

August 26, 2010

**Via Hand Delivery and E-mail**

Board of Supervisors  
County of Monterey  
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**Re: 2007 Monterey County General Plan EIR  
PLN070525, SCH2007121001**

Dear Chairman Salinas and Members of the Board:

LandWatch Monterey County has actively participated in the development and environmental review of the 2007 Monterey County General Plan (“2007 General Plan”). As the Board of Supervisors begins its review of the EIR and the proposed revisions to the 2007 General Plan, we ask that it carefully consider the concerns that LandWatch has expressed in its previous comment letters. We summarize major concerns below.

**SLOPE CULTIVATION, EROSION, AND SEDIMENTATION:** The 2007 General Plan will authorize extensive conversion of uncultivated land to agricultural uses, in part by relaxing the County’s current ban on new cultivation of land sloped over 25 percent. The EIR itself projects a 5 percent increase in agricultural acreage in the Salinas Valley by 2030 and a 20 percent increase through buildout. Much of this land will be located on the marginal and steeply sloped uplands around the Salinas Valley and will be used for viticulture, a particularly erosive land use.

Because the EIR fails to provide a fact-based analysis of the impacts of this new cultivation, we asked Dr. Robert Curry to evaluate erosion and sedimentation impacts. Dr. Curry demonstrates that the EIR’s analysis and mitigation of these impacts is fundamentally inadequate.

- The Draft EIR fails to acknowledge that under baseline conditions the County *already* has a significant cumulative sedimentation problem, because numerous stream segments fail to meet water quality standards.
- As was pointed out by the Regional Water Quality Control Board (the key responsible agency), the EIR errs by failing to acknowledge that erosion and

sedimentation from activities permitted under the 2007 General Plan will make a considerable contribution to this existing significant impact.

- The EIR's contention that existing regulations and future policies will prevent future impacts is indefensible. The existing regulations are not working and the future policies lack any substantive content. Indeed, the Board of Supervisors has just recently asked the Regional Board not to implement a stream setback requirement even though a stream setback requirement is identified in the EIR as essential mitigation for erosion impacts.

Accordingly, we ask that the County adopt the policy revisions suggested by Dr. Curry in his May 17, 2010 comments, especially the continuing ban on new agricultural cultivation on slopes over 25 percent.

Set forth below is a revision to proposed Policy OS-3.5 that would continue the existing ban on new cultivation of slopes over 25 percent. We urge the Board to adopt this language:

**OS-3.5** The County shall prohibit cultivation of slopes greater than 25%. The sole exception to this prohibition is for slopes greater than 25% that were cultivated prior to 1992 and on which that cultivation use has not been abandoned. Abandonment of such cultivated slopes shall be presumed if those slopes were not used for crop production, viticulture, or planted trees for a period of five consecutive years after 1991.

For the purposes of this policy, slopes shall be considered "cultivated" only if they were prepared by grading, plowing, harrowing, disking, ridging, listing, leveling, or tilling. Slopes shall be considered cultivated only if they were prepared for the purpose of crop production, viticulture, or planting trees. Slopes shall not be considered cultivated if they were prepared only for the purpose of grazing or livestock use.

Cultivation of slopes greater than 25% shall not be intensified. Intensification shall include initiating irrigation on land not irrigated as of 1991 or increasing water use above water use as of 1991.

The County shall prohibit development on slopes greater than 30%. It is the general policy of the County to require dedication of scenic easement on a slope of 30% or greater. Upon application, an exception to allow development on slopes of 30% or greater may be granted at a noticed public hearing by the approving authority for discretionary permits or by the Planning Commission for building and grading permits. The exception may be granted if one or both of the following findings are made, based upon substantial evidence:

A) there is no alternative which would allow development to occur on slopes of less than 30%; or,

B) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.

A permit process will be established as follows:

1. A discretionary permit process for development on slopes greater than 25-percent (25%) or that contain geologic hazards and constraints shown on the County's GIS Geologic (*Policy S-1.2*) or Hydrologic (*Policy PS-2.7*) Hazard Databases shall be established. The process shall be designed to:
  - a. evaluate possible building site alternatives that better meet the goals and policies of the general plan.
  - b. identify development and design techniques for erosion control, slope stabilization, visual mitigation, drainage, and construction techniques.
  - c. minimize development in areas where potentially unstable slopes, soil and geologic conditions, or sewage disposal pose substantial risk to public health or safety.
2. A ministerial permit process shall be developed and implemented for proposed development, including for purposes of this policy conversion of previously uncultivated lands, on slopes between 15- and 24-percent (15-24%), and 10- to 15-percent (10-15%) on highly erodible soils.
3. The permit processes shall be designed to require that an erosion control plan be developed and implemented that addresses slope stabilization, and drainage and flood hazards.
4. All Routine and Ongoing Agricultural Activities, except for conversion of previously uncultivated lands as described in this policy above, are exempt from the above permit requirements.

**SALINAS VALLEY WATER SUPPLY:** The Draft EIR fails to meet CEQA's clear requirements to evaluate the adequacy of water supply on a basin-by-basin basis, taking into account competing demands, *e.g.* demands from incorporated areas. Although the Final EIR purports to rectify this with water balance analyses for each basin, case law is clear that this information should have been included in the Draft EIR to enable full public participation in the environmental review.

The FEIR's belated analysis of the adequacy of Salinas Basin water supply projects a tiny surplus, but this analysis is deeply flawed because the EIR relies on the 2001 Salinas Valley Water Project ("SVWP") EIR, which made inconsistent assumptions about agricultural land use and baseline pumping.

- The SVWP EIR assumed that there would be a net 1,849 acre decrease in agricultural land, whereas the 2007 General Plan EIR projects a net increase of at least 7,682 acres. Water for this increased agricultural acreage will eradicate the tiny surplus projected by the Final EIR and place the basin into substantial overdraft.

- The SVWP EIR baseline 1995 pumping assumptions understate actual pumping as of 1995 by 44,268 afy, based on actual annual pumping data reported by the MCWRA and included in the 2007 General Plan EIR. The discrepancy between the SVWP EIR model and the actual pumping data has not been explained and the public has not been provided with the SVWP EIR model. Again, the discrepancy dwarfs the tiny projected surplus.
- In defending its continued reliance on the SVWP EIR, the FEIR double counts the savings the SVWP EIR projected from more efficient irrigation and changes in cropping patterns.
- Because the FEIR projects a 46% greater urban population than the SVWP EIR, the FEIR “restates” the SVWP’s urban demand projection using different population and water use assumptions, and making unexplained “minor adjustments” that dwarf the tiny projected surplus. The FEIR also uncritically presents multiple inconsistent projections of urban demand without explanation.

LandWatch asks that the County revise and recirculate the water analysis to acknowledge that water supply, overdrafting, and saltwater intrusion impacts will be significant in the Salinas Valley, and to identify adequate mitigation.

**WINERY CORRIDOR:** As the FEIR finally acknowledges, there is no need to create incentives for winery development because there is in fact no significant imbalance between grape crops and winery capacity. Thus, there is no longer any policy rationale to create incentives for winery development by exempting future winery development from discretionary permitting and environmental review. Nonetheless, the exemption of future winery development from discretionary permitting and environmental review remains the fundamental purpose of the Agriculture and Winery Corridor (“AWCP”) provisions in the 2007 General Plan.

The AWCP provisions do not and cannot adequately describe specific future winery development. Thus, the kind of project-level environmental review that could obviate future environmental review is not possible. Accordingly, LandWatch objected to the proposed exemption of AWCP development from future discretionary permits.

In response, the County has revised the AWCP provisions to require that development be subject to discretionary review for potential impacts to biological resources and traffic. However, requirements for discretionary review are inconsistent with the AWCP’s characterization of permits for AWCP facilities as “ministerial.” As a result, the County may no longer characterize any of the AWCP permits as ministerial, because to do so would render the 2007 General Plan internally inconsistent.

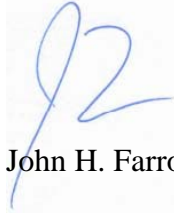
LandWatch suggests that the County simply eliminate the AWCP section of the 2007 General Plan because these policies are not needed, because the AWCP is not and

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cannot be adequately described or evaluated in the EIR, and because the AWCP provisions render the 2007 General Plan internally inconsistent.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in blue ink, appearing to be 'JH Farrow', is written over a light blue rectangular background.

John H. Farrow

JHF: ms