



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 required 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

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

Program³ 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 use⁸. 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

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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