

MARIPOSA COUNTY BOARD OF SUPERVISORS STATEMENT
REGARDING HAZEL GREEN LITIGATION

This statement is to respond to certain statements and representations on the part of the Park Service clarifying the time line of events regarding the Hazel Green Ranch matter.

The litigation in this matter first came to the attention of the County about a year ago when principals and counsel for Hazel Green Ranch approached the County seeking information regarding the Old Coulterville Road and seeking to learn the County's position with respect to ownership of the road. The County reviewed the issue and ultimately determined from the records of the County that there was no evidence the County had vacated its interest in the historic County roads. The result of this determination was a resolution by the Mariposa County Board of Supervisors enacted in August of 2007 declaring that it had not vacated its interests in the road. (Attached).

Shortly after the Board's August action the Deputy Superintendent of the Park Service contacted Mariposa County Counsel and said he had been called by the Chair of the Board of Supervisors about the resolution and that he wanted to know what was going on and if the County was aware it was jeopardizing its relationship with the Park. He was advised that the County wished to remain neutral, but did not want to agree to the Park taking one of its roads without stating publicly what its opinion was with respect to the road.

At the time, the Deputy Superintendent was offered any of the information the County had supporting its resolution and requested to share any information the Park had that it was not a County road. The Deputy Superintendent either in that conversation or shortly thereafter requested that County Counsel meet with him and his attorney from the Solicitor General's Office.

The meeting with the Deputy Superintendent and his attorney took place in early November. At that time the Deputy Superintendent and the attorney were provided copies of the documents they requested and were again invited to provide any information they had demonstrating that the road was not a County road. The Deputy Superintendent was advised that the Park Service should make its concerns known to the Board of Supervisors directly. No information or evidence was provided by the Park Service to support their claim of ownership. The Deputy Superintendent and his attorney did indicate that any County participation would be vigorously opposed by the United States.

The next action that came to the attention of the County was that there was a hearing in Federal District Court in the case involving Hazel Green Ranch claims in early February of this year. Counsel for the County attended and observed the proceedings. At that time it appeared that the Park Service was asserting that there was no viable County interest in the road and the Federal District Court Judge inquired as to why the County of Mariposa was not a party in the case and clearly indicated that participation by the County could be necessary to resolve the road ownership issue.

At the hearing in February the County's counsel discussed the issues with both sides in the case. The Park Service was again invited to provide any information it had that the road was not a County road. None was provided. Shortly after the hearing counsel for Hazel Green contacted the County and advised that while Hazel Green did not want to file suit against the County it felt compelled to do so because of the Judge's comments and preliminary indication regarding viability of portions of its case.

The Board of Supervisors then took appropriate steps to protect the County from the cost of what is a substantial lawsuit between Hazel Green and the United States. There has been an intentional effort by the Park Service to misinterpret the County actions to defend itself. The County simply desires to maintain and protect its interests in what based on all available evidence is a County road. The County also seeks to protect itself from what will likely be expensive and protracted federal litigation. The concern of the County that the litigation will be protracted and expensive has been confirmed by the Park Service in its comments to the Board of Supervisors at its meeting on February 26th.

Shortly before the Board of Supervisors was to take action on February 26th to issue the encroachment permit and authorize the Indemnity Agreement with Hazel Green the Deputy Superintendent of the Park Service contacted counsel for the County and stated that if the County moved forward with the action that it had best be ready to essentially have County business come to a standstill because the Park Service intended to tie up the entire Public Works Department in depositions and bury the County in litigation. He also asked if the County was prepared to face devastating national exposure that would be sure to compound the economic difficulties of the County. The Deputy Superintendent was again invited to provide any information demonstrating that it was not a County road. None was provided prior to the County taking action on the Indemnity Agreement and encroachment permit.

The Deputy Superintendent was offered the week before the February 26th Board meeting the opportunity to have the Board materials faxed to him in advance of the meeting and such materials were provided. The Deputy Superintendent was advised that if the Park Service had concerns it should make them known to the Board of Supervisors as staff did not set policy.

The County staff next was contacted the Monday evening before the Board meeting to consider the Indemnity Agreement and encroachment permit. At that time the U.S. Attorney and an attorney from the Solicitor General's Office again reinforced the extreme nature of the litigation the County faced if it acted to adopt the Agreement. They also threatened Rule 11 Sanctions and stated that the County did not understand the "consequences" of what it was about to do. They also indicated they had evidence that it was not a County road. They did not and have not provided any such information.

The Deputy Superintendent appeared at the public session of the Board of Supervisors meeting, where the Indemnity Agreement was to be considered. He reiterated the economic threats and other comments in an extensive statement. At no time prior to the Board's action to accept the Indemnity Agreement and issue the encroachment permit has the Park Service provided any verifiable information that the road is not a County road.

