lost 27 deputy and correctional officer positions in recent years, and I was recently forced to freeze two lieutenant and two deputy positions for at least one year. Other positions have also been frozen for three years (undersheriff, several professional staff, etc.).

In my opinion, federal and state laws related to proper coordination with local officials have not been consistently observed and thus far, actions of the DFG has not demonstrated a sincere and concerted effort to comply with proper coordination and the consistency required between state programs and

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policies and local preferences, needs and concerns. Again, when there is an imbalance between protections implemented to protect the natural environment and the human environment, the applicable federal and state laws are not being followed. Since the DFG receives federal funding for some of its programs, compliance with federal and state laws are applicable when planning and implementing programs and policies which impact Siskiyou County.

Traditionally, Siskiyou County residents have survived and supported themselves and their families and communities directly or indirectly around the primary economic activities of land and natural resource development (e.g., ranching, farming, timber harvesting, mineral recovery, tourism and recreation). Obviously, the use of our water resources plays a vital role in these activities, along with other domestic and commercial usages. Access to lands and resources within Siskiyou County are vital to the county's survival – now and in the future.

Since the timber industry was nearly destroyed by what most Siskiyou County residents would characterize as questionable environmental strategies and tactics at the expense of the “human environment” within this county, the top economic industry in Siskiyou County is farming and ranching, which, by most estimates, is being severely threatened by DFG policies and programs. My assessment since taking office on January 3, 2011, is that these programs are being implemented and tied to other potentially disastrous projects (e.g., Klamath Basin Restoration Agreement, Klamath Hydroelectric Settlement Agreement, mining prohibitions, decline in fish planting, endangered species status of Coho salmon, etc.) without full compliance with the law.

In other words, I see no evidence that proper coordination and “consistency” has been initiated or achieved pursuant to federal and state law. The implementation of overly-protective environmental policies at the expense of people and jobs have adversely impacted wages and tax revenues by over-regulating mining, logging, fishing, and grazing. Again, these policies adversely impact public safety and compliance with constitutional provisions (e.g., 10<sup>th</sup> And 14<sup>th</sup> Constitutional Amendments) and other laws is questionable. The listing of the Coho Salmon as an endangered species, practices such as the elimination of hundreds of Northern California lakes from fish planting, and support for the Klamath Basin Restoration Project even though this project was voted down by county residents by a margin of nearly 80% opposed to 20% in favor of the plan, without proper coordination or required consistency has served to adversely impact the economic vitality of this county and has severely injured public safety and other vital services badly needed by a county besieged with one of the highest unemployment, child abuse, substance abuse and elder abuse rates in the State of California.

My observations of these practices since I assumed office have been interesting and at the same time alarming. For example, the National Environmental Policy Act (NEPA) defines the environment as

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“human” and “natural.” Federal and state laws require that Environmental Impact Statements include detailed studies as to the impact programs have on the local community and the safety of citizens. As you may be aware, the Council on Environmental Quality (CEQ) issued regulations which implement NEPA. Part of the regulations state that there should be no confusion that the impact on man’s environment is a valuable and critical element in every NEPA document. Coordination is required between federal and state officials. As you know, the wants, needs and objectives of federal and state agencies must be balanced with the wants, needs, desires and objectives of local citizens and local officials and “consistency” must be achieved to comply with the law.

Other state laws such as the California Administrative Code, numerous federal and state court decisions and Executive Orders affirm the requirement for coordination and reaffirm the rights of states, counties and local officials and the citizens we serve. These provisions of law also reaffirm a fundamental constitutional right – that of private property ownership and freedom of access to public lands.

In closing, thank you once again for your letter and your expression of support for me and other local Siskiyou County officials and the citizens we serve. I assert my legal standing and I am formally asserting my right to coordinate with the California Department of Fish and Game (CDFG) and all other federal and state agencies, pursuant to federal and state law (e.g., Title 7 of the Government Code of California entities, Planning and Land Use, Sections 65300.7 and 65300.9; and the California Environmental Quality Act; and 43 USCA 1701-84, Federal Land Policy and Management Act of 1976; and 16 USCA 1600 National Forest Management Act of 1976).

These sections required that state and federal governmental agencies coordinate with local agencies such as the Siskiyou County Sheriff’s Office. Since I have a vested interest and sacred trust to safeguard the citizens of this county and your decisions directly impact public health and safety, I assert my right and obligation to coordinate with the DFG prior to the implementation of any project, program, regulatory proceedings, or joint venture which impacts the economic, social, health, safety or welfare of Siskiyou County residents. This coordination requirement is also consistent with the Siskiyou County Comprehensive Land & Resource Management Plan (February 1996).

I look forward to meeting with you and members of your staff to properly coordinate all actions scheduled for renewal or implementation. I will endeavor to synchronize my actions and coordination efforts with other county officials to the extent possible.

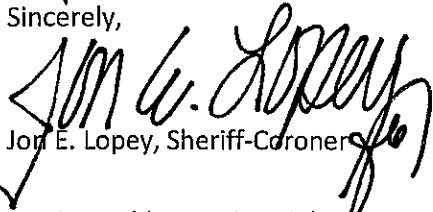
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Should you have any questions, please contact me at (530) 842-8300.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon E. Lopey". The signature is written in a cursive style and is enclosed within a hand-drawn, irregular rectangular box.

Jon E. Lopey, Sheriff-Coroner

cc: Assemblyman Jim Nielsen

Senator Doug Lamalfa

Board of Supervisors