

~ CLASS ~
Coastal Landowners for Agricultural Sustainability & Security
Valley Ford, CA 94972

February 25, 2013

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

Re: **Marin County Local Coastal Program Amendments:**
Agricultural Exclusions in the Categorical Exclusion Orders and Related Maps

Honorable Supervisors,

Coastal Landowners for Agricultural Sustainability & Security (CLASS) is an ad hoc group of stakeholders, mostly from Marin, but also from several other coastal counties, who want to protect agriculture production on our lands and, at the same time, retain our property rights.

We call your attention to one of the significant problems remaining in the Planning Commission Approved Draft LCPA, identified by Farm Bureau in its [2/19/2013](#) letter as Unaddressed Issue #1: the Categorical Exclusion Orders and the related Categorical Exclusion Area Maps, in particular Map 27g and 27j, Revised 1/24/13.

Unless the Categorical Exclusion Orders (CEOs) are amended to apply to *all* of the active, productive farms and ranches in the Coastal Zone, all the farmers and ranchers in the so-called "Non-Excludable Areas" are technically at risk of being held accountable for noncompliance by the very existence of an unpermitted barn or shed on their property, or just for practicing agriculture! All it would take is a complaint from a disgruntled neighbor, or from one of the growing number of "public advocates" who alert violations to the Coastal Commission's attention, which could then slap them with fines, enforcement orders and cease-and-desist orders as they would be, by definition, legally in violation of doing or having "Development" without a permit!

Background

One of Marin's existing CEOs deals with "Agricultural Exclusions." These are "Uses Allowed by Right, No Permit Required." They encompass customary and common agricultural activities, along with a list of ag-related structures including barns, storage, equipment, other necessary buildings; water storage tanks, specific water impoundment projects, electric utility lines, and certain fencing.

Without the Agricultural Exclusions in place, these uses - including ag activities themselves - would all technically fall under the Coastal Act's Definition of Development requiring a Coastal Development Permit.

So, because it allows normal agricultural practices without requiring a CDP, having Agricultural Exclusions is good!

Unfortunately though, the "Excludable Areas" do not include ANY of the agriculturally-zoned land between the mean high tide line of the first public road paralleling the sea, or one-half mile inland. These lands are called "Non-Excludable." And, as you can see on the Maps, they encompass a very large number of Marin's farms and ranches – in fact, all the rural lands running along the East shore of Tomales Bay, and north along the coastline to the Sonoma County line, including my own ranch and those of all my neighbors. They also run inland all the way to the County boundary east of Highway 1 along the Esteros Americano and de San Antonio, and inland along Walker Creek.

We believe a strong case can be made that customary and common agriculture activities, uses and structures on these working ranches would comply with Section 30610 of the Coastal Act dealing with coastal resource protection and, as such, should be considered "Excludable Areas."

The Draft LCPA does contain Program C-AG-2.a., which mandates "seek[ing] to "clarify the [Ag Exclusions] for the agricultural community," and to clarify or add to the CEOs. We believe the time for clarity and precise language is *now*, for the benefit of not just the ag community but for the public at large.

Other problems and inconsistencies in the existing CEOs are confusing at best. Many are mostly technical and include, among other things:

- Those two Revised Maps show areas of Northern Marin County covered under LCP Unit II, but their legends refer to Categorical Exclusion Order E-81-2 which, according to the CEOs, is from LCP Unit I, which essentially applies to only Southern Marin.
- One of the officially-adopted documents says that "agriculture means the *tilling* of the soil," while another states that it means the "*filling* of the soil."
- The various PDF versions of the CEOs, including the three related to Agricultural Exclusions, are internally inconsistent with each other, difficult to read and follow, and contain handwritten notations and marks.

Our Request

We agree with Farm Bureau's arguments, and join their request that you direct staff to amend the Categorical Exclusion Orders so that they are clearly applied to *all* C-APZ-zoned parcels in the Coastal Zone, that the appropriate maps reflect the areas accordingly, and that the amended CEOs are incorporated within the body of the LCPA, not as separate, difficult-to-access reference materials. This will provide the clarity, consistency and transparency that the public needs and deserves in the amended Local Coastal Program, and will serve to protect agriculture as the County intends.

Going Forward

CLASS has been keeping watchful eyes on the various LCP amendment processes underway, as we recognize that policies and regulations certified in one county will ultimately set precedent elsewhere, not only for us, but for California's inland agriculture. More farmers and ranchers in Marin's Inland Rural Corridor are now realizing that the updated Countywide Plan mandates that the LCP's zoning regulations will one day apply to them, too.

We are very grateful to you for having rerouted the proposed California Coastal Trail off the working ranches and onto Highway 1, recognizing the disruption it would cause to agriculture operations as well as the potential takings issues inherent in easement exactions.

Thank you, too, for continuing to protect agricultural and private property interests by recognizing that the Coastal Act authorizes ***you***, the local government, to determine the precise content of our LCP, with authority over, and autonomy from, the Coastal Commission. We trust you will stand your ground as it goes through the lengthy certification process.

CLASS supports all of Marin County Farm Bureau's positions, as well as the positions taken by California Farm Bureau Federation, Sonoma County Farm Bureau, California Cattlemen's Association, Pacific Legal Foundation and attorney Doug Ferguson, as reflected in their respective letters to date. CLASS also supports the recent letter from the affordable housing advocates including

CLAM, who pointed out that state law allows second units in the Coastal Zone and that the Coastal Commission encourages them.

In closing, we certainly appreciate that you are motivated to wrap up this years-long process and adopt an LCPA sooner rather than later. But please keep in mind that the initial Public Review Draft of Marin's LCPA was based on a template from the City of Malibu's LCP, so it's no wonder that the agriculture community has found so *many* issues in need of revision to reflect agriculture's importance to our County!

Please, do not hesitate to continue the February 26th hearing until March 12th or some future date if need be, so that you can give *all* your deference to *each* of Farm Bureau's important, but as-yet unresolved issues, as outlined in its February 19, 2013 letter. CLASS fully supports all of their positions and we request that you take the time to publicly deliberate every single one of them.

Thank you very much for your thoughtful consideration of our concerns and requests.

Sincerely,

Nancy Gates

Volunteer, CLASS
Member, Marin County Farm Bureau
Member, California Cattlemen's Association

cc:

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