COUNTY OF MARIN

DEPARTMENT OF
AGRICULTURE, WEIGHTS AND MEASURES
Promoting and protecting agriculture, environmental quality, and ensuring equity in the marketplace.

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January 2, 2013

Marin County Board of Supervisors
3501 Civic Center Drive
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Subject: Local Coastal Program Amendments (LCPA)
Agriculture and Biological Resources

Dear Members of the Board,

Recommendations:

1) Adopt Agricultural and Biological Resources policies governing interpretation of the LCP consistent with current Agricultural Policies and definitions, State Laws/local ordinances, and generally recognized regional farming practices
2) Utilize Policies for Interpretation of the Land Use Plan (INT)
3) Consider Basis in Coastal Act, Structural Clarity, Avoiding Redundancy, Internal Consistency, and Content

Current Agricultural Policies approved by the Planning Commission and adopted in the County Wide Plan define Agricultural Lands and Resources **(C-AG-1)** include viticulture in the definition of agriculture. This policy specifies the protection of agricultural land, continued use, and preventing conversion to non-agricultural uses. Also the emphasis is preserving important soils, water sources and forage to allow continued agricultural production on agricultural lands. This policy is general enough to recognize the broad scope and diversity of the term agriculture. Agriculture is an art and a science and includes a wide array of recognized forms of production of food, fiber and other valuable production systems.

I do not support the proposal to striking viticulture from the definition of agriculture and requiring a permit to farm this crop in zoned agricultural. It is conflicting with the Definition of Agriculture in both County General Plan and the California Food and Agricultural Code and is inconsistent with the general intent of **C-AG-2** Coastal Agricultural Production Zone (C-APZ). This policy is intended to preserve privately owned lands that are suitable for land-intensive or land-extensive productivity and to ensure the principle use of the land is agricultural. The definition should be inclusive of all production and accepted to include viticulture. To put parameters around defining the term “Agriculture”, I have attached sections of the California Food and Agricultural Code (FAC) for clarification (Attachment A).

The proposal in the LCPA removes viticulture **(C-AG-2)** as a recognized agricultural practice – striking it from the existing, long standing, and accurate definition of Agriculture. This is inconsistent with our County wide plan and State Food and

Agricultural Code and is counter to the "Policy for Interpretation of the Land Use Plan (INT)" **(C-INT-1).** The land is not being converted to a non-agricultural use if planted to a vine crop. Certainly it likely would be a change of production activity and require the land to be managed differently than the existing pastoral range. The land if planted to vines would retain the land intensive and extensive use currently recognized for animal agriculture and ensures the principle use remains agricultural in nature. It is promoting the generally accepted practice of viticulture one of the most prized and oldest farmed crops in the history of agriculture.

The emphasis on making Viticulture a "permitted" activity in the **Coastal Agricultural Production Zone (C-APZ)** is without context to the scale of the matter. What is the purpose of the permit for planting a vineyard and what are the conditions that will be regulated? Currently there are 186 acres of grape vines planted in Marin County compared to the 150,000 acres zoned as agriculture. The grapes represent less than 0**.**13% of the available land zoned for agricultural use. Regulating vineyards, a minor cropping system presents a bias against vineyards. During a time of crop experimentation and production diversification restricting vineyard planting could have consequences and impose on an agricultural endeavor. Farmers need the flexibility to try different crops and find niches to remain competitive.

The issue of permitting a defined agricultural practice under a "Basis in Coastal Act" provision using a County policy begs the question – what is the context for evaluating the "no feasible less environmentally damaging alternative" when planting a vineyard. Planting a vineyard requires certain actions such as plowing and disking. Elevating a vineyard planting into the category of needing special protection as an ESHA, wetlands, and stream seems out of context. How will the Coastal Commission enforce the policy and is it feasible?

"Coastal Act Section 30108 Feasible" means capable of being accomplished in a successful manner within reasonable period of time, taking into account economic, environmental, social, and technological factors. It should also be "feasible" and should apply the test of "feasibility" in different context. The context considered in this situation is determined by the extent of activity and "adverse environmental impacts" that result from planting a vineyard. It is my opinion, that to date vineyards planted in the county have not posed any significant environmental impacts. My understanding is the Coastal Commission is not staffed with field enforcement officers, ecologist or biologist and has no expertise in this matter. Permitting and enforcement would be the responsibility of local regulators. There exists a phenomenal support system and expertise due to our proximity to a world renowned viticulture region. We also have a rich and robust regulatory environment.

We are surrounded by numerous agencies with enforceable water, air, and land use policies within the Local, State, and Federal levels to offer "Internal Consistency" available to oversee vineyard development. We have Department of Public Works (grading, roads, and infrastructure), Community Development Agency (non-agricultural developments, wells and septic), Agricultural Commissioner (Vineyard Erosion Sediment Control Ordinance, Marin Organic Certified Agriculture, Pesticide Use Enforcement, Farmers Market Certification), County Ordinance (woodlands protection), US Fish and Wildlife (endangered species protection, safe harbor, fishery), CDFW (general wildlife and corridor protection),

Regional Water Board (water quality, storage and use), US DOI-PRNS (limited agriculture use policies). Hence there is “Structural Clarity” and existing oversight by numerous agencies. Permitting a vineyard under Coastal Act policies does not “avoid redundancy” only adds to the growing regulatory burden farmers loath. The point here is the formal protection of the environment and regulatory conditions associated with planting a vineyard are robust. It is unnecessary to further permit what is recognized as a currently highly regulated agriculture activity.

There also is the issue of “consistency and economic fairness” in regulating different areas of the State and county in terms of permitted activities. Regulating one vineyard and not an adjacent one creates unfair regulatory burden as a result of a prescribed Coastal Zone Boundary. Extending regulations onto one area (Coastal Zone) and not another area (Balance of county) could present an economic hardship as well. The Coastal Zone vineyard permit process would likely result in major delays in acquiring a permit to install and plant a vineyard resulting in lost growing seasons or worst case – a permit denial. This represents the number one theme farmers object to: regulatory burden and increased cost. Regulatory burden and cost of compliance are key issues published in the Marin County Agricultural Summit and the Countywide Plan development.

Because grapes are grown regionally there is an expectation that vineyards can exist and be competitive in the market place. The exceptionally high cost of installing a vineyard ($40-50,000/acre) presents an economic factor which limits vineyard installation. Other major factors regulating the initiation of a vineyard includes water availability and added wildlife protections which significantly add to this cost. It appears regulating viticulture is considered simply because there is noting other to permit in that region but farming practices. Farming grapes is guided by best management practices is currently regulated, defined in the Food and Agricultural Code and claiming a change of use because the soil is tilled and diversity is added to the landscape is reason for requiring a permit does not add up. Permitting this activity is the first step toward deleting the activity; creating a polarity between and within the farming community and non-farming community, highlighting an issue when one does not exist. The permitting of a vineyard is unnecessary and striking it from a definition is improper. Existing economic factors and layered regulations control this activity. An existing definition retaining viticulture as an agricultural activity strengthens the ability to regulate the activity. Local Coastal Plans to regulate vineyards only minimizes the effort. If there was no definition of agriculture, Marin vineyards were noted for their environmental impacts, there were no enforcement agencies or regulations, no general public oversight; then I could see the need for the Coastal Commission to consider permitting vineyards but that is not the case.

Sincerely,

Stacy Carlsen
Agricultural Commissioner
County of Marin

Attachment

Attachment A

FOOD AND AGRICULTURAL CODE (Applicable Sections)

1. This act shall be known as the "Food and Agricultural Code."

3. It is hereby declared, as a matter of legislative determination, that the provisions of this code are enacted in the exercise of the power of this state for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare.

22. Inasmuch as the planned production of trees is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, the production of trees shall be considered a branch of the agricultural industry of the state for the purposes of any law which provides for the benefit or protection of the agricultural industry of the state.

23. (a) Inasmuch as the planned production of trees, vines, rose bushes, ornamental plants, floricultural crops, and other horticultural crops is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, plants and floricultural crops that are being produced by nurseries, whether in open fields or in greenhouses, shall be considered to be "growing agricultural crops" for the purpose of any laws that pertain to the agricultural industry of the state, and those laws shall apply equally to greenhouses and open field nursery operations.

(b) For the reasons stated in subdivision (a), a nursery where the primary activity is the planned production of horticultural crops, is a farm. However, for the purposes of this section and any laws that pertain to farms in this state, a retail nursery is not a farm.

23.5. The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section 15101 of the Fish and Game Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.

23.6. The Legislature hereby finds and declares that greenhouse production of floricultural, ornamental, or other nursery and agricultural products in the state is a growing industry that provides valuable agricultural products and year-round employment for agricultural workers. The Legislature further declares that greenhouse production is an efficient self-contained production system that offers protections for the environment and allows for the use of conservation-oriented production technologies, including drip irrigation, water recycling, and hydroponics, and the use of energy conservation systems.

23.7. The Legislature hereby finds and declares that vermiculture in the state is a growing industry and that use of vermiculture and vermiculture by-products for the commercial purpose of producing agricultural commodities should be encouraged. As used in this section, "vermiculture" is the raising of animals belonging to the order Oligochaeta, class Chaetopoda, phylum Annelida.

Vermiculture, and the processing, packaging, sale, and use of its by-products, shall be considered a branch of the agricultural industry.

24. It is hereby declared, as a matter of legislative determination, that the provisions of this section are enacted in the exercise of the power of this state for the purpose of protecting and furthering the public health and welfare. It is further declared that the floriculture and nursery industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of floriculture and nursery products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions by tax revenues and other means, and employment and a means of livelihood for many thousands of its population, but also furnishes substantial employment to related industries that are vital to the public health and welfare.

(b) Basic research and development for floriculture and the nursery industries contribute substantially to food production in this state which is essential to the welfare and health of its citizens.

It is also declared that the elimination of disorderly marketing of California floricultural and nursery products, and the development of new and larger markets through education, promotion and other means for these products, are affected with the public interest.

(c) All production of floriculture and nursery products in greenhouses shall be deemed equivalent to the production of floricultural products in open fields.

24.5. Inasmuch as plants growing in native stands or planted for ornamental purposes contribute to the environmental and public health and welfare needs of the people of the state, the Legislature hereby finds and declares that such plants shall be considered as a part of the agricultural industry for the purpose of any law that provides for the protection of the agricultural industry from pests.

25. Unless the context otherwise requires, the definitions in the following sections govern the construction of this code.

25.5 "Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, harvesting, processing, distribution, and marketing of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

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January 4, 2013

County of Marin Board of Supervisors
Via e-mail c/o Kristin Drumm: kdrumm@maincounty.org

Subject: Marin County Local Coastal Program Update

Dear Supervisors:

Introduction

The proposed policies and land use code language in the Agriculture and Biological Resources elements of the current version of the draft Local Coastal Program, coupled with Coastal Commission staff direction on principally permitted uses, have the potential to render the farms and ranches in Marin's coastal zone inoperable agricultural operations. They will remove the critical flexibility needed in cropping choices and cultural practices required to be viable farms. The draft policies and language also propose environmental regulations that if implemented, will duplicate efforts with multiple State and Local agencies.

Farm Viability through Flexibility and Diversification

Farmers and ranchers are rational actors, managing their lands to produce agricultural products in the most cost effective manner for the current year and into the future. Fundamental to agricultural producers averting risk and remaining viable is their flexibility in cropping choices and cultural practices and their ability to diversify. Accordingly, Marin agriculture includes moving from rangeland grazing to improved pasture forage production to strawberry or potato production and back again. It includes a commitment of limited viable acreage to perennial crops like apples or grapes. (It is useful to understand that wine grape cultivation has experienced three periods of expansion in California triggered by low supply and high demand in the 1970s, 1990s, and currently (Ciatta and Jennings, 2012). In each of these periods, wine grape acreage in Marin has not increased at the same rate as neighboring North Bay counties. Currently there are 186 acres of wine grapes in Marin. By comparison, the combined acreage of wine grape cultivation in Napa, Sonoma, Mendocino, and Lake counties were 71,349, 84,086, and 122,444 acres in 1982, 1991, and 2001, respectively (Heien and Martin, 2003).[1]) Farm viability also includes development of valued-added production and direct sales to Marin and Bay Area customers. The ability of Marin's farmers and ranchers in the Coastal Zone to move between crops and cultural practices as well as diversify and value add will be halted outright if the current policies and language as well as direction from Coastal Commission staff is promulgated.

[1] Rhonda Smith, UCCE Viticulture Advisor Personnel Communication

In their November 9, 2012 letter to Marin County, Coastal Commission staff indicated that only the current cropping use of agricultural lands will be considered exempt uses and that any change from that use to another crop will require a Coastal Development Permit. Furthermore, viticulture has been excluded as a principal permitted or categorical exempted use in the current draft of the Local Coastal Program, requiring review and approval by the Coastal Commission. This proposed removal of flexibility in and regulation of cropping choices will be precedent setting in its rendering of Marin's coastal farms and ranches as inoperable agricultural operations. Preparation of the Coastal Development Permit application, payment of associated fees, and participation in the review and approval process will all be deterrents and obstacles which many will simply choose not to overcome and therein halt their ability to respond to opportunities to increase forage production, change grazing patterns, and selectively diversify crop production.

In addition to removing cropping and cultural practice selection from farming, the current version of the Local Coastal Program creates barriers to agricultural tourism (22.32.026), on-farm processing(22.32.026) and direct retail sales (22.32.027) that do not exist in the current Local Coastal Program or the remainder of Marin through the Countywide Plan.

Recommendation

When considering agriculture and a definition that includes flexibility in cropping and cultivation choices refer to the California Food and Agriculture Code starting with section 19 (http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fac&group=00001-01000&file=1-51). This would include a commitment of limited viable acreage to perennial crops where existing water rights and development exist to support them (see discussion below for current regulation of water rights and water development in Marin).

Remove approximately 2 ½ pages of proposed language beginning with 22.32.026 – Agricultural Processing Uses on page 4, through 22.32.027 – Agricultural Retail Sales and Facilities (Coastal), ending on page 7 and replace it with language for retail sales and processing in the existing Development Code. Where appropriate and relevant, address existing traffic and parking issues in specific communities through appropriate local agencies and community specific plans.

Existing On-farm Environmental Programs, Policies, and Regulation

For the purposes of environmental resource management, it is important for the County of Marin and California Coastal Commission to coordinate and support the on-farm conservation and stewardship programs like those of the Marin Resource Conservation District (MRCD) and others that are having long-term beneficial impacts to Marin's streams and watersheds. Additionally, it is important to understand environmental regulation currently in place and being implemented by corresponding State and Local agencies. These include the current Local Coastal Program, San Francisco Regional Water Quality Control Board (CRWQCB), the State Water Resources Control Board Division (SWRCB) of Water Rights, the California Department of Pesticide Regulation (CDPR), and the California Department of Food and Agriculture (CDFA), Marin County Agricultural Department among others. Each of these agencies is operating regulatory programs through which Marin's farmers and ranchers are required to participate and comply.

Marin's Conservation Partnership

For more than 50 years the MRCD and its partners, including the County of Marin, Marin Agricultural

Land Trust (MALT), Natural Resources Conservation Service (NRCS), Students and Teachers Restoring our Watershed (STRAW), University of California Cooperative Extension (UCCE) and others have implemented on-farm conservation practices to improve wildlife habitat, protect water quality, and restore and enhance the function of Marin's streams (Lewis et al. 2011). From 1959 to 2009 more than 330 ranchers and farmers have participated in cost-share programs, implemented conservation practices, and accessed technical assistance. A few of the partnership's accomplishments included:

- Improving riparian and wetland function (Lennox et al. 2011 and George et al. 2011) by fencing of over 43 miles of streams, protecting 15 miles of streams from bank erosion and revegetating 25 miles of streams;
- Preventing delivery of nearly 670,000 cubic yards of sediment to Marin County streams;
- Improving wildlife diversity including a 300 percent increase in neomigratory bird species (Gardali et al, 2006); and
- Improving instream water quality (Lewis et al. 2008 and Jarvis et al. 1978) through manure and livestock management.

There is more to be done and this conservation partnership continues to lead the way with additional assistance programs and projects to mitigate greenhouse gas emissions, preserve instream flows, and reduce the spread of invasive weeds.

State and Local Agency Environmental and Agricultural Regulation

Water Quality

Marin's farmers and ranchers have responded to state and national precedent setting water quality regulations. Currently, the CRWQCB is enforcing two Conditional Waivers of Waste Discharge for agriculture:

- Conditional waiver of waste discharge requirements for grazing operations in the Tomales Bay Watershed (CRWQCB, 2008);
- Renewal of Waiver of Waste Discharge Requirements for Confined Animal Facilities (CRWQCB, 2003).

In addition to these policies, the San Francisco and North Coast CRWQCB are collaborating on a new basin plan amendment to protect stream and wetland functions (CRWQCB, 2007). Through these existing and pending regulations Marin's farmers and ranchers must identify ranch specific water quality, stream and wetland management concerns and develop and implement plans to address these concerns.

A Conditional Waiver is the authority used by CRWQCB in lieu of individual Waste Discharge Permits. In the case of these two agricultural Conditional Waivers, Marin dairy farms and grazing livestock operations are require to develop and implement ranch water quality plans. This farm planning and implementation is carried out through the use of several tools and assistance programs. The template for grazing land ranch plans was developed by a nine-member organization partnership.[2] General assistance for developing these plans includes the California Dairy Quality Assurance

[2] http://www.swrcb.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/tomalespathogens/FInalModelWQRanchPlan2009.pdf

Program[3] and Western United Dairymen Environmental Division.[4] Lastly, the previously mentioned conservation partnership continues to provide technical and financial assistance to implement these plans including the United States Department of Agriculture Environmental Quality Incentives Program (EQIP)[5] and the Wetlands Reserve Program (WRP)[6] among others.

Water Quantity

With regard to water quantity and regulation, the SWRCB is implementing the:

- Water Rights: Statement of Water Diversion and Use Program (SWRCB, 2012)[7].

This program requires all water diversions to be documented and have corresponding approved water rights. Currently more than 80 Marin ranchers and farmers have been notified of their requirement to comply with California Water Code 5101, through reporting of diverted surface water or pumped groundwater from a known subterranean stream.

Pesticide Use

In California, the CDPR and CDFA coordinate regulatory roles including licensing and reporting of pesticide use[8]. Marin's farmers and ranchers are required to comply with all state and local regulations for any potential use.

Recommendation

It is recommended that the Coastal Commission and Marin County avoid duplication of policies and regulation and instead look to coordinate with existing policies and programs already in place. For example, development of new water resources for agriculture already requires a Coastal Development Permit in the existing LCP and more to the point will require registration and approval through the State Water Resources Control Board. Similarly, protections of water quality from pathogens, nutrients, and sediment impacts, and loss of riparian habitat are already in place and being enforced by the Regional Water Quality Control Board as well as Marin County's stream conservation area policies.

Respectfully,

David J. Lewis,
Director

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[3] http://www.cdqa.org/environmental.asp
[4] http://www.westernuniteddairymen.com/environmental-mainmenu-34
[5] http://www.nrcs.usda.gov/wps/portal/nrcs/main/?ss=16&navid=100120310000000&pnavid=100120000000000&position=SUBNAVIGATION&ttype=main&navtype=SUBNAVIGATION&pname=Environmental%20Quality%20Incentives%20Program
[6] ftp://ftp-fc.sc.egov.usda.gov/CA/programs/WRP/2011/2011_WRP_Grazing_Reserve_Factsheet_1-6-11.pdf
[7] http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/
[8] http://www.cdpr.ca.gov/docs/county/comenu.htm

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From: Ione Conlan
Sent: Friday, January 11, 2013 2:30 PM
To: MarinLCP
Subject: January 15, BOS Meeting

Honorable Members of the Marin Board of Supervisors.

Thank you for this opportunity to comment on the LCP and matters concerning balancing the equities between well meaning authors & organizations proclaiming their superior wisdom notions, of *"protection of our coastal resources"* which notions they believe to be wiser than many others including but not limited to, resident farmers and ranchers whose families born and reared, have lived on these coastal lands, long before these newcomer Transplants even arrived in Marin County, or perhaps settled in because of what the old timers preserved for them.

The argument by these Transplants, is put forth that "*protection of our coastal resources*" can only be accomplished with the elimination of agriculture. Oh my goodness, they do not articulate that, in such straight forward language, Oh no.....

The subtle agenda is cloaked & presented ostensibly to "*protect our coastal resources"* and this is accomplished by creating regulations which will discourage and ultimately wipe out local food & fiber production in the coastal areas of Marin County,

But alas! Many of the farms and ranches have been in agriculture in the same family, long before these critical formulators, and transplanted well meaning folks arrived in Marin.

How will these well meaning folks accomplish wiping out Agriculture?

Well when one receives a steady comfortable paycheck, either mail box income, or a really good high paying job, with a lot of time on one's hands, armed with a large base of retired folks with a lot of letters behind their names, and members with ongoing professional business licenses,.....

... it 's real easy to conjure up ways to eliminate those pesky farmers and ranchers, who have the audacity to stand up and fight for the land that has been in their families for generations, who have suffered untold personal sacrifices, to save land and water and hanging on for dear life, after multiple payments of inheritance taxes.

Now comes 24 separate "environmental associations" who have forgotten that most farmers and ranchers to survive, are truly land environmentalists, protecting their lands, crops and animals, working from sunup to sundown, conserving water and land to make a living.

These well meaning "environmentalists" sophisticated professionals, and comfortable folks are able to host a reception at the San Francisco Yacht Club, to rub elbows with our CCC Commissioners, proselytizing their own point of view from the comfortable harbor club, which I must say is always enchanting.....

Meanwhile, back at the ranch, the West Marin Farmer/ Rancher, that same raining evening is sheltering his animals, putting up the chickens, feeding the piglets, working in the dairy besides his cows, and the myriad of tasks it takes to produce good healthy clean food for local consumption, and make a living for his family.

And every time he needs to make a slight customary and usual change, or an improvement on his land, it becomes a "*cause celebre"*

Now this same well meaning group would disallow from "*principally permitted use",* viticulture, crop and pasture seasonal changes,intergenerational housing, veterinary clinics , animal hospitals, churches, Bed & Breakfast, tours, practical sizes of farm stands and cheese plants, multiple intergenerational housing, requiring clustering of buildings whether appropriate or not, severely restricting the landowner's ability to diversify his land use, and to use his land to its best and highest use, to survive.

The desire to micro manage local agriculture becomes comical*..."no picnic tables at farm stands"* "*no tasting at cheese plants*" *"a double wide trailer is good enough for those farmers in West Marin"* & *"they didn't need intergenerational housing before, so why do they need it now*"..."*a farmer doesn't have to live on the farm to farm"*

Viticulture experts have stepped forward with expert testimony, which seeks to eliminate vines using the excuse of soil erosion, water preservation, etc.

Surely these sophisticated experts have traveled abroad and seen vines on terraced lands, dry farmed for high sugar content, and cannot seriously expect anyone to believe that viticulture is not viable in Marin County. The existing county local in place regulations, should not require an *additional* layer of California Coastal Commission (CCC) administration and permits.

Oh, and to drill a water well, *in addition* to the layers of local county rules, they would now have the farmer obtain an *additional* onerous permit from the CCC, additional prohibitive costs, special measures, professional reports from hydrologist, biologists, et al.

Wait a minute, there's something wrong with this picture. Today a farmer & rancher in Marin County is faced with a grave issue, which goes unnoticed.

It's called UNFAIR COMPETITION. Land is devalued, production costs higher...unfair.

The playing field here is not level. The beef producer, milk producer, poultry producer, sheep producer et al. has to compete in the market place with his brethren who have the good fortune to be outside the thumb of the CCC.

It costs more to produce a product when one's land is under the jurisdiction of CCC. Land value is severely diminished under the aegis of CCC, ask any Realtor.

The land is worth less when the farmer goes to his banker to obtain an operating loan. Farmer Jones has more than 100 additional obstacles because his land is CCC jurisdiction

Who is to compensate the landowner who operates under the aegis of the CCC, for the land devaluation and higher production costs. The County? The State? The Federal Government?

It seems to those of us who farm the lands, that the LCP needs to have a Stop, Look, and Listen session around a table, with the stakeholders whose grandfathers deeded over some of those local county roads, complimentary.

The well meaning Transplants, need to sit down and listen to how Marin came to have those beautiful rolling hills and pristine pastures, preserved through the *"blood sweat tears & toil"* of family generations who purchased the land over and over with inheritance taxes.

A true workshop where all stakeholders can present useful facts, so that all parties on both sides of issues can "show & tell" in a collegial manner with each point of view giving some slack, so that these proposed regulations will not toll the bell for the death of farming & ranching in Marin County and the Coastal Counties in California.

Let us postpone the LCP section involving agriculture to the spring workshop, proposed by our good Supervisor Steve Kinsey, where all California Coastal Counties can join and experience some cross pollination of ideas, with experts from both sides of the aisle, and see if we can mutually agree on what is best for California, coastal lands, & preserving local agriculture.

January 10, 2013, the Internet Blog of Secretary of Agriculture Karen Ross, reviews the awakening and resurgence of the 145 thousand students who have now taken up Ag studies, preparatory for the millions of mouths the future must feed, and the importance of local Agriculture for the future.

I am optimistic that Agriculture with best management practices of resources, which is inherent in a farmer's survival, can continue in Marin County with reasonable regulations

The problem has been the paucity of information farming and ranching has provided to "environmental organizations" so that the well meaning members can understand and see what takes place on the farms & ranches.

That in Marin County, for the farmer and rancher, it is necessary live on the land. He is not a mail box income receiving farmer, who collects money without calluses, but rather is *"hands on"* , without the time to proselytize his point of view, he is too busy keeping the farm /ranch working. Let us help him to survive.

Ione Conlan

Conlan Ranches California www.conlanranchescalifornia.com **Marin T (707) 876-1992 F (707) 876-1950 PO Box 412 Valley Ford, CA 94972**

MARIN COUNTY FARM BUREAU

P.O. Box 219, Pt. Reyes, CA 94956

January 11, 2013

President Judy Arnold and the Marin County Board of Supervisors
Via e-mail c/o Kristin Drumm: kdrumm@marincounty.org

Re: Local Coastal Program Amendments

Dear President Arnold and Honorable Supervisors,

Marin County Farm Bureau respectfully submits the following comments on the Local Coastal Program update. First we will discuss the current staff report followed by a list of our concerns that have not been addressed at all or not been addressed satisfactorily during this process yet.

Farm Bureau appreciates the additional language that helps to clarify "grading and agricultural operations". We would like to see our supervisors support a minimum of 250 cubic yards in section **22.130.030 Definitions.** This is a very small amount of dirt on very large ranches and we should not be subjected to a permit process for anything less than that. We also appreciate the clarification in section **22.68.030 Coastal Permit Required:**

On-going agricultural operations including cultivation, crop and animal management and grazing are not considered to be development or a change in the density or intensity of the use of land. For the purposes of this Chapter, "on-going agricultural operations" are those which exist presently or historically, and do not entail new encroachment within 100 feet of the edge of a wetland, stream or riparian vegetation. For agricultural uses, a "change in the intensity of use of water, or access thereto" means the development of new water sources such as construction of a new well or the creation or expansion of a surface impoundment.

However we still have a concern about viticulture. Leaving it as a permitted use and not a principally permitted use is inappropriate. This is agriculturally zoned land and viticulture **is** agriculture! All other types of agriculture are principally permitted and so should be viticulture as it is in the current LCP. This sets a very bad precedent that you can separate out one crop and force it to become appealable to the Coastal Commission. What will be next; olives, vegetables, perhaps strawberry's. Our Board of Supervisors needs to recognize that there are already avenues to appeal viticulture if the famer must create new water sources or do grading in excess of a certain number of yards. This avenue of appeal should be maintained at the local level and not through the Coastal Commission. Developing new water sources is also a very difficult and lengthy process as we have to deal with the California water board. Viticulture must remain principally permitted as it already is in the current LCP.

There has been very little discussion about the development code definitions, the tables in the development code, and much of the language in the development code. Below is a partial list of issues that must still be addressed, there are additional issues but many of these have not been discussed at all.

Please refer to Farm Bureaus March 25, 2012 letter to see a complete list of our concerns, granted some of those have been dealt with.

I. 22.32.026 – Agricultural Processing Uses

A. Limitations on use:

1. Processing of agricultural product is a Principal Permitted Use only if conducted in a facility not exceeding 5,000 square feet that is located at least 300 feet from any street or separate-ownership property line (and not within an Environmentally Sensitive Habitat Area [ESHA]) or its buffer.
2. To qualify as a Principal Permitted Use, the agricultural product that is processed must be grown principally in Marin County or at a site outside Marin County that is operated by the operator of the processing facility ("principally" shall mean at least 75% by dollar volume of the processor's sales of the processed product). The operator of the processing facility must be directly involved in the agricultural production on the property on which the production facility is located.
3. "Agricultural product that is processed" does not apply to additives or ingredients that are incidental to the processing.
4. A Conditional Use Permit shall be required if the processing facility is open routinely to public visitation or if public tours are conducted of the processing facility more than 24 times per year.
5. Under these criteria, up to 25% by dollar sales volume of the agricultural product that is processed could be grown outside Marin County (on sites not operated by the operator of the processing facility).
~~6. Any agricultural processing in a C-ARP zoning district is a Conditional Use requiring a Use Permit.~~

Discussion

Farm Bureau has concerns about the "75% by dollar volume". The county has no way to enforce this without seeing every dollar made by the farmer, that is not the county's business, the IRS doesn't even ask us to separate out which goods sold are from where. We understand and support the notion that our products sold should be principally from Marin, but the definition given for "principally" is not an acceptable one. Please remove the definition in parentheses in number 2 above and remove number 5 in its entirety.
In addition we have a concern about number 4 above. The need for a conditional use permit for educational tours of our facility if it is "open routinely to public visitation or if public tours are conducted of the processing facility more than 24 times per year" makes no sense to us. We should be commended for opening our doors and educating the public about where their food comes from. This could prevent us from being able to have a tour for you the Supervisors because we scheduled 24 school visits already, do you want us to turn the children away! Please remove number 4.

II. 22.32.027 – Agricultural Retail Sales and Facilities (Coastal)

A. Limitations on use:

1. Retail sales must be conducted:
(a) Without a structure (e.g. using a card table, umbrella, tailgate, etc.); or
(b) From a structure or part of a structure that does not exceed 500 square feet in size and does not exceed 15 feet in height.

2. Items sold must be principally unprocessed produce grown in Marin County or at a site outside Marin County that is operated by the operator owner or lessee of the sales facility. For purposes of this section, "principally" shall mean at least 75% by dollar volume of sales. The operator of the sales facility must be directly involved in the agricultural production on the property on which the sales facility is located.
3. Sales of consigned produce grown in Marin County (or grown at a site outside of Marin County that is operated by a consignor whose principal agricultural activities are within Marin County) shall be allowed as part of the principal permitted use, provided that all produce being sold satisfies the criteria for the principal permitted use findings.
4. A Use Permit is required for picnic or recreational facilities. A Use Permit is also required for onsite consumption other than informal tastings at no charge of product offered for sale.
5. Sufficient parking is provided

Discussion

1b. Existing buildings should not have to be under 15 feet, most barns that may be used for sales are taller than 15 feet, this is extremely low.
2. Our same concern exists here about the 75% by dollar volume. Please at the very least remove the definition of "principally". In addition, why must the product being sold be "unprocessed". This would disallow all of our cheese makers from being able to sell their cheese. On farm sales should be categorically excluded consistent with the agricultural sales use for the A zoning district in the Marin County Development Code.

III. C-BIO-25 Stream and Riparian Buffer Adjustments ~~and Exceptions~~

IV. C-BIO-20 Wetland Buffer Adjustments

Both of the aforementioned should allow adjustments below the 50 foot minimum threshold if a site assessment proves that a 50 foot buffer is unnecessary.

V. TABLE 5-1-b.

Cottage industries should be principally permitted in CAPZ-60.

VI. **Livestock Operations, Sales/Feed Lots, Stockyards (land use).** This land use consists of specialized and intensive commercial animal facilities including animal sales yards, stockyards, and cattle feedlots. Feedlots are any site where cattle are held or maintained for the purposes of feeding/fattening, for market **~~or milking,~~** and where at least 60 percent of the feed is imported or purchased. Does not include slaughterhouses or rendering plants; see "Slaughterhouses and Rendering Plants." See also, "Dairy Operations."

Discussion:

Dairy operations are a distinct Land Use category in Table 5-1-a, so "milking" should not be included in this definition. This is an easy change and **very** important.

Farm Bureau still has several other legal concerns on such issues as the "aggregate cap" the lack of a true constitutionality clause, and the requirement for a conservation easement as discussed in **C-AG-7 Development Standards for the Agricultural Production Zone (C-APZ) Lands.**

B. Standards for Non-Agricultural Uses:

3. Consistent with state and federal laws, a permanent agricultural conservation easement over that portion of the property not used for physical development or services shall be required…

A farmer's ability to diversify from crop to crop and to adapt their operations to include retail sales is extremely important. The way many of the policies are currently written are very problematic for this to happen. As farmers and ranchers we must be able to adapt or die.

These and several other issues that we have raised in our earlier letters should be discussed. We look forward to continuing to work with staff to try and resolve these issues.

Thank you for your time and consideration,

Dominic Grossi

Dominic Grossi
President
Marin County Farm Bureau

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January 14, 2013

President Judy Arnold and the Marin County Board of Supervisors
Marin Civic Center
3501 Civic Center Drive
San Rafael, CA 94903
Via e-mail c/o Kristin Drumm: kdrumm@marincounty.org

Re: Addressing Marin County Farm Bureau's unresolved
Local Coastal Program Amendment issues

Dear President Arnold and Honorable Supervisors,

The Marin County Farm Bureau has retained my legal services in order that we may jointly clarify for you some of the LCPA issues that have thus far remained unresolved, and to provide you with a fresh legal perspective supporting the Farm Bureau's positions on those issues.

That perspective will pertain to draft policies and Development Code sections that have either not been addressed by the Board during the public hearing process, or that have not yet been resolved to the satisfaction of the Farm Bureau's membership. As it may include some issues that remain outstanding following your upcoming 1/15/13 hearing, our intention is to provide you with a submission for your 2/26/13 or 3/12/13 hearing, whichever will be the most appropriate.

The Farm Bureau realizes that its list of issues has been long and comprehensive and that your Board has sought to address those that it has considered the most important. Given that agriculture is the predominant land use in Marin County's Coastal Zone, that the amended LCP will likely have a "shelf life" of at least a couple more decades, and the fact that many of the zoning regulations adopted in the LCP may eventually be applied to Marin's Inland Rural Corridor as mandated by the Countywide Plan, the Farm Bureau believes that its selected number of unresolved issues merits your close consideration. My intention will be to provide you with a concise discussion of those issues having the greatest legal implications.

I thank you in advance for your future consideration.

Yours very truly,
Doug Ferguson
Douglas P. Ferguson

ccs to:

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west marin environmental action committee

January 14, 2013

Marin County Board of Supervisors
Via email: bos@marincounty.org

Dear Supervisors,

The Environmental Action Committee of West Marin (EAC) would like to reiterate a number of concerns about the proposed LCP Amendment that it has repeatedly raised the past two years. These concerns include issues not raised in the staff report as well as issues that raised in the staff report that do not provide acceptable alternatives to policy language in our existing certified LCP.

Issues not addressed in staff report:

- Residential buildout analysis in C-APZ. The staff has not provided an update to Alisa Stevenson's initial tables (Oct. 2011). EAC raised a number of questions about the initial build-out analysis conclusions and assumptions that have not been addressed. [Note: "attachment 5" (on website) to 12/11/12 staff report covered availability of support services to support potential development – not C-APZ potential development.]

- Master plan – replacement by Coastal Permit. The County needs to require a comprehensive assessment of environmental constraints map (ranch plan for development) on all contiguous properties when considering first CP.

- Responses to numerous issues raised in CCC letters. The staff has not provided the public access to the Coastal Commission staff's correspondence from December, and still has not addressed numerous issues raised by the Commission staff that EAC has repeatedly requested a response.

- Background language in existing LCP On numerous occasions EAC has advocated that significant background information that provides substantive background and context for LCP policies should be retained. EAC disagrees that this information can or should be relegated to an appendix that is not part of the new LCPA. EAC has assembled and will submit a short set of quoted excepts from existing LCP that are "timeless" descriptions of views/topography/habitats that should be preserved.

Issues identified in the 1-15-13 staff report:

p. 3. **Grading**.
EAC supports the staff recommend definition of "grading", using 50 cubic yards for C-APZ zoning district. EAC supports a smaller threshold – 20-30 cubic yards – for all other coastal zoning districts, which would enable the county to require that Best Management Practices be followed.
Add language: The definition proposed in 22.130.030 is only acceptable if it is qualified that the exemption applies to "*ongoing*" plowing, tilling, etc. – meaning no new plowing or tilling is occurring.

p. 4: 22.68.030 **Coastal Permit Required**.
Typo, line 2: "of a state or local agency" should be "**or** a state or local agency"
The added language by staff appears ok.

This definition as written does not conform with the Coastal Act because it does not account for the expanded use of an existing well - such as running viticulture, row crops, or an orchard off an existing well, which clearly would be a "change in the intensity of use of water" per the Coastal Act.
Add language: The last sentence of the definition should be modified to include the underlined language below: For agricultural uses, a "change in the intensity of use of water, or access thereto" means the development of new water sources such as construction of a new well, the significant expansion of an existing well, or the creation or expansion of a surface impoundment.

pp. 4-5 **Viticulture**
With the 50 cu. yd. limit on grading definition EAC can support the proposal to leave Viticulture regulations as proposed (a Principal Use), with no explicit carve-out for "hobby" vineyards. However, we recommend a maximum "hobby" acreage of one (1) acre beyond which a coastal permit is always required, regardless of well and grading involved.

There are numerous problems with relying on the County's viticulture ordinance (VESCO), which inappropriately delegates important land use decisions and review to the Ag Commissioner. The ordinance has no public review process and is a non-disretionary permit – if you can get a civil engineer to agree with what you're proposing [terracing up to 49% slopes] then you're allowed to do it. EAC strongly objected to the ordinance as written and does not agree that it provides the necessary protections, or an adequate process.

p. 6. **Intergenerational Housing.**
The staff report is silent about Coastal Commission staff's repeated criticism of treating additional ag residential housing as a PPU. EAC strongly agrees with the Commission staff that IG housing is Principal Use, and should be subject to all residential development standards and review. To call IG housing for people not working on the farm or ranch "agriculture" within the "agricultural production zone" turns the definition of that zoning district on its head. EAC offered an exceedingly fair compromise to ensure that family farms in the coastal zone are able to secure the housing they need for family members that need to live on the farm because they

work on the farm in a way that protects their development rights and greatly lessens the administrative review.
The County unfortunately continues to overreach and its proposal would effect a substantial change in Coastal Act policy. No other coastal counties or cities allow the type of residential housing proposed by Marin County to be considered "agriculture," and for good reason. Exhibit 1, attached to this letter, highlights examples of the Coastal Commission's long-standing interpretation on this matter which EAC strongly urges the County to accept and follow.

Add Language: p.6 22.32.024. B. Limitations on use. Where IG house not used by family member, can be used as agricultural homestay. This exception needs to be qualified: but not an additional homestay, and subject to the homestay regs in 22.32.023.

pp.10-14**. Buffer Adjustments.**
EAC strongly objects to the proposed removal of the requirement that only a PPU can facilitate an adjustment in stream buffer. The staff report's claimed "consistency" reasoning is not sufficient justification to open the door to numerous additional uses be allowed consideration for a buffer adjustment. EAC will not support this proposed weakening of ESHA protections.

EAC believes that the staff proposal has not effectively dealt with the prior "feasible" criticism. EAC belives that the staff is still taking the approach that if the proposed development does not fit outside the buffer, then the buffer should be adjusted. This ignores the fact that the proposed development could be made smaller to fit outside the buffer and there should be a stated requirement to look at modifying the development proposal as submitted to make it fit within the buffer. Otherwise, this provision will be read that any proposal must be accommodated with a buffer adjustment, and that puts us right back where we started – an open door for buffer adjustments - and that is unacceptable. Specific language is proposed below.

p. 13 **C-BIO-20 Wetland Buffer Adjustments**
The language as proposed in C-BIO-20 sections 1 and 3 is still not acceptable. A CP is required if "proposed on **a legal lot of record** located entirely within the buffer" … In the case of C-APZ parcels, this should be "**all contiguous parcels under common ownership** are located entirely within the buffer". Otherwise, the master plan requirement for any development in C-APZ is not fully replaced by the coastal permit, and a small streamside parcel under common ownership could be developed even though adjacent land is available to owner.

Subsection 1.b is written too loosely and is entirely too open-ended compared to the existing buffer adjustment language. It should absolutely not be a stand-alone factor enabling a buffer adjustment.

Section 3 needs an explicit requirement that all of the "appropriate measures" required for the net environmental benefit must be initiated and completed prior to or simultaneous to the encroachment into the wetland buffer.

EAC proposes the following track changes to the staff's proposal. **Proposed** ~~deletions are stuck-through~~, and additions are underlined:

1. A Coastal Permit that requires a buffer adjustment may only be considered if it conforms with zoning and:

a. ~~It is proposed on a legal lot of record~~ All contiguous parcels under common ownership are located entirely within the buffer; or

~~b. It is demonstrated that permitted development cannot be accommodated entirely outside the required buffer; aor~~

b. that permitted development outside the buffer would have greater impact on the wetland and the continuance of its habitat than development within the buffer; or

~~d~~c. The wetland was constructed out of dry land for the treatment, conveyance or storage of water and does not affect natural wetlands.

3. A coastal permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such net environmental improvement measures shall be implemented prior to, or at least simultaneous to, the development encroachment into the wetland buffer.

p. 14 **C-BIO-25 Stream and Riparian Buffer Adjustments**

Similar to comments for BIO-20, the proposed language for BIO-25 is still not acceptable. EAC proposes the following additions and deletions:

1. A Coastal Permit that requires a buffer adjustment may only be considered if it is for a principal permitted use that conforms with zoning and:

a. ~~It is proposed on a legal lot of record~~ All contiguous parcels under common ownership are located entirely within the buffer; or

b. ~~It is demonstrated that permitted development cannot be accommodated entirely outside the required buffer; or~~ and that permitted development outside the buffer would have greater impact on the stream or riparian ESHA and the continuance of its habitat than development within the buffer.

3. A coastal permit authorizing a buffer adjustment shall require measures that create a net environmental improvement over existing conditions, in addition to what is otherwise required by minimum applicable site development standards. Such net environmental improvement measures shall be implemented prior to, or at least simultaneous to, the development encroachment into the wetland buffer.

Thank you for your consideration of our concerns and comments.

Sincerely yours,

Amy Trainer, Executive Director

Exhibit 1
Principal Permitted Use (PPU) Examples from Other Coastal Jurisdictions

On at least four occasions the Coastal Commission staff has advised Marin county planners in written comments that they do not regard additional residential development on a C-APZ parcel as a principal permitted use.[1] "We recommend that "Agricultural Production" be designated as the one allowed principal permitted use for C-APZ lands, and that uses appurtenant and functionally-related to agricultural be designated a permitted use. This … will allow for functionally related uses to occur, subject to the LCP's resource protection standards and requirements."

The Coastal Commission and its staff have consistently taken the position that *residential* development in *agricultural* or *timberland* zoning districts is not a principal permitted use.

Mendocino County LCP
Functionally-related development can be viewed as multiple examples of effectively one use type or group, e.g. single family residence, garage, fences, storage sheds. The county-submitted amendment lists numerous types of development for TP (timberland production) zoning district that, although designated PPU, are not functionally related to one another:

(A) Coastal Residential Use Types.
Family Residential: Single-family;
Vacation Home Rental.
(B) Coastal Agricultural Use Types.
Forest Production and Processing: Limited;
Tree Crops
(C) Coastal Open Space Use Types.
Passive Recreation.

The CCC certified LCP Amendment (MEM-MAJ-1-08) on 4/28/11 only after explicitly revising the county's submission so that:

- PPU is "Forest Production and Processing: Limited"
- All development other than this single PPU is appealable, including "Family residential: single family"; and "vacation home rental"

Humboldt County LCP[2]
January 9, 2013 CCC meeting; W7a-1-2013.

The recently adopted amendment in Humboldt County rezoned 2 parcels from RR (rural residential) to TC (timberland commercial).

RR (rural residential): PPU is residential

[1] CCC letters dated 11/9/12, 1/7/12, 9/15/10, 8/10/11.
[2] HUM-MAJ-1-12, Williams-Guterro LUP and IP amendments.

The purpose of the TC land use designation in the Trinidad Area Plan is "to protect productive timberlands for long-term production of merchantable timber." Principal uses (PU) under the TC designation include "timber production including all necessary site preparation, road construction and harvesting, and residential use incidental to this use … *except second dwelling***."** [Emphasis added].

The adopted LUP amendment resulted in a reduced maximum potentially allowable density for the area: the TC designation, unlike the RR designation, prohibits second dwelling units.

Marin County

1. Coastal Commission staff report[3] on **Hansen-Brubaker appeal** (2/14/03):

> Only one use can be the designated PPU for purposes of appeal. … residential development cannot be considered as <u>the</u> PPU of the agriculturally zoned site.
> Status: appeal withdrawn, property sold.

2. Coastal Commission staff report[4] on **Brader-Magee appeal** (9/2/10):

> The project is appealable because the project involves development, the proposed single family residence is not designated as the PPU in the C-APZ-60, and the county inappropriately waived the master plan requirement.
> Status: the appeal is pending.

San Luis Obispo County LCP

Periodic Review, July 2001[5]

Coastal Act Section 30603a(4) specifies that "any development approved by coastal county that is not designated as <u>the</u> principally permitted use" shall be appealable to the Coastal Commission (emphasis added). This means that only one type of use should be considered as principally permitted within each land use category, and that all others should be considered as conditional. Within this context, the kinds of development that necessitate the application of special standards, and are not directly associated with the identified principally permitted use[6], should be processed as conditional uses.

[3] Hansen-Brubaker, Th-9a, Appeal No. A-2-MAR-02-024, page 6.
[4] Brader-Magee, W10a, 9/2/10, Appeal No. A-2-MAR-10-022, page 2.
[5] Adopted Report, San Luis Obispo County LCP Periodic Review, July 12, 2001, As revised August 24, 2001.
[6] The designation of a single principally permitted use does not exclude subsets of that use from also being considered principally permitted. For example, in residential districts where single family residences are designated as the principally permitted use, it may be appropriate to consider certain residential accessory uses as part of the principally permitted residential use.

Marin Audubon Society

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January 14, 2013

Conveyed electronically
President Steve Kinsey
Marin Bounty Board of Supervisors
35-1 Civic Center Drive
San Rafael, CA 94903
/
RE: COMMENTS ON LCP

Dear President Kinsey and Supervisors:

Marin Audubon has the following g comments on recommendations in the staff report for the January 15 on the Local Coastal Plan.

1. C-BIO-2 and C-BIO-2.1 Trails Resource Dependent
Concerning the evaluation that trails are resource dependent, as we stated last month, trails may be dependent on the resources being present, but they are NOT dependent on being located IN the resources. Trails in buffers require the removal of vegetative habitat and direct people into the habitats.

The proposed language, while improved, still violates the purpose of ESHAs and does not cure the underlying problem of destroying habitat. The examples of measures to protect ESHAs also have problems:

- Fences - Fencing can block access and movement by wildlife. Fences need to be of a wildlife friendly design.
- Limiting Timing – This is difficult and time intensive to manage. Who would enforce these measures?
- Boardwalks – These also destroy habitat by covering vegetation, blocking light and casting shadows, and bring people even further into habitat when situated over wetlands.

2. C-BIO-20 and C-BIO-25 Buffer Adjustments
We continue to oppose a minimum buffer width of 50 feet. This would simply give applicants a target for reducing the buffer width, and that is what would be approved for the most part. The minimum buffer should remain 100 feet.

These policies are basically the same for wetlands and streams except that C-BIO-25 has a provision (d) for improving instream conditions. There should be a similar provision in wetlands policy BIO-20 that calls for expanding and improving conditions of the wetland.

The measures for environmental benefit or improvement in these policies, while worthy, would do little to offset or make up for the impacts of reducing the habitat buffer, and they should be required anyway:
a. Reducing the rate or volume of stormwater runoff or improving the quality of runoff – Are not such measures are already required by county policy/code and RWQCB?
b. Eliminating on–site invasive species is important and should be required anyway. It requires years of work to remove most invasive species, unless pesticides are used. To enforce this provision would necessitate detailed conditions and long-term oversight.
c. Increasing native vegetative cover. Similar to b. this requires specific conditions and oversight and maintenance at least for first few years, to ensure survival.
d.-f. Reducing water consumption using native landscaping and other means, while a worthy goal, would allow the impacts of reduced buffer to continue.

In addition, a measure that should be considered to offset any buffer reduction is to require an increased buffer in other sections of a property where the development is not intruding. As properties rarely, if ever, have the straight boundaries as depicted in the figure, it would likely be possible, except on properties located completely in the buffer, to provide a wider buffer area in some sections.

J3. C-BIO-20 Conforming with zoning - We concur with the recommendation of EAC, that consideration of a buffer adjustment must include all contiguous parcels under the common ownership are located entirely within the buffer.

Thank you for considering our recomme3ndaitons.

Sincerely,

Barbara Salzman, Co-chair
Conservation Committee

Phil Peterson, Co-chair
Conservation Committee

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Chairman Steve Kinsey, President
Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Via email c/o Kristin Drumm: Kdrumm@marincounty.org

Dear Board Members,

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the most recent staff comments, dated January 4, 2013, on the development of the Local Coastal Plan (LCP). As may be recalled from our comments made at the October meeting, as well as the corresponding letter, CCA is very concerned with a variety of issues contained within the LCP. While several issues will be enumerated herein, we would like to take this opportunity to thank the staff and Board for several of the positive amendments which have been made thus far. CCA's membership is appreciative of the acknowledgement and resolution of some major concerns, and hopes that those remaining will be addressed in an equally favorable fashion.

Having attended the meeting hosted by the California Coastal Commission (CCC) to discuss LCPs, one issue which was made abundantly clear by representatives from local government, including Chairman Kinsey, was the need for greater local autonomy and a reduction of overreach on the part of the CCC. As was written in CCA's letter to the CCC on this issue, we believe that not only does the law provide for it, but that local governments should fight to develop LCPs which best fit the needs of their county, not the demands of the CCC. It is our firm belief that the CCC staff should play a limited role in the development of LCPs, and provide comment only when developing policy is in conflict with the Coastal Act. CCA would encourage the Board and staff to rely on the needs of the local constituencies in their plan development and avoid capitulation to the CCC, which, as was noted in the CCC meeting, is often times overbearing and overreaching.

In this vein, CCA is thankful that staff has suggested clarifications to the term " grading" , which excludes routine agricultural practices, but would suggest that both staff and the Board seriously consider the enlarging the grading quantity that would be considered development. Although staff comments state that "options for a specific grading quantity include the 250 cubic yard limit established in Title 23, the implied threshold of 150 cubic yards in the existing LCP, or some smaller quantity, consistent with recent Coastal Commission actions…" might be acceptable, CCA would ask that the Board not rely on the CCC approved thresholds as a starting point. While 50 cubic yards, as approved for San Luis Obispo County, may seem sufficient for those unfamiliar with agriculture, scale and relativity in agricultural lands must be considered. CCA members have frequently encountered challenges from the CCC when trying to remove vegetation for the purpose of fire breaks or to maintain pasture. These activities are certainly routine agricultural practices, and should be enumerated as such. It is important to note that for those

who manage thousands of acres of land, the grading of 50 cubic yards of dirt, for the purposes of vegetation removal, is hardly sufficient, as this is equal to the length of half of a football field. At the very least, CCA would encourage vegetation removal to be included within the scope of "agricultural practices" and not to decrease the current threshold.

While we would suggest the inclusion of "vegetation removal", as it applies to the maintenance of agricultural operations, to be included in the definition of " agricultural practices", CCA is very appreciative of the clarifying language suggested by staff which specifically points out that on-going agricultural operation , including animal management and grazing , are not to be considered development or a change in the density or intensity of the use of the land. We hope that the Board moves to approve this language, as it helps protect the viability of agriculture in Marin County.

With regards to ESHA, CCA encourages the Board to tread lightly and consider the ramifications of any change of policy. As it relates to terrestrial ESHA, it is concerning that riparian vegetation associated with ephemeral streams, is to be considered ESHA. While CCA certainly recognizes the importance of riparian vegetation, the Board should also consider that there are a host of restoration projects, including planting and stream bank stabilization, which will likely go undone if all riparian vegetation is considered ESHA. As the Board is well aware, the designation of ESHA, while potentially helpful, can also result in overly burdensome regulations which inhibit the undertaking of positive work.

Similar to the concerns expressed about blanket designations of ESHA, the proposed amendments to stream buffers are also troubling. While we are certainly appreciative, and think it good policy to grant buffer adjustment consideration when "development cannot be accommodated entirely outside the buffer" it is confusing to then suggest that there is an "'absolute minimum' 50 foot buffer which cannot be adjusted." As has been discussed at previous Board meetings, flexibility, and with it, accurate science, is keenly important. CCA would encourage the Board to adopt a more flexible rule which allows for the consultation with appropriate parties to determine an acceptable buffer zone on a case by case basis. This policy should be based on local determination, not on the suggestions of the CCC staff, whom, it should be noted, failed to engage early-on with this public process. The late comment from the CCC staff, followed by the subsequent reopening of the Wetland Buffer Adjustment Policy is disturbing. As previously stated, LCPs should be designed by counties, and influenced by the CCC only insofar as changes are made to reflect legal parity.

Although likely contained to help contextualize the proposed changes to stream buffers, the Board should not, in this case, be persuaded by the fact that there are three other counties which "provide some sort of 'absolute minimum' for an adjusted buffer…" for there are 11 counties which do not. As staff points out, within the Coastal Zone, 69% of the parcels do not fall within the required buffers for streams or wetlands. While those excluded from the buffer zone are an obvious majority, it is important to note that there is still a sizeable minority who will be burdened with this hard and fast rule. The Board should consider that while many of the affected parcels also contain land not within the buffer zone, topography often plays an important role in the viability of any type of "development". Should the Board wish to implement an effective policy, they should not be remiss in accounting for this factor, and CCA urges that topography be included in the list of considerations for buffer adjustments.

The most troublesome component of the buffer amendment is the requirement to create a "net environmental improvement over existing conditions." While CCA wholly supports volunteer

improvements and restoration projects, this is an absolutely inappropriate requirement of a buffer adjustment consideration. The examples listed as “appropriate measures” are not only extraordinarily expensive, but likely impossible. If the intent of the Board is to create a policy which encourages restoration projects, then this section must be reworked. In its current form, this “net environmental improvement” requirement will assuredly prevent land owners from seeking a buffer adjustment, and consequently not engaging in these projects. Here, the Board should be clear in its intention. If the desired outcome is “no buffer adjustment”, then let it be stated as such, for as currently written, this requirement certainly results in the same outcome. If restoration projects are desired, then they should be rethought to achieve a more realistic outcome.

CCA is grateful of the opportunity to discuss these LCP amendments, and would suggest that the Board wait to make a final determination on these changes until after the Agriculture Workshop is held by the CCC. Family farms in Marin, and all throughout the state help to feed the country and the world. Many of these lands have been managed by the same families for generations and blood, sweat and tears have undoubtedly gone into the continued preservation of California’s coveted open space. What many often forget is that these open spaces created by farming and ranching have been maintained as such without the burdensome regulations we see today. The agricultural community has an inherent obligation and desire to maintain the viability and sustainability of their land, but is finding it increasingly difficult to do so as strangling regulations choke these land stewards, eventually forcing them off the land. CCA implores the Board to give consideration to the long term effects of these LCP policies and to recognize the existing commitment to sound land management that is demonstrated by our membership.

Sincerely,

Margo Parks

Director of Government Relations

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

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January 14, 2013

Marin County Board of Supervisors
3501 Civic Center Drive
Room 329
San Rafael, CA 94903

Re: Marin County Local Coastal Program (LCP) Update - Board of Supervisors' Hearing on January 15, 2013 regarding Agriculture and Biological Resources

Honorable Supervisors:

Please accept the following comments on the staff report for changes to certain portions of the Agriculture and Biological Resources components of the Marin County Planning Commission-approved draft of the LCP Update, which you will be discussing on January 15th. Please note that these comments are solely related to the subset of issues presented by County staff for consideration at this hearing. As we have identified in previous comment letters and in discussions with your staff, we continue to have outstanding concerns with regard to certain proposed agriculture and biological resource policies that are not among the subset of issues identified for consideration on the 15th, and we will be providing comments on those, as well as the entire LCP Update as currently proposed, in the near future. Please accept the following comments for the topics being considered on the 15th.

Intergenerational Housing

As discussed in our previous comment letter for your November 13, 2012 hearing, we continue to be concerned about the proposed concept of intergenerational housing in C-APZ zoned land. Our concerns relate to whether such housing is needed (i.e., is the existing LCP's allowance for a farmhouse and for farmworker housing insufficient to meet farmers' housing needs?), and whether the proposed LCP has proper standards and findings for approval of such housing. We also disagree with the LCP's definition of intergenerational housing as "agriculture". We continue to have those concerns.

At the direction of the Board from previous hearings, County staff's proposed changes to language in Development Code Section 22.32.024.B attempt to clarify appropriate uses for intergenerational homes in the event that family members no longer live in them. Provided intergenerational homes are reclassified as we have suggested, we agree that the first two potential allowable uses are appropriate (housing for farm workers or for agricultural homestays). However, we do not support their use as housing for members of the community who are not associated with the farm. While the goal of creating deed restricted affordable housing is honorable, such allowance is inconsistent with Coastal Act Sections 30241 and 30242, which strictly limit non-agricultural uses, including residential development, on agricultural lands. Thus, if the County continues to pursue the concept of intergenerational housing, in

addition to our previous comments, we also recommend that any use of structures built as intergenerational housing be used only for family members of farmers, or for farm worker housing directly tied to and necessary for agricultural production on the farm in question.

Grading

In the staff report, the County seeks direction from your Board as to a limit on the quantity of grading that would be the threshold for when coastal development permits are required. The report offers a range of thresholds, from as low as 50 cubic yards to as high as 250 cubic yards. The 250 cubic yard number is the current threshold in the County's Grading Ordinance for determining when a grading permit is required (not when a coastal development permit is required), and the 50 cubic yards, the report suggests, is the limit approved by the Coastal Commission for San Luis Obispo County's LCP. We would like to clarify that the 50 cubic yard minimum approved for San Luis Obispo County[1] was for the County's grading permit requirements, *not* for coastal permit requirements.S ection 30106 of the Coastal Act defines development to include *all* grading. Thus, the San Luis Obispo County LCP amendment clarified that while grading under 50 cubic yards was exempt from the County's grading permits, it was not exempt from coastal development permits (the amendment also approved an expedited review process for projects that involve such "de minimus" grading). Thus, the County should not specify any minimum quantity of grading that would be exempt from coastal permit review, and instead require coastal permits for any grading that is not otherwise exempt, as required by the Coastal Act and the Commission's regulations.[2] It would seem appropriate to incorporate some processing streamlining for smaller amounts of grading, such as was done in the San Luis Obispo County LCP case, but processing streamlining needs to be kept separate from the question of whether a coastal permit is required at all. Commission staff is available to work with County staff in developing such a streamlined approach for Marin.

Finally, the proposed definition of grading excludes routine agricultural practices, such as plowing, tilling etc. However, many routine agricultural practices include earthwork that constitutes grading. As we have suggested in the past, grading associated with ongoing agricultural activities would not require a coastal permit (see also below), but that is a separate question than whether certain types of grading associated with agricultural activities is grading at all. We believe that the two concepts need to be kept separate, and that the County should therefore revise the definition of grading to incorporate all earthwork, including earthwork for routine agricultural practices.

Coastal Permits for Agriculture

As discussed in previous comment letters, the proposed LCP Update is not entirely clear with regard to what agricultural activities might require a coastal permit.P ursuant to the Coastal Act and the Commission's Regulations, all development, including agricultural activities that require grading or changes in the intensity of use of land or water, requires a coastal permit unless it is exempt through Section 30610 or subject to a categorical exclusion.Unless agricultural grading

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[1] San Luis Obispo County LCP Major Amendment SLO-1-10, Grading and Stormwater Management, approved in August 2012.

[2] Grading could potentially be exempt from coastal permit requirements through the coastal permit exemptions put forth in Coastal Act Section 30610.

or changes in use, such as removing vegetation or grading for the planting of row crops, are part of an ongoing agricultural operation (in the last five years, as previously identified in our comments),[3] such activities require a coastal permit. The County's staff report provides a revised definition of ongoing agriculture to more clearly address when coastal permits are required. The proposed definition exempts agricultural activities on all lands presently used for agriculture, as well as lands historically used for agriculture so long as there is no new encroachment within 100 feet of a wetland, stream, or riparian vegetation. Additionally, regardless of whether the land is currently or has historically been used for agriculture, any time new water wells or surface impoundments are developed, a coastal permit is required. Therefore, as long as agricultural activities are located on land that is currently used for agriculture, or is on land historically used for agriculture *and* is 100 feet away from wetlands, streams, and riparian vegetation, all agricultural activities may occur without a coastal permit. We believe that some of the criteria built into this definition are appropriate (e.g., sensitive habitat setbacks), but continue to believe that only ongoing activities are exempt under the law, and not activities that seek to resurrect some long since abandoned use, and not activities that change the intensity of use (such as changing from grazing to crop production). Note that past Commission guidance on this topic has specified that lands traditionally used for grazing and then converted to row crops is considered a change in the intensity of use of land and water and therefore considered development. Thus, we are supportive of the additional habitat setback criteria, but continue to recommend that the LCP clarify that the use of land for new or expanded agriculture activities, unless part of an ongoing agricultural operation, requires a coastal permit.

ESHA Definition
The proposed revised definition of ESHA excludes riparian vegetation "areas" and instead states that only riparian vegetation itself is considered ESHA. We recommend that the County retain the original or substitute similar policy language as certified by the Planning Commission that ensures that the entirety of riparian areas and corridors be given ESHA protection.

Wetland and Stream Buffer Adjustments
We recommend clearer language in Policy C-BIO-20.1(b) and Policy C-BIO-25.1(b) to state that buffer adjustments may only be allowed after siting, design, and sizing alternatives have been studied and deemed infeasible. For example, C-BIO-20.1(b) could be revised to state that the buffer adjustment may only occur after it is demonstrated that all siting, design and sizing alternatives have been proven infeasible.

Vegetation Management and Fuel Modification
We recommend policy language that requires development to be sited and designed a sufficient distance from ESHA and ESHA buffers in order to avoid any disturbance associated with fire safety measures. Such language should clearly indicate that fuel management is only allowed within ESHA under limited circumstances (and where it is resource-dependent development) and that required setbacks for fuel modification in new development need to be in addition to required ESHA buffer distances. We recommend modifying Policy C-EH-25 by removing the allowance for removal of major vegetation and ESHA for fire management, and instead indicate

[3] As was found to be the case in San Luis Obispo County LCP Major Amendment SLO-1-10, and as is the case in the currently proposed Ventura County LCP update.

that siting and design measures, including appropriate buffers that account for and provide space for fire safety measures, are the proper methods for ensuring fire protection.

In closing, thank you for consideration of these points. We understand that you and your staff have identified a schedule for considering these and other Update issue areas over the course of the next several months leading to Board adoption. We will do our best to provide feedback and comments during that time, and look forward to working together to shape an Update that preserves, protects, and enhances coastal resources consistent with our mutual objectives for Marin. If you have any questions, please don't hesitate to contact me at (415) 904-5260, or at the address above.

Sincerely,

Kevin Kahn
Coastal Planner

January 15, 2013

Dear Members of the Board,

This letter is in reference to the Staff recommendations for agriculture found in exhibit #1 of January 15, 2013 report before the Board.

I would like to call to your attention some potential issues that have significant consequences to the Coastal zone. In the revised LCPA's section 22.68.030 the underlined part "change in the intensity of use of water, or access thereto" means the development of new water sources such a construction of a new well or the creation or expansion of a surface impoundment can lead to a watershed's aquifer being tapped by a deep wells thereby rendering the adjacent properties without the needed ground water to continue their operations. Water is extremely limited in Marin and should not be a resource that is controlled by whomever has the resources to put in the deepest well or the most ponds. Vineyards require roads and wineries depend on large trucks and road traffic. My neighbors will have over 800 people(on a particular day) travel on our one lane road creating potential dangers for the neighbors who share the same access. With viticulture also comes extensive pesticide use. We have an neighboring organic vineyard and we have all been made ill from the "organic spraying" that drifts downwind from the vineyard. Even organic has its downside as chemicals such as copper and arsenic are allowable. Vineyards will soon become wineries. All you have to do is see what has happened in Sonoma County.

Lastly relative to industrial scale wind turbines for agricultural use grading has not been addressed. How are the planners going to look at the site preparation for industrial scale wind turbines which require removal of large masses of earth for their base, as well as roads and trenches to underground the transmission lines. As turbines are set to be sited on agricultural lands grading and landform alterations will occur. These are ongoing issues that those of us who aren't in the Coastal zone are already experiencing. Thank you for your attention in these matters.

Susie Schlesinger

January 15, 2013
29 Woodland Ave.
San Anselmo, 94960

Members of the board of Supervisors,

In the 1/15/'13 Staff Report under Biological Resources, 22.130.030 Definitions on page 7, Environmentally Sensitive Habitat Areas (ESHA) (Terrestrial), line 5, add after "or other wildlife, grasslands.

Under ESHA (coastal), line 6 add after "California Endangered Species Act...California Species of Special Concern"

For example two species of raptors listed as California Species of Special concern, the Northern Harrier (Circus cyaneus) and the white tailed kite (Elanus leucurus) regularly forage over West Marin's coastal grasslands. Both species have been documented on or near the Jablon and Cornett ranches in the Tomales area of the coastal zone. A grassland dependent mammal, the American badger, also listed as a California Species of Special Concern, has been observed on the Jablon's ranch. The males territory can cover 1200 acres.

A major factor in the decline of grassland dependent species is habitat loss. Marin's grasslands are critical habitat for these listed species. And must be recognized as such. By not including that specific habitat and category of protection as Species of Special Concern, these and other grassland dependent species are put at risk of not being considered during project review.

The LCPA as presented can not be considered adequate in this regard without the inclusion of the grassland habitat and the designation of California Species of Special Concern.

Respectfully,

Beverly Childs McIntosh, retired Public Agency Environmental Planner