



Post Office Box 1876, Salinas, CA 93902

Email: [LandWatch@mclw.org](mailto:LandWatch@mclw.org)

Website: [www.landwatch.org](http://www.landwatch.org)

Telephone: 831-422-9390

FAX: 831-422-9391

August 31, 2010

**Via Hand Delivery and E-mail**

Board of Supervisors  
County of Monterey  
168 West Alisal Street  
Salinas, CA 93902  
E-mail: [CTTB@co.monterey.ca.us](mailto:CTTB@co.monterey.ca.us)

**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"). We most recently reviewed the definition of "long-term sustainable water supply" suggested by the Agriculture Advisory Committee and the Monterey County Water Resources Agency. We have the following concerns:

**1. LONG TERM SUSTAINABLE WATER SHOULD NOT BE DETERMINED BY FIAT.**

The proposed definition reads as follows:

"LONG TERM SUSTAINABLE WATER SUPPLY means a water supply from any source that can be maintained without causing unacceptable environmental, economic, or social consequences, as determined by the Monterey County Water Resources Agency."

This definition, particularly the phrase "as determined by the Monterey County Water Resources Agency," amounts to the County being able to say that a long term sustainable water supply is whatever the County says it is. A reasonable definition would be based not on fiat, but on an analysis of physical factors such as historic recharge versus existing and projected demand over a defined period in order to ensure that water shortages, overdrafting, and/or sea water intrusion do not occur during that period.

## **2. LONG TERM SUSTAINABLE WATER SUPPLY SHOULD BE DETERMINED ON A BASIN-BY-BASIN BASIS, NOT A PROJECT-BY-PROJECT BASIS**

It is not clear from the definition in what context the determination would be made. Would it be made on a project-by-project basis, or would there be some systematic effort to determine for each aquifer or basin the long term sustainable water supply available to new projects? For example, the County might engage in a systematic process like the development of urban water management plans whereby it determined available water supply for each basin in light of existing and projected future demand and existing supplies. Unfortunately, Policy PS 3.2, calling for development of criteria to determine long term sustainable water supply for new discretionary development, suggests that the determination will in fact be made on a project-by-project basis.

Because project-by-project determinations open the door to arbitrary treatment and political pressure, LandWatch urges the County to make a systematic effort to identify available sustainable water supply on a basin-by-basin basis. This would ensure that all projects are treated alike: if there is available water they can be approved and if not they cannot.

## **3. IT IS UNCLEAR WHY ECONOMIC AND SOCIAL CONSEQUENCES WOULD BE CONSIDERED OR WHAT FACTORS WOULD BE RELEVANT**

If the County is going to adopt a definition for long-term, sustainable water supply which considers anything other than the physical factors determining supply, then those factors must be clearly defined. No definition exists for “unacceptable” economic, social or environmental consequences.

Physical environmental consequences are clearly relevant to determining whether water supply is sustainable. The environment can be seen as another water user with a competing (and high priority) claim to instream flows and adequately maintained aquifers. The County should determine the minimum instream flows and aquifer levels essential to maintain essential environmental values.

Similarly, the County should take existing consumptive demand for urban and agricultural water as a given in determining whether there is an available uncommitted long-term sustainable water supply for a proposed new project.

However, it is not clear why and how the County would evaluate social and economic consequences. If demand from existing urban, agricultural, and environmental users is taken as a given, and would therefore have priority over water use by new projects, then the County does not need to weigh the social and economic consequences of taking water away from existing users by approving a competing water use. It should simply refrain from doing so regardless of the consequences. As discussed below, the unsettling implication of the call to weigh economic and social consequences is that the County would engage in an *ad hoc* evaluation of the social and economic merits of a particular project versus the merits of all competing water uses. .

In sum, whether water supply is sustainable or not should be a physical question of aquifer plumbing, recharge, and projected uses by existing users - not a question of economic and social consequences.

However, if the Board is going to consider economic and social consequences, we urge the Board to clarify that the only consequences to be considered are consequences to other urban, agricultural, and environmental users. In particular, LandWatch strongly opposes any attempt by the County to determine long term sustainable water supply with reference to the economic and social consequences of not approving the particular project under review. Such an interpretation would allow the County to find that water supply is sustainable whenever there are economic or social consequences of denying a favored project. In other words, the County could determine adequacy of water supply based upon what the County might get in exchange for approving a project. Except with reference to impacts to other users, the economic and social consequences of approving or denying a particular project are irrelevant to determining adequate water supply.

#### **4. CONSIDERATION OF ECONOMIC AND SOCIAL CONSEQUENCES WOULD PERMIT DISCRETION WITHOUT STANDARDS AND CONFLICT WITH POLICY PS 3.2**

One fundamental problem with the Agricultural Advisory Committee's and the Monterey County Water Resources Agency's definition is that this language may be used to transform a determination that ought to be based only on physical and environmental factors into a determination that will allow the County to conflate physical factors with social and economic factors. LandWatch objects to this conflation because it would allow the County unbridled discretion to approve projects without any clear standards, particularly when money was at stake.

Furthermore, the proposed definition would require a rewrite of Policy PS 3.2. LandWatch objected that Policy PS 3.2, which is identified as mitigation for water supply impacts, constitutes improperly deferred mitigation. Policy PS 3.2 simply admits that the County does not have criteria for a sustainable water supply, whereas CEQA requires deferred mitigation to have clear performance criteria.

But at least Policy PS 3.2 provides a list of factors or parameters to be considered in developing the criteria for long term sustainable water supply, including: water quality, production capability, recovery rates, effects on close wells, existing groundwater conditions and whether there is overdrafting in the basin, water purveyor competence, cumulative impacts and planned growth, status of water supply projects, feasibility of solutions to sustain the aquifer, and effects on the environment and instream flows. None of those factors can be said to include economic and social consequences in the broad terms implicit in the proposed definition. Frankly, it is not clear why the County proposes to define a long term sustainable water supply except by reference to Policy 3.2. If the County adopts the proposed definition it should clarify how the definition will supplement or limit PS 3.2.

#### **5. INSERTING ECONOMIC AND SOCIAL CONSEQUENCES INTO THE DETERMINATION OF LONG TERM SUSTAINABLE WATER SUPPLY VITIATES POLICY 3.1 AS MITIGATION FOR WATER SUPPLY IMPACTS**

The EIR identifies Policy PS 3.1, barring discretionary permits for projects for which there is no long term sustainable water supply, as mitigation for water supply impacts, some of which are found to be less than significant. However, consideration of economic and social consequences in the determination whether there is a long term sustainable water supply vitiates PS 3.1 as mitigation.

Allowing the County to engage in *ad hoc* balancing of environmental, social, and economic consequences to determine whether a water supply is sustainable would allow it to approve projects that significantly impact water supply, cause or contribute to overdraft, or cause or contribute to seawater intrusion whenever the County determined that “unacceptable” economic and social consequences would occur if it did not approve the project. Even if the County chose to ignore the economic and social consequences to the particular project under review for a discretionary permit, the proposed definition would still allow the County to inject social and economic considerations into a determination that should be based only on physical factors.

If the County adopts the proposed definition, it cannot rely on Policy PS 3.1 as mitigation for water supply, overdraft, and seawater intrusion impacts.

#### **6. “ANY SOURCE” PROVISION IS INCONSISTENT WITH PS 3.2 “NO HAULED WATER” PROVISION**

If the proposed definition is intended to allow the determination of a sustainable supply to be based on "any source," then it conflicts with PS 3.2, which states that a "determination of a long term water supply shall not be based upon hauled water."

In sum, because of these myriad problems with the definition proposed by the AAC and MCWRA, LandWatch opposes this definition.

Thank you for the opportunity to offer comments,

//s//

Amy L. White  
Executive Director