

CALIFORNIA CATTLEMEN'S ASSOCIATION

1221 H STREET • SACRAMENTO, CALIFORNIA • 95814-1910

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INDUSTRY SINCE 1917



PHONE: (916) 444-0845
FAX: (916) 444-2194
www.calcattlemen.org

February 26, 2013

President Judy Arnold and the Marin County Board of Supervisors
Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Via e-mail c/o Kristin Drumm: kdrumm@marincounty.org

Dear President Arnold and Honorable Supervisors,

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the most recent staff comments as prepared for the February 26, 2013 Board of Supervisors meeting on the continued development of the Local Coastal Plan (LCP). As may be recalled from comments made at the October and January meetings, as well as the corresponding letters, 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 of Supervisors (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.

As CCA has said before, Marin County's LCP should be a reflection of the priorities of the County, and not a capitulation to an unelected board. Insofar as the LCP is consistent with the Coastal Act, it should be approved by the California Coastal Commission (CCC). The Board has a responsibility, as an elected body, to represent their constituency and demonstrate sound decision making based on public comment. CCA hopes that the Board will rise to the occasion and develop an LCP which is reflective of the wants and needs of Marin County, and not of CCC staff.

In addition to representing the interests of Marin County, it is also important that the Board consider the regulatory environment in which they are creating the LCP. This document does not exist in a vacuum. The policies created in the LCP are layered underneath federal law as they relate to wetlands, the Clean Water Act, the Federal Endangered Species Act and regulations created by the Environmental Protection Agency. Under these guiding federal laws, those landowners governed by the LCP are also regulated by the state under Porter Cologne, the California Environmental Quality Act, the Coastal Act, the California Endangered Species Act, and regulations created by the Department of Fish and Wildlife, CALFIRE, the Department of Water Resources, the California Environmental Protection Agency, the Air Resources Board and the Williamson Act. Locally, regulation exists to manage air quality, water quality, building, roads, commerce and development. It is critical to keep in mind that many of the provisions contained within the LCP will require further regulation by the CCC in addition to the incomplete list of the aforementioned governing bodies. Many of the existing and amended policies in the LCP result in

micromanagement and regulatory involvement in the minutiae of agricultural operations; a role which is inappropriate given the overabundance of existing regulations.

To further analyze and contextualize the regulatory environment into which the LCP will be placed, Board members must continuously consider the farmer and rancher and the effects these regulations will have on his ability to produce. A majority of the agricultural land in Marin County is in Williamson Act contracts. The Williamson Act expressly enumerates the activities which are and are not permitted. In order for a landowner to remain in the Williamson Act, their property and the structures on it must be maintained for the exclusive purpose of agricultural production. If a landowner is in this contract, the law assumes continued agricultural production and preservation. Not only are these land owners contractually obligated to maintain their agricultural ground, but they do so as a livelihood and in a generations-long tradition. These agricultural lands have been maintained for both economic and environmental sustainability, for these are inextricably linked; one cannot exist without the other. By the nature of his work, the landowner is inherently obligated to manage the land sustainably. By adding to an ever growing list of regulations that determines how an agricultural land owner must operate his property, this LCP makes assumptions that the landowner will not consider environmental impacts before engaging in a project. However, it must be recognized that agricultural landowners make decisions based primarily on the viability and health of their land. CCA implores the Board to keep this in mind as the final LCP is developed.

Brush Clearing:

Although several of the topics within the LCP have been approved by the Board, the lack of finality on the document gives reason to again point out several of the outstanding issues. What is perhaps the most vital of the outstanding issues relates to brush clearing. 22.68.030 defines on-going agricultural operations for the purposes of determining the necessity for coastal permits. The definition reads, “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.” This definition, which is used throughout the LCP, should be clarified to include brush clearing as a component of on-going agricultural activities. Many ranchers will attest to the fact that best management practices sometimes require the resting of pasture for a period of time. In the period of rest, these pastures may produce brush that limits grazing ability and forage production. In order to regain full use of the pasture, ranchers often need to engage in brush clearing and vegetation management to ensure that they have sufficient forage for their livestock. If the Board does not include this language, then farmers and ranchers may be forced to obtain permits, effectively punishing them for engaging in best management practices.

The importance of understanding brush clearing in the context of agricultural operations cannot be understated. In the introductory section of the LCP, development is defined to include “... the removal or harvesting of major vegetation other than for agricultural purposes...” Despite the inclusion of vegetation removal as an exemption from development, this language appears nowhere else in the document, and its absence from the definition from “on-going” agricultural activities is troubling. CCA recommends that vegetation management and brush clearing be added as a principally permitted use under “on-going” agricultural activities.

Buffer Zones:

While the concern for ESHA, riparian, and wetland environments is appreciated, CCA believes that the Board’s establishment of strict buffer zones is inappropriate. Despite site review by a biologist in areas in

which development may impact sensitive habitat, the Board inexplicably demands a buffer zone. If the site is to be reviewed as a condition of permitting, then that review should also be used to establish a proper buffer zone as determined by scientific expertise. To issue a blanket buffer zone discredits and devalues scientific opinion.

CCA is also concerned with the requirements to demonstrate “net environmental improvement” in order to qualify for a buffer zone adjustment. While net improvement of the property is a noble goal, the Board should reconsider this requirement within the context of agricultural operations. As CCA has stated before, farmers and ranchers are an integral part of the environment and landscape across the coast and their land management ensures open space and sweeping view sheds. Should agricultural land owners wish to expand their operation, it is suggested that they be permitted without the condition of a net environmental benefit as long as they can demonstrate that the development has de minimis effects on the landscape. Study after study has proven that these farmers and ranchers are stewards of the land, and their practices result in benefits which far exceed those that can be provided by public management. Their historical and future contribution to the health of the environment should be acknowledged.

ESHA:

With regards to ESHA, CCA requests that the Board consider removing this designation entirely. Both the state and the federal government spend millions of dollars annually to ensure that threatened or endangered species of plants and animals are protected. The designations of endangered species are vetted by scientists and are open to public comment. This public process ensures that all relevant information is shared before a final determination of listing is made. The determination and designation of ESHA, on the other hand, is arbitrary, inconsistent and requires no public process. If the CCC and local governments believe that there are species of plants and animals that deserve protection, then they should petition the state and federal government, as do individuals and non-governmental entities. Neither local governments nor the CCC should indiscriminately and capriciously make these determinations without public input, for these determinations, as evidenced by the LCP, have the real effect of influencing policy and the citizenry.

Development Standards for the Agricultural Production Zone:

The policy created for development within agricultural production zones exemplifies the inherent flaws of the LCP. It reads,

Permitted development shall protect and maintain continued agricultural use and contribute to agricultural viability. Development of agricultural facilities shall be sited to avoid agricultural land (i.e., prime agricultural land or other land suitable for agriculture) whenever possible, consistent with the operational needs of agricultural production. If use of agricultural land is necessary, prime agricultural land shall not be converted if it is possible to utilize other lands suitable for agricultural use. In addition, as little agricultural land as possible shall be converted.

This policy not only expressly mandates where development can occur, but makes a value judgment which favors prime farm land over non-prime. It should not be the business of government to pick winners and losers. While the protection of prime farm land is vitally important to agriculture in the state, it must be remembered that non-prime farm land is almost always grazing land. The landowner should have the ability to determine whether or not he will build on prime or non-prime farmland. If he is engaged in the production of row crops, then he will likely choose to build on other ground. If, however, he is cattle rancher, he may have no choice but to build on land designated as prime. This flexibility in

choice must be left to the land manager who will ultimately choose to build in an area that allows for the continuation and success of his agricultural production; a goal expressed in the LCP and by the CCC.

Examples of this form of micromanagement are found throughout the LCP, and CCA will refer to our previous letters, as well as those from the Marin County Farm Bureau to provide them.

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.

The Board must give consideration to the long term effects of these LCP policies and recognize the existing commitment to sound land management that is demonstrated by our membership.

Sincerely,



Margo Parks
Director of Government Relations

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