



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

Donald A. Blubaugh  
*Public Member*  
 Federal Glover  
*County Member*  
 Michael R. McGill  
*Special District Member*

Mary N. Piepho  
*County Member*  
 Rob Schroder  
*City Member*  
 Igor Skaredoff  
*Special District Member*

Don Tatzin  
*City Member*

**ALTERNATE MEMBERS**

Candace Andersen  
*County Member*  
 Sharon Burke  
*Public Member*  
 Tom Butt  
*City Member*  
 Stanley Caldwell  
*Special District Member*

July 13, 2016 (Agenda)

July 13, 2016  
 Agenda Item 9

Contra Costa Local Agency Formation Commission  
 651 Pine Street, Sixth Floor  
 Martinez, CA 94553

**LAFCO Agricultural & Open Space Preservation Policy**

Dear Commissioners:

This report from LAFCO’s Policies & Procedures Committee (“Committee”) transmits the revised draft LAFCO Agricultural & Open Space Preservation Policy (AOSPP). The LAFCO Executive Officer has worked closely with the Committee on the issues discussed below and concurs with the Committee’s recommendations.

First and foremost, the Committee and LAFCO staff thank all those who participated in the evolution of the draft policy and provided thoughtful comments.

**BACKGROUND**

Contra Costa LAFCO has a comprehensive set of policies and procedures that deal with a range of issues including boundary and sphere of influence (SOI) changes, municipal service reviews, the role of the Commission, budget & financial procedures, conflict of interest and financial disclosure, out of agency service, legislation, and numerous other matters.

Development of a LAFCO AOSPP was identified years ago as part of the Commission’s ongoing efforts to update its Policies & Procedures. The discussion was elevated in March 2015, at which time the Committee presented a report to the Commission that included a summary of relevant LAFCO statutes and a collection of LAFCO policies and procedures representing 18 different LAFCOs from around the State.

In July 2015, LAFCO hosted an Agriculture & Open Space Preservation Workshop to engage stakeholders in a conversation as to whether or not LAFCO should develop an AOSPP, and if so, what the policy should address. The workshop was well attended and included a range of speakers.

The conversation continued throughout the summer and fall with presentations to a number of local agency organizations and groups (see Attachment 1 for a chronology).

In November, the Commission directed the Committee to draft guidelines relating to agriculture and open space preservation that focus on the LAFCO application requirements and procedures.

In January 2016, the Committee returned to the Commission with proposed revisions to LAFCO's applications and procedures. The Commission agreed with the proposed revisions, and also provided direction regarding the preferred focus of the LAFCO AOSPP – which is to require a LAFCO applicant to provide an assessment of how their application would impact prime agricultural, agricultural and/or open space land; and what mitigation measures the applicant could offer to mitigate these impacts. At that time, the Commission also directed the Committee to continue its outreach and education to various local agencies and interested parties.

On March 9, 2016, the Committee presented to the Commission a draft AOSPP, which incorporated the Commission's prior comments and direction, and input received through the Committee's extensive outreach and education efforts.

There was consensus among Commissioners that the purpose of a LAFCO policy is to provide guidance to the applicant on how to assess the impacts of LAFCO applications on prime agricultural, agricultural and open space lands and to explain how the application intends to mitigate those impacts; and to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands.

The Commission then directed the Committee to reach out to the County, cities/towns, special districts and other interested parties to solicit input on the draft LAFCO AOSPP.

Subsequently, letters were sent to the County Administrator and City Managers, County and City Planning Directors, and all independent special districts. The letter included a brief history and chronology of LAFCO's work on the AOSPP, copies of the revised LAFCO application forms and procedures, and the draft AOSPP. The letter urged the local agencies to discuss LAFCO's draft AOSPP with their councils, boards, and other interested parties in their communities. The letter also directed interested parties to a special page on Contra Costa LAFCO's website which includes maps, comment letters, and related documents (<http://www.contracostalafco.org/Ag-and-Open-Space-Preservation.htm>).

Since the March 9<sup>th</sup> LAFCO meeting, Committee members and the LAFCO Executive Officer have discussed the draft AOSPP with other interested parties including the East Bay Regional Park District's Liaison Committee, Contra Costa Transportation Authority, the Contra Costa Special Districts Association, the Contra Costa Watershed Forum, and Martinez Kiwanis Club. Also, at the City of Brentwood's request, Commissioner Tatzin and the LAFCO Executive Officer made presentations to the Brentwood City Council on May 10<sup>th</sup> and to the Brentwood Land Use and Development Committee on June 2<sup>nd</sup>.

There has been extensive outreach, and throughout the process, LAFCO has received valuable input from agriculture, building, environmental, legal, farming, local government and other interest groups, along with members of the general public. As of this writing, LAFCO has received letters and emails from over 70 agencies and individuals.

## **DISCUSSION**

At this time, the Committee is pleased to present the revised draft AOSPP (Attachments 2a and 2b).

The revised policy complements the recent updates to the LAFCO questionnaires and procedures, which now include an agricultural and open space impact analysis. The revised draft policy also incorporates the Commission's prior comments and direction, and many of the comments received from interested parties.

In sum, the draft policy includes an updated preface, discusses LAFCO's authority, and provides definitions, goals, policies, guidelines and observations.

LAFCO received a number of comments requesting a clear rationale for imposing a local AOSPP; enhanced provisions relating to preserving open space; added references to the importance of agriculture enterprise/economics; and clarification regarding LAFCO and land use regulation. The following includes an outline of revisions to the draft policy made in response to many of the comments received. The list of revisions is not all-inclusive. Following the outline of revisions, the Committee has identified policy and other issues to be discussed by the Commission.

## **OUTLINE OF MAJOR REVISIONS**

### **1. "Preface/Introduction"**

- added background/historical information relating to population and development trends and impacts to agricultural and open space lands
- added information relating to agriculture economics
- added examples of efforts by local agencies and the voters to preserve agricultural and open space lands

### **2. "Authority of LAFCO"**

- provided clarification

### **3. "Purpose of the Policy"**

- expanded

### **4. "Definitions"**

- moved Gov. Code §56377 to "Authority of LAFCO" section

### **5. "Goals, Policies and Guidelines"**

- *Goals*
  - added references to open space
  - consolidated goals
- *Policies*
  - added mitigation hierarchy
  - consolidated and relocated policies
  - added policy relating to proximity of mitigation measure(s) to location of impact
  - moved policy relating to notifying adjacent agricultural landowners of LAFCO application to Guidelines

- *Guidelines*
  - added consistent references to “agricultural, prime agricultural and open space lands”
  - expanded an existing mitigation option to include right to farm ordinance
  - deleted guideline relating to the California Environmental Quality Act (CEQA)
  - expanded an existing mitigation option to include reference to reasonably equivalent land
  - added a mitigation option related to compliance with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan or a similar plan
  - added a mitigation option related to participation in an advanced mitigation plan
  - added a mitigation option encouraging participation in efforts to promote agricultural business
  
- 6. **“Additional Observations”**
  - new section identifying three actions that are outside LAFCO’s direct purview, but could be taken by others, to reduce the impacts of new development on prime agricultural, agricultural and open space lands

## POLICY AND OTHER ISSUES

- A. *Applications to LAFCO*** – The Committee recommends that the Commission confirm that an assessment of impacts to agricultural, prime agricultural and open space lands as defined in the CKH Act be included as a required part of an application to LAFCO that involves prime agricultural, agricultural and/or open space lands.

Further, LAFCO staff may continue to include in its CEQA comment letters a request that the Lead Agency include in its environmental document an assessment of the impacts to agricultural, prime agricultural, and open space lands as defined in the CKH Act, if the project will require LAFCO’s consideration.

- B. *Required Mitigation Measures*** - In March, the Commission provided comments and direction to guide the Committee’s work. Regarding mitigation measures, the Commission expressed a preference for placing the responsibility on the applicant for proposing mitigation measures. Given the Commission’s authority, the Commission need not include all mitigation measures proposed by the applicant, and can include additional or different mitigations as part of conditions of approval if the Commission concludes that the mitigations proposed by the applicant are inadequate or incomplete.

The revised draft policy includes a number of possible mitigation measures for the applicant to consider including replacing prime agricultural land at a minimum 1:1 ratio and other measures (e.g., acquisition, dedication and maintenance of prime agricultural and agricultural land; bringing qualified land into an open space plan; permanent conservation easements; transfer or purchase of development credits; payment to a local government or recognized non-profit organization for the purpose of preserving prime agricultural, agricultural and open space lands; establishment of buffer zones to protect prime agricultural, agricultural and open space lands; adoption of right to farm ordinances, and actions that would make agricultural a more viable business).

LAFCO received requests from dozens of individuals requesting that LAFCO adopt a policy that does the following:

1. Prohibits the annexation of actively farmed land
2. Mitigates every acre of farmland and rangeland lost to development
3. Uses mitigation funds to permanently preserve agricultural land

In addition, LAFCO received letters from Save Mt. Diablo, Brentwood Agricultural Land Trust, Shute, Mihaly & Weinberger, Friends of the Creek, American Farmland Trust, California Native Plant Society, and Greenbelt Alliance requesting that LAFCO's AOSPP include provisions for *requiring*, rather than allowing the applicant to propose, minimum ratios (i.e., 1:1, 2:1, 3:1) of comparable land to be permanently preserved as prime agricultural, agricultural and/or open space land. Several of these correspondents requested that LAFCO mandate other mitigation measures as well.

The draft AOSPP includes, as a possible mitigation, replacing (i.e., through acquisition and dedication) land lost to development by conserving land which is of equal or better quality to mitigate the impacts of the application on prime agricultural, agricultural and/or open space lands. This is consistent with direction previously provided by the Commission.

Early in the development of LAFCO's draft AOSPP, the Committee and LAFCO staff reviewed agricultural and open space policies covering 18 LAFCOs throughout the State. We found a number of LAFCOs, including Santa Clara, San Luis Obispo, Stanislaus and Yolo that have policies which require acquisition and/or dedication (ratio of 1:1 acres or greater) to mitigate the loss of agricultural lands.

The Commission has the authority to include required mitigation measures in its policy, which is consistent with the law, and with policies adopted by other LAFCOs. Given the public input, the Commission may wish to review its previous direction to not require mitigations.

### ***C. LAFCO's Authority***

The CKH grants LAFCO broad authority to carry out its statutory responsibilities to encourage the orderly formation of cities and special districts, discourage urban sprawl, and preserve agricultural and open space lands.

LAFCO has the authority to approve, with or without conditions, or deny an application. LAFCO has broad discretion to deny an application, including for the absence of, or inadequate mitigating measures included in an application to LAFCO. LAFCO also has authority to require a range of terms and conditions when approving an application, as discussed below.

LAFCO received letters from several parties that raised concern and questioned LAFCO's authority to adopt policies, guidelines and conditions relating to the preservation of prime agricultural, agricultural and open space lands.

The CKH is replete with provisions that grant LAFCO the authority to consider and provide for the preservation of prime agricultural, agricultural and open space lands. Included among the numerous statutory provisions are Gov. Code §§56001, 56300, 56301, 56375 (a) and (g), 56375.3, 56377, 56425, 56426.6, 56434, 56668(e), 56856.5, and various provisions relating to an application to annex Williamson Act land to a city (§§56737, 56738, 56752, 56753, 56753.5, 56754, 57101, 57330.5).

Further, the Commission and LAFCO staff have discretion to determine what information shall be required in a LAFCO application [Gov. Code §§56652(d) and (e)].

Finally, LAFCO has broad discretion to impose terms and conditions pursuant to Gov. Code §§56885.5, 56886-56890.

In closing, we would like to provide clarification regarding three issues to help put the proposed AOSPP into context. First, the proposed AOSPP would only come into play when an application is submitted to LAFCO. Second, the AOSPP is one of numerous policies contained in the Contra Costa LAFCO Commissioner Handbook. Third, this policy is intended to address one of many factors the Commission considers when it reviews an application (Gov. Code §§56668, 56668.3, 56668.5). Other important factors include future population and growth; need, cost, adequacy and financial ability to provide services; planned, orderly and efficient patterns of urban development; timely and available supply of water; effects of a proposal on meeting regional housing needs; environmental justice; regional transportation and growth plans; and numerous other factors, of which no single factor is determinative.

#### **RECOMMENDATIONS:**

Receive report, provide input and adopt the LAFCO Agricultural & Open Space Preservation Policy.

Respectfully submitted,

*Sharon Burke and Don Tatzin*

c: Distribution

Attachment 1 – LAFCO Agricultural & Open Space Preservation Policy Chronology

Attachment 2a – Clean Revised Draft LAFCO Agricultural & Open Space Preservation Policy

Attachment 2b – Tracked Revised Draft LAFCO Agricultural & Open Space Preservation Policy

Attachment 3 – Comments to Draft LAFCO Agricultural & Open Space Preservation Policy

The CKH is replete with provisions that grant LAFCO the authority to consider and provide for the preservation of prime agricultural, agricultural and open space lands. Included among the numerous statutory provisions are Gov. Code §§56001, 56300, 56301, 56375 (a) and (g), 56375.3, 56377, 56425, 56426.6, 56434, 56668(e), 56856.5, and various provisions relating to an application to annex Williamson Act land to a city (§§56737, 56738, 56752, 56753, 56753.5, 56754, 57101, 57330.5).

Further, the Commission and LAFCO staff have discretion to determine what information shall be required in a LAFCO application [Gov. Code §§56652(d) and (e)].

Finally, LAFCO has broad discretion to impose terms and conditions pursuant to Gov. Code §§56885.5, 56886-56890.

In closing, we would like to provide clarification regarding three issues to help put the proposed AOSPP into context. First, the proposed AOSPP would only come into play when an application is submitted to LAFCO. Second, the AOSPP is one of numerous policies contained in the Contra Costa LAFCO Commissioner Handbook. Third, this policy is intended to address one of many factors the Commission considers when it reviews an application (Gov. Code §§56668, 56668.3, 56668.5). Other important factors include future population and growth; need, cost, adequacy and financial ability to provide services; planned, orderly and efficient patterns of urban development; timely and available supply of water; effects of a proposal on meeting regional housing needs; environmental justice; regional transportation and growth plans; and numerous other factors, of which no single factor is determinative.

#### **RECOMMENDATIONS:**

Receive report, provide input and adopt the LAFCO Agricultural & Open Space Preservation Policy.

Respectfully submitted,

*Sharon Burke and Don Tatzin*

c: Distribution

Attachment 1 – LAFCO Agricultural & Open Space Preservation Policy Chronology

Attachment 2a – Clean Revised Draft LAFCO Agricultural & Open Space Preservation Policy

Attachment 2b – Tracked Revised Draft LAFCO Agricultural & Open Space Preservation Policy

Attachment 3 – Comments to Draft LAFCO Agricultural & Open Space Preservation Policy

## **Contra Costa LAFCO's Agricultural & Open Space Preservation Policy Chronology - August 2016**

Development of a LAFCO AOSPP was identified years ago as part of the Commission's ongoing efforts to update its Policies & Procedures. The discussion was elevated in March 2015, at which time LAFCO's Policies and Procedures Committee presented a report to the Commission, along with a summary of the Committee's research, relevant LAFCO statutes, and a collection of LAFCO policies and procedures representing 18 different LAFCOs from around the State.

In July 2015, Contra Costa LAFCO hosted an Agricultural & Open Space Preservation Workshop to engage stakeholders and begin a conversation as to whether or not LAFCO should develop a local AOSPP; and if so, what the Contra Costa LAFCO policy should address.

The conversation continued throughout the summer and fall. The Committee and County GIS presented series of maps depicting prime agricultural soil, important farmland, land covered under Williamson Act land contracts, parks and protected open space areas, areas with and without urban services, urban growth boundaries, and related features. The maps are intended to show important agricultural and open space areas that could potentially be at risk. A special page was set up on the Contra Costa LAFCO's website which includes these maps, along with comment letters, and related documents relating to the LAFCO's draft AOSPP. You can view this information at <http://www.contracostalafco.org/Ag-and-Open-Space-Preservation.htm>.

Subsequently, the Commission directed the Committee to reach out to various local agency groups to gauge their level of interest in a LAFCO AOSPP. In October and November, the Committee reported on its meetings with these groups, including the Contra Costa Transportation Authority (CCTA), Contra Costa Public Managers Association (PMA), County/City Planning Directors (CCPD), and the Contra Costa Special Districts (CCSDA). Through these meetings, we learned that the groups are generally interested in a LAFCO AOSPP and wish to be kept apprised of LAFCO's progress.

In November, the Commission directed the Committee to draft guidelines relating to agriculture and open space preservation that focus on the LAFCO application requirements and procedures.

In January 2016, the Committee presented proposed revisions to LAFCO's *Questionnaire for Amending a Sphere of Influence (SOI)*, *Questionnaire for Annexations, Detachments and Reorganizations*, and *Procedures for Processing Boundary Changes*. The Commission agreed with the proposed revisions, and also directed the Committee to draft an AOSPP and discuss the draft policy with the various local agency groups (i.e., CCTA, PMA, CCPD, CCSDA). Meetings with these groups occurred in March and April.

On March 9<sup>th</sup>, the Committee presented to the Commission the draft AOSPP. Based on the Commission's prior direction, the draft policy complements the recent updates to the LAFCO questionnaires and procedures, which now include an agricultural and open space impact analysis. Also on March 9<sup>th</sup>, the Commission received a number of written and verbal comments. The Commission directed the Committee to reach out to the County, cities/towns, and special districts to solicit input on the draft LAFCO AOSPP.

In late March, the Committee sent letters to the County Administrator and City Managers, County and City Planning Directors, and all independent special districts. The letter included a



brief history of LAFCO's work on the AOSPP, copies of the revised LAFCO application forms and procedures, and the draft AOSPP. The letter urged the local agencies to discuss LAFCO's draft AOSPP with their councils, boards, and other interested parties in their communities.

Since the March 9<sup>th</sup> LAFCO meeting, Committee members and the LAFCO Executive Officer also discussed the draft AOSPP with other interested parties including the Martinez Kiwanis Club, East Bay Regional Park District's Liaison Committee, and the Watershed Forum. And at the City of Brentwood's request, Commissioner Tatzin and the LAFCO Executive Officer made presentations to the Brentwood City Council on May 10<sup>th</sup> and to the Brentwood Land Use and Development Committee on June 2<sup>nd</sup>.

There has been extensive outreach, and throughout the process, LAFCO has received valuable input from agriculture, building, environmental, farming, local government and other interest groups, along with members of the general public.

## 4.1 DRAFT AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY

### PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa was used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County's 2040 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, commercial centers, job centers, and transportation corridors. In 2015, there were about 30,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. There is approximately 175,000 acres of rangeland and pastureland in the County.<sup>1</sup>

Agriculture in Contra Costa County is worth approximately \$128.5 million (farm production) in 2015 and is an important economic sector. The value of agricultural production has risen in recent years.<sup>2</sup> However, some worry that Contra Costa's agricultural industry may approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.<sup>3</sup>

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood. The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in

<sup>1</sup> 2015 Crop and Livestock Report, Contra Costa County Agricultural Commissioner

<sup>2</sup> 2008-2015 Crop and Livestock Reports, Contra Costa County Agricultural Commissioner

<sup>3</sup> Sustaining our Agricultural Bounty: An Assessment of the Current State of Farming and Ranching in the San Francisco Bay Area – A White paper by the American farmland Trust, Greenbelt Alliance and Sustainable Agriculture Education (SAGE), January 2011

mitigation fees and through conservation organizations, and acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.<sup>4</sup> Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

### **AUTHORITY OF LAFCO**

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are discouraging urban sprawl and preserving open space and agricultural lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

**“56377.** In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

- (a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

---

<sup>4</sup> “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].

Contra Costa LAFCO encourages planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300).

When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). Finally, LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted policy on the Preservation of Open Space and Agricultural Land.

### **PURPOSE OF THE POLICY**

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and to explain how the applicant intends to mitigate those impacts; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

### **DEFINITIONS**

Several terms are important in understanding LAFCO's responsibility and authority to preserve prime agricultural, agricultural and open space lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

**56016. "Agricultural lands"** means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

**56064. "Prime agricultural land"** means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

**56059. "Open space"** means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

**65560.** (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

## **GOALS, POLICIES AND GUIDELINES**

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

### **GOALS**

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

**Goal 1.** Minimize the conversion of prime agricultural land to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.

**Goal 2.** Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

**Goal 3.** Incorporate agricultural land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

**Goal 4.** Strengthen and support the agricultural sector of the economy.

**Goal 5.** Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

**Goal 6.** Preserve areas that sustain agriculture in Contra Costa County.

## **POLICIES**

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“applications”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO’s Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

**Policy 1.** The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO’s policy.

**Policy 2.** Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.<sup>5</sup>

**Policy 3.** Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

**Policy 4.** Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

---

<sup>5</sup> The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land-use agency and will consider such situations on a case-by-case basis.

**Policy 5.** In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming, is discouraged.

**Policy 6.** The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy.

**Policy 7.** Development near agricultural land should minimize adverse impacts to agricultural operations.

**Policy 8.** Development near open space should minimize adverse impacts to open space uses.

**Policy 9.** The Commission will consider feasible mitigation (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

**Policy 10.** Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

## **GUIDELINES**

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample mitigation measures to address such lands.

**Guideline 1.** Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

- a. An application must discuss how it balances the State's interest in preserving prime agricultural, agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe how it guides development away from prime agricultural, agricultural and/or open space lands.
- e. An application must describe whether it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

**Guideline 2.** If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space

conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

**Guideline 3.** The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should provide a land use inventory of the jurisdiction that indicates the amount of available land within the subject jurisdiction for the proposed land use.
- b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
  1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land protected should not be used as the mitigation for another project.
  2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).
  3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication and maintenance of land which is of equal or better quality.
  4. Establishment of buffers to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development.
  5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan.
  6. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio
  7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
  8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.

**Guideline 4.** Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

**Guideline 5.** Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.



- f. There is a pending, or approved, cancelation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

**Guideline 6.** Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

**ADDITIONAL OBSERVATIONS**

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

**Observation 1.** LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

**Observation 2.** Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

**Observation 3.** Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.

July 6, 2016

#### 4.1 DRAFT AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY OF OPEN SPACE AND AGRICULTURAL LAND

##### INTRODUCTION/PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

"The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services." (§56001). In accordance with the Cortese Knox Hertzberg Local Government Reorganization Act ("CKH Act"), the State Legislature finds and declares that the preservation of open space and agricultural lands is a "state interest" to be balanced with orderly growth and development (§56001).

Formatted: Font: 11.5 pt

Formatted: Indent: Left: 0.3", Right: 0.3"

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. As development occurred, Contra Costa County experienced significant reduction in the amount and economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. For example, much of western and central Contra Costa was used for agriculture well into the 1900stwentieth century. For example, John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. †The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County's 20540 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, commercial centers, job centers, and transportation corridors. In 200815, there were about 230,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. To put that in perspective, a 2011 report estimated there were about 367,00 acres are used for agricultural production in the nine county Bay Area. † There is an additionalapproximately 16075,000 acres of rangeland and pastureland in the Contra Costa County with some of that located within parks.

<sup>†</sup> 2015 Crop and Livestock Report, Contra Costa County Agricultural Commission

Formatted: Font: (Default) Times New Roman, Italic

Agriculture in Contra Costa County is worth approximately \$10028.5 million (farm production) in 2015<sup>1</sup> per year and is an important economic sector.<sup>2</sup> However, when compared to other counties in the Bay Area, the size of Contra Costa's agricultural business seems smaller. For example, in 2008, Contra Costa produced approximately four percent of the agricultural value created in the nine Bay Area counties. While the value of agricultural production has risen slightly in recent years,<sup>3</sup> however, some worry that Contra Costa's agricultural industry may be approaching a tipping point beyond which agriculture rapidly becomes less viable due to a lack of labor, suppliers, and processors located nearby.<sup>4</sup>

The pressure on agricultural land also exists on wildlife and riparian areas. Since [redacted], the following formerly natural areas were developed: (list from Igor) In some cases, this development disrupts an ecosystem that used to depend on the now developed land as a travel route, a seasonal or permanent source of food and water.

Formatted: Highlight

Formatted: Highlight

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood. The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in mitigation fees and through conservation organizations, and acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Mitigation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications proposals (e.g., SOI changes, extension of extraterritorial services, etc.), LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890). This policy explains how LAFCO will do so and provides guidance to applicants, the public, and LAFCO Commissioners and staff.

Formatted: Strikethrough

While LAFCO has substantial authority to achieve the objectives of the CKH Act, there are many things that LAFCO cannot do, for example, directly regulate land use.<sup>5</sup> Therefore, successful preservation of prime agricultural, agricultural and open space and agricultural lands and of agriculture as a business requires that both applicants and other agencies take the also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

## AUTHORITY OF LAFCO

<sup>1</sup> Contra Costa Ag commissioner report

<sup>3</sup> Contra Costa Ag commissioner report

<sup>4</sup> Sustaining our Agricultural Bounty Report, 2011 Reference 2011 report, page 2

<sup>5</sup> "A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements" [§§56375(6), 56886].

Formatted: Font: (Default) Times New Roman, Italic

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

## INTRODUCTION

~~In accordance with the Cortese Knox Hertzberg Local Government Reorganization Act (“CKH Act”), the State Legislature finds and declares that the preservation of open space and agricultural lands is a “state interest” to be balanced with orderly growth and development (§56001).~~

LAFCO’s authority derives from the CKH Act. Among the purposes of LAFCO are discouraging urban sprawl and preserving open space and agricultural lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

Formatted: Font: 12 pt

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

Formatted: Font: 11.5 pt

Formatted: Indent: Left: 0.3", Right: 0.3"

- (a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract ~~farmland~~ or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

Contra Costa LAFCO encourages planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space and agricultural lands (§56300).

When making a decision, LAFCO must consider whether an application-proposal and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections ~~could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space and agricultural lands to other uses. Further, LAFCO should guide development away from existing open space and agricultural land, and encourage development of existing vacant and non-prime agricultural lands within a local agency’s existing jurisdiction or SOI [§§56377(a) and 56668(d)].~~ Finally, LAFCO must consider the effect of an application proposal on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An ~~application or proposal~~ for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO’s adopted policy on the Preservation of Open Space and Agricultural Land.

## AUTHORITY OF LAFCO

LAFCO regulates boundary change and other proposals (e.g., SOI changes, extension of extraterritorial services, etc.) through approval or denial. The Commission also has the authority to impose terms and conditions (§§56885–56890).

~~While LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions, it may not directly regulate land use: “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].~~

## PURPOSE OF THE POLICY

The purpose of this policy is ~~three~~fold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, proposals on agricultural and open space and to explain how the applicant proposal intends to mitigate those impacts; ~~and~~ 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO proposals that involve or impact prime agricultural, agricultural and/or open space lands; ~~and~~ 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

7

## DEFINITIONS

Several terms are important in understanding LAFCO’s responsibility and authority to preserve prime agricultural, agricultural and open space resource lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

**56016. "Agricultural lands"** means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

**56064. "Prime agricultural land"** means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

**56059. "Open space"** means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

**65560.** (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code ([i.e., Native American Historical, Cultural and Sacred Sites](#)).

~~LAFCO's overriding objectives are to encourage the orderly formation of local government agencies, discourage urban sprawl, and preserve agricultural and open space resources. LAFCO must consider the effects that a proposal will have on agricultural and open space lands. By guiding development toward vacant urban land and away from agricultural and open space land, LAFCO promotes the protection of our valuable agricultural and open space lands. In furtherance of this objective, the CKH Act describes the intent of the legislation with regard to agricultural resources in §56377, which states:~~

~~**56377.** In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:~~

~~(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.~~

~~(b) Development of existing vacant or non prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for~~

~~non open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.~~

## **GOALS, POLICIES AND GUIDELINES**

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO ~~commissioners and staff~~~~decision makers~~ need to evaluate ~~an application proposal~~ that affects ~~prime agricultural, agricultural and/or open space resource~~~~lands~~.

### **GOALS**

Agriculture ~~and open space are~~ ~~is a~~ vital and essential ~~topart of the~~ Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. ~~Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County.~~ The following goals will help guide LAFCO's decisions regarding ~~prime agricultural, agricultural and open space~~ ~~lands~~~~resources~~.

**Goal 1.** Minimize the conversion of prime agricultural land to other land uses ~~while balancing the need to ensure orderly growth and development and the efficient provision of services.~~

**Goal 2.** Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve ~~prime agricultural, agricultural and open space~~ lands.

**Goal 3.** ~~Promote~~~~Incorporate~~ agricultural land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

**Goal 4.** ~~Preserve agricultural lands for continued agriculture uses while balancing the need to ensure orderly development and the efficient provision of services.~~

**Goal 45.** Strengthen and support the agricultural sector of the economy.

**Goal 65.** Fully consider the impacts ~~an application proposal~~ will have on existing ~~prime agricultural, agricultural and open space~~ lands.

**Goal 76.** ~~Preserve~~~~protect the natural resources and surrounding~~ areas that sustain agriculture in Contra Costa County.

### **POLICIES**

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application ~~or proposal~~ for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act ("~~applications~~~~proposals~~"), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, ~~and~~ agricultural ~~lands and prime agricultural lands~~ within those patterns. ~~LAFCO's Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2)~~



minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and ~~sh~~will be used by Contra Costa LAFCO when considering an ~~application proposal~~ that involves prime agricultural, agricultural and/or open space ~~resoureelands~~:

**Policy 1.** ~~The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage protection-preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with this~~LAFCO's policy.

**Policy 2.** Vacant land within urban areas should be developed before prime agricultural, agricultural ~~land~~ and/or open space land is annexed for non-agricultural and non-open space purposes.<sup>6</sup>

Formatted: Font: Bold, Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

**Policy 32.** Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

**Policy 43.** Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

**Policy 5.** In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming, is discouraged.

Formatted: Font: Bold

Formatted: Font: Bold

**Policy 46.** The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy.

**Policy 57.** Development near agricultural land should minimize not-adversely impacts affect the sustainability of or constrain- to agricultural operations.

**Policy 68.** Development near open space should minimize adverse impacts to open space uses. Where feasible, and consistent with LAFCO policies, non-prime farmland should be annexed before prime farmland.

**Policy 79.** The Commission will consider feasible mitigation (found in the following guidelines) if an ~~application proposal~~ would result in the loss of prime agricultural, agricultural ~~land~~ and/or open space lands.

~~**Policy 8.** The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and SOI areas and that encourage protection of prime agricultural land in a manner that is consistent with this policy.~~

<sup>6</sup> The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land-use agency and will consider such situations on a case-by-case basis

Formatted: Font: (Default) Times New Roman, Italic

Formatted: Font: (Default) Times New Roman, Italic



**Policy 10.** Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

**Policy 9.** Property owners of agricultural lands adjacent to land that is the subject of a LAFCO proposal shall be notified when an application is submitted to LAFCO.

## **GUIDELINES**

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application proposal that involves prime agricultural, agricultural and/or open space lands resources; and to provide sample mitigation measures to address impacts to agricultural such lands.

**Guideline 1.** Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands resources shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall ~~be~~ be addressed as part of the assessment:

- a. An application proposal must discuss how it balances the State's interest in preserving open space and prime agricultural, agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application proposal must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application proposal must describe how it guides development away from prime agricultural, agricultural and/or open space lands.
- e. An application proposal must describe how whether it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application proposal must discuss what measures it contains that will preserve ~~protect~~ the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

**Guideline 2.** ~~The California Environmental Quality Act (CEQA) analysis for a proposal should evaluate the impacts affecting agricultural and open space resources, and should include an assessment of impacts to agricultural, prime agricultural, and open space lands as defined in the CKH Act. In the absence of an evaluation in the CEQA document, a supplemental agriculture and impact analysis will be required as part of the LAFCO application.~~

**Guideline 23.** If an application proposal involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the ~~C~~ county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

**Guideline 34.** The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should provide a land use inventory of the jurisdiction that indicates the amount of available land within the subject jurisdiction for the proposed land use.

- b. The applicant should provide an evaluation of the effectiveness of ~~proposed~~ measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not ~~be~~ limited to:
1. ~~a~~Acquisition ~~and/or~~ dedication of ~~farmland~~ prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent ~~and/or~~ other prime agricultural, agricultural and/or open space lands within the county. Any land protected should not be used as the mitigation for another project.
  2. ~~P~~Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).
  3. ~~p~~Payment to ~~responsible, recognized~~ local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, ~~and~~ dedication and maintenance of land which is of equal or better quality.
  4. ~~e~~Establishment of buffers to protect adjacent prime agricultural, agricultural and/or open space ~~lands~~operations from the effects of development.
  5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan.
  6. ~~e~~Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio
  7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
  8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.

**Guideline 54.** Detachment of prime agricultural, agricultural lands and or other open space lands should be encouraged if consistent with the SOI for that agency.

**Guideline 65.** Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the County.
- f. There is a pending, or approved, cancellation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

**Formatted:** Indent: Left: 0.5", No bullets or numbering

**Formatted:** Font: (Default) Times New Roman, 4 pt

**Formatted:** Indent: Left: 0.5", No bullets or numbering, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

**Formatted:** Font: (Default) Times New Roman, 4 pt

**Formatted:** Indent: Left: 0.5", No bullets or numbering, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

**Formatted:** Indent: Left: 0.5", No bullets or numbering

**Guideline 6.** Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

**ADDITIONAL OBSERVATIONS**

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

Formatted: Font: Bold, Underline

**Observation 1.** LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

Formatted: Font: Bold

**Observation 2.** Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

**Observation 3.** Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.

July 46, 2016

DRAFT

**Comments to Draft LAFCO  
Agricultural Open Space Preservation Policy (AOSPP)**

Commenter	Format	Received
American Farmland Trust	Letter	6/20/16
Brentwood Agricultural Land Trust	Letter	5/2/16
Building Industry Association (BIA) Bay Area	Letter	3/9/16
California Native Plant Society	Letter	6/20/16
City of Brentwood	Letter	6/17/16
City of Oakley	Letter	4/22/16
City of Pittsburg	Letter	5/2/16
Contra Costa County Farm Bureau	Letter	4/28/16
Contra Costa Resource Conservation District	Letter	6/20/16
East Bay Regional Park District	Letter	5/9/16
Friends of the Creeks	Letter	6/17/16
Greenbelt Alliance	Letter	6/20/16
John Muir Land Trust	Letter	5/1/16
Judy Newberry, Brentwood	Email	5/23/16
Kristen Wick	Email	6/10/16
Manatt, Phelps & Phillips, LLC	Letters	4/7/16 & 6/20/16
Save Mt. Diablo	Letter	4/27/16
Shute Mihaly & Weinberger LLP on behalf of Greenbelt Alliance	Letter	6/15/16
Town of Discovery Bay Community Services District	Letter	4/22/16
February Support Emails	Emails	2/23-3/4/16
June Support Emails	Emails	6/8-6/28/16



California Office  
2001 N Street Suite 110  
Sacramento, CA 95811

VIA EMAIL

June 20, 2016

Mary Piepho, Chair, Contra Costa County LAFCO  
651 Pine Street, 6th Floor  
Martinez, California 94553

**Re: Comments to the Proposed Agricultural and Open Space Preservation Policy**

Dear Chairperson Piepho:

American Farmland Trust (AFT), a national nonprofit organization dedicated to conservation of agricultural land resources, respectfully submits comments on the Contra Costa County LAFCO Agricultural & Open Space Preservation Policy (AOSPP).

Given Contra Costa County's unique economic productivity, natural resource wealth, and agricultural capacity, AFT is invested in the long-term viability of the region's producers and conservation of its farmland and resources. Our interest is as a national nonprofit organization committed to the conservation of agricultural resources and to promoting environmentally beneficial farming practices. We have had an office in California since 1983 and have several thousand members in the state. Founded in 1980 by farmers and conservationists, AFT works cooperatively with the agricultural community, government officials, and other partners to advance effective public policies and increase funding for agricultural conservation programs.

AFT applauds the LAFCO for considering an agricultural preservation policy, which we see as a true opportunity to preserve and even enhance open space, sustain and promote food production, provide access to locally grown foods, and contribute to a unique cultural environment within the County. These benefits are easy to articulate and may appear to be a given, but protecting urban-edge agriculture comes with many challenges that the AOSPP must address if it is to be a successful.

## **Why Adopt an Agricultural & Open Space Preservation Policy (AOSPP)**

Protecting agriculture, and especially the most fertile and productive lands that are typically located at the urban edge, is a statewide issue that must be taken seriously at the local level for California to remain a top producing agricultural state. Every acre of fertile, productive land in every jurisdiction counts. Planners, policy makers, and their constituents should not assume, as is often done, that the next county over is a better place for the production of our food. With over 40,000 acres of farmland lost each year in California, this mentality is devastating the future of farming throughout our state. As planners and decision makers, we need to take a hard look at how much farmland we are willing to sacrifice to urban development. AFT supports city growth that emphasizes efficiency (infill and density) and sustainability; this is the only way that we can preserve our irreplaceable farmland resources.

The benefits of agriculture at the urban edge cannot be overstated since this is where our best, most fertile land is typically located. In addition to supplying our residents with healthy, local food, farming contributes significantly to local and regional economies, both directly and indirectly. It provides numerous ecosystem services, especially groundwater recharge, flood control, biodiversity, etc. For many Contra Costa County residents, saving farmland also constitutes protecting scenic and cultural landscapes, and the quality of life in their communities. Protecting farmland also has a significant climate change benefit: according to U.C Davis, farmland emits at least 70 times less greenhouse gases per acre than urban land uses.<sup>1</sup> It also provides an opportunity to reduce sprawl and its associated excessive public service costs, because privately owned and managed agricultural land requires fewer services than new development. Not least, **farmland is a prudent investment in the world food supply and our state's and nation's economic future.**

Every acre of farmland in Contra Costa County counts. Even though the County is the one of the fastest-growing counties in the Bay Area, it remains one of the Bay Area's largest, most productive agricultural regions. It is worth protecting the remaining 88,000 acres of farmland (only 25,500 of which is prime farmland) from future development to curb a decades-old trend in Contra Costa County. From 1990 to 2010 alone, the County urbanized 22,500 acres land. Nearly a third (over 7,000 acres) of that new development took place on prime farmland. **AFT calculates that the County will lose another 10,000 acres, or nearly half of the County's remaining prime farmland to urban development by 2050 if current development trends continue.**

## **LAFCO has Authority to Provide for Preservation of Agricultural and Open Space Lands**

Significant debate exists concerning the authority of a local agency formation commission to adopt policies, rules, regulations, guidelines, or conditions regarding the establishment of "agricultural buffers" or other methods to address the preservation of open space and agricultural lands. The Cortese – Knox – Hertzberg Local Government Reorganization Act (the "Act"), California Government Code section 56000, et seq., is replete with provisions that grant local agency

---

<sup>1</sup> Jackson, et al., University of California, Davis, Adaptation Strategies for Agricultural Sustainability in Yolo County, California: A White Paper from the California Energy Commission's Climate Change Center, July 2012 (CEC-500-2012-032).

formation commissions the authority to consider and provide for the preservation of open space and agricultural lands. “Among the purposes of a [local agency formation commission] are discouraging urban sprawl [and] preserving open-space and prime agricultural lands, . . . .” Section 56301. Furthermore, “[i]t is the intent of the Legislature that each commission, . . . , shall establish written policies and procedures and exercise its powers pursuant to this part in a manner . . . that encourages and provides planned, well-ordered, efficient urban development patterns *with appropriate consideration of preserving open-space and agricultural lands within those patterns.*” Section 56300 (a) (emphasis added). The Legislature has also declared that the preservation of open-space and prime agricultural lands is a “state interest” to be balanced against the promotion of orderly development. Section 56001.<sup>2</sup>

### **The Contra Costa LAFCO AOSPP is a Step in the Right Direction**

The draft AOSPP is a step in the right direction to protecting the County’s farmland. However, given the considerable authority of the LAFCO to provide for agricultural lands and open space, we believe that the LAFCO should be more bold and explicit in stating their authority to deny proposals for change in organization or reorganization, or for the establishment or any change to spheres of influence or urban service areas. In the preamble to the policies, we recommend adding the following (addition in italics):

“The following policies support the goals stated above and shall be used by Contra Costa LAFCO when considering a proposal that involves agricultural and/or open space resources. *Proposals will be judged on how statewide policies under the CKH Act, and the LAFCO adopted policies, with respect to the preservation of agricultural lands and opens space are furthered. Proposal may be denied and/or deemed incomplete if they fail to demonstrate to the satisfaction of the LAFCO that the adopted LAFCO policies have been implemented. Proposals must discuss how they meet the following the adopted LAFCO policies.*”

Additional recommendations:

- Add a Policy: A Proposal must discuss how it balances the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. (Government Code section 56001.)
- Add a Policy: A Proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands. (Government Code section 56668 (a).)
- Policy 7 and Guideline 4b. We are in agreement with Greenbelt Alliance’s and Shute Mihaly & Weinberger’s recommendation on policy guidelines for mitigation requirements.<sup>3,4</sup> The Commission should require agricultural mitigation, not just encourage it.
- In addition, we recommend the following additional guidelines pertaining to mitigation:

---

<sup>2</sup> This section is contained in Monterey County LAFCO’s “Policies and Procedures Relating to Spheres of Influence and Change of Organization and Reorganization,” February 25, 2013.

<sup>3</sup> Comment letter from Shute Mihaly & Weinberger LLP to Contra Costa County LAFCO, June 15, 2016

<sup>4</sup> Comment letter from Greenbelt Alliance to Contra Costa County LAFCO, June 20, 2016

- Consider site specific factors when making a determination of eligible mitigation lands, such as location, water availability, and soil quality. Strategically locating mitigation lands can provide increased protection of agricultural lands that are threatened by urban uses and direct mitigation to areas that are actually under threat of conversion. Linking the project to the at-risk land also provides a better nexus for the purposes of mitigation. To link a project's mitigation requirement to susceptible land, proposed development adjacent to agricultural land should be required to provide mitigation along the entire non-urbanized perimeter of the project.
- Provide guidelines for mitigation fees that are based on a "benchmark" density to fairly establish the cost of the mitigation. This benchmark is based on the opportunity cost of developing at lower density. See attached for examples.
- Add Policy: A Proposal must demonstrate that it is consistent with the General Plans and Specific Plans of the existing local agency and any immediately adjacent local agency (Government Code sections 56375(a) and 56668(h)). Proposals may be denied if they are not consistent with such plans or if the Proposal does not demonstrate to the satisfaction of LAFCO that the existing development entitlements are consistent with the local agency's plans.
- Add Guideline: Proposals will be judged on the local agency's effort to engage with the LAFCO in a consultation process prior to any proposals for change in organization or reorganization, or for the establishment or any change to spheres of influence or urban service areas. This consultation process should address the adopted LAFCO policies, including the long term direction of growth, ways in which local agencies will address agricultural preservation (such as conservation and buffer easements), and any amendments to general plans and zoning that are consistent with the adopted LAFCO policies. Proposals may be rejected as incomplete if the proposing agency does not consult with the LAFCO in advance of the proposal and does not provide feasible venues for the preservation of agricultural lands.
- Add Guideline: Agreements between neighboring local agencies with regard to the preservation of open-space and agricultural lands are encouraged, and such agreements may be incorporated by LAFCO into a proposal as a condition of approval, or may be required as a condition precedent to approval.
- Add Guideline: Senate Bill 215 requires that LAFCOs consider their region's Sustainable Community Strategies when considering an annexation request. One of the nine goals of Plan Bay Area calls for no growth outside of current urban growth boundaries. It is of statewide interest that each city practice especially prudent land use planning and opt for compact and efficient development patterns in an era of climate change and state legislation (AB 32 and SB 375) to reduce greenhouse gas emissions. Proposing agencies should ensure that the proposal is consistent with the currently adopted Plan Bay Area. Proposals may be rejected as incomplete if the proposing agency does not demonstrate consistency with Plan Bay Area's goals for reducing greenhouse gas emissions and the preservation of agricultural and open space lands.

Thank you for the opportunity to comment. We hope the commissioners will carefully review these comments before they consider the draft AOSPP at their meeting on July 13.



Please do not hesitate to contact me if I can be of further service.

Sincerely,

A handwritten signature in black ink, appearing to read "Serena Unger", with a long horizontal flourish extending to the right.

Serena Unger, MCP  
Senior Planner and Policy Associate  
American Farmland Trust, California



## Full Mitigation of Farmland Development: A Proposed Approach

Edward Thompson, Jr.  
AFT California Director

Given the inexorable growth in California's population, the main challenge facing farmland preservation is how to encourage land development that is more efficient – that consumes less land per person – for all uses, residential, commercial and civic. In the Central Valley, for example, for every acre developed, only 8 new residents are being accommodated – an astonishing waste of what is arguably the best farmland on Earth. A mechanism must be found to significantly increase development efficiency, while accommodating the expected population in affordable housing. Graduated mitigation fees that reflect the full opportunity cost of land consumption offer one such approach.

The full impact of farmland development is not being mitigated by the current approach of charging fixed fees based only on preserving an amount of land equal to that being developed. There should also be mitigation for the opportunity cost of developing at low density, as measured by the amount of additional farmland that will have to be developed to accommodate the same population growth. Properly structured, mitigation fees would not just fully compensate for the farmland actually consumed by development, but also encourage more efficient development that is, in effect, "self-mitigating."

The chart below illustrates how mitigation fees could be structured to reflect the additional farmland that would have to be developed – the opportunity cost – based on the quality of the land and the intensity of development on the subject parcel.

	Example 1	Example 2	Example 3	Example 4
Acreage of Subject Parcel	200	200	200	200
Benchmark Density (DU/Ac)	10	10	10	10
Actual Build-Out (DU/Ac)	4	8	16	4
Dwellings Built	800	1,600	3,200	800
Dwellings Foregone	1,200	400	(1,200)	1,200
Additional Farmland Needed	300	50	(120)	300
Per Acre Value of Farmland	\$ 8,000	\$ 8,000	\$ 8,000	\$ 12,000
Opportunity Mitigation Fee	\$ 2,400,000	\$ 400,000	\$ (960,000)	\$ 3,600,000
Base Mitigation Fee	\$ 1,600,000	\$ 1,600,000	\$ 1,600,000	\$ 2,400,000
Total Mitigation Fee	\$ 4,000,000	\$ 2,000,000	\$ 640,000	\$ 6,000,000
Per Dwelling	\$ 5,000	\$ 1,250	\$ 200	\$ 7,500
Per Acre Developed	\$ 20,000	\$ 10,000	\$ 3,200	\$ 30,000

The amount of mitigation is based on a "benchmark" density. This represents a community-wide average that would achieve the goal of preserving a specific amount of farmland over a given period of time – that's the objective. Each community would establish its own benchmark, ideally on the basis of a regional land use "blueprint." For purposes of illustration, the benchmark is established at 10 dwellings per acre, which represents a significant improvement over current residential densities in the Valley. (A comparable benchmark could be established for commercial, industrial and civic development based on floor-to-area and/or jobs-to-area ratios.)

The number of dwellings foregone – that would have to be built elsewhere – is calculated by subtracting the actual number of dwellings to be built per acre from the benchmark density, then multiplied by the acreage of the subject parcel. In Example 1:  $(10 - 4) \times 200 = 1,200$  dwellings foregone.

Additional farmland needed is calculated by dividing the number of dwellings foregone by the build-out density of the development on the subject parcel. The benchmark density is not used for this purpose on the theory that one who is building at low density should not benefit from the assumption that others will develop at higher densities. In Example 1:  $1,200 \div 4 = 300$  additional acres needed.

The fee itself is calculated by multiplying the additional acres needed by the average local price of an acre of farmland of comparable agricultural productivity to the land being developed. The assumption is that, since it is difficult to purchase conservation easements in areas where land speculation is widespread – as is the case in much of the Valley – only the purchase of a fee interest in farmland offers an effective mitigation strategy. In Example 1:  $300 \times \$8,000 = \$2,400,000$ . (Comparing this with Example 4 shows how the development of higher productivity farmland would increase the fee accordingly.)

The opportunity mitigation fee would be in addition to the base mitigation fee levied on the development of the subject parcel itself. In Example 1:  $\$2.4M + \$1.6M = \$4M$  which translates to \$20,000 per acre or \$5,000 per dwelling. Considering the current price – and profit potential – of housing in California, a fee of this magnitude seems entirely reasonable.

Nonetheless, developers should be given the opportunity to reduce the fee in any number of innovative ways, among them:

- Purchasing comparable farmland at less than the average price used to calculate the fee
- Reselling farmland purchased for mitigation subject to a conservation easement
- Purchasing conservation easements over a comparable amount of farmland (where possible)
- Purchasing options to buy farmland for mitigation or conservation easements at a future date (exercise potentially funded with zero coupon bonds financed with Mello-Roos type annual fees)
- Purchasing and extinguishing (or possibly transferring) development rights from multiple 10-20 acre “ranchette” parcels rather than a single larger agricultural parcel.

All fees would go into a mitigation bank to be used by local land trusts to finance a variety of conservation transactions, including those listed above. This list is intended only as a start. Given the present limitations of conservation easements, noted above, it is important to devise new ways of mitigating farmland loss.

Of course, the preferred alternative for reducing the fee would be to develop at higher densities. Example 2 shows how increasing the number of dwellings per acre would reduce the per acre mitigation fee. Note that the *per dwelling* fee would decline even more than the *per acre* fee because there would be more dwellings over which to spread the cost. This has an important positive implication for housing costs.

Finally, if development occurs at a density greater than the benchmark, the opportunity mitigation fee would actually be transformed into a credit applied against the base mitigation fee. The rationale is that this developer is doing more than the community expects to reduce farmland loss and should be rewarded. Example 3 shows how a very significant increase in density would greatly reduce the overall mitigation fee and make the *per dwelling* fee only nominal. (In this example, the fee would actually reach zero at 20 units per acre.)

## Conclusions

A mitigation fee that captures the opportunity cost of developing farmland at low-density could result in more farmland preservation, particularly if used to fund innovative alternatives to conservation easements. It would also send a powerful market signal to promote more efficient development and thereby minimize the loss of farmland in the first place.

Comments and discussion welcome. 530-753-1073 or ethompson@farmland.org



April 26, 2016

Chairman Supervisors Mary Piepho  
Commissioners of Contra Costa LAFCO  
651 Pine Street  
Martinez, California 94553

Re: Comments to the Proposed Agricultural and Open Space Preservation Policy.

Dear Chairman Piepho and Commissioners;

The Brentwood Agricultural Land Trust (BALT) commends Contra Costa LAFCO for your careful study of LAFCO's role in protecting Contra Costa's valuable agricultural resources. We have reviewed the proposed Agricultural & Open Space Policy (the "Policy") and this letter is to provide you with our comments.

Thank you for recognizing the importance of Contra Costa's farms and ranches. We are pleased that the proposed Policy affirms LAFCO's authority and details LAFCO's commitment to protecting Contra Costa's agricultural land. However, we urge you to consider adopting a Policy that provides applicants with clear direction by requiring agricultural mitigation of at least one acre for each acre converted to urban uses.

We appreciate that the Guidelines in the proposed Policy strengthen the LAFCO application process by requiring that applicants provide an Agricultural and Open Space Impact Assessment and an agricultural mitigation proposal. However, the Guidelines do not provide applicants, public agencies and property owners with clear guidance about LAFCO's requirements. While the detailed application indicates heightened scrutiny of agricultural land conversion, the Guidelines do not provide the applicant with guidance about how LAFCO will use the information provided in the application or the acceptable standard of mitigation. We recommend that the Guidelines clearly state that, if agricultural land is taken out of production, applicants must provide agricultural mitigation sufficient to protect at least one acre of comparable agricultural land for every acre converted.

While state and federal law requires habitat mitigation, there are no state or federal agricultural mitigation requirements. Because agricultural mitigation is the responsibility of local jurisdictions, the adoption of a LAFCO mitigation policy is

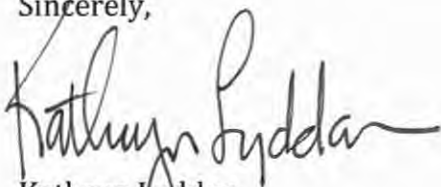
crucial in counties like Contra Costa that do not have a countywide mitigation requirement. LAFCOs around California are increasingly fulfilling their obligation to protect agricultural resources by adopting agricultural mitigation requirements. We urge you to join the neighboring LAFCOs of Santa Clara, Stanislaus, Yolo and Sacramento by protecting our farms and ranches with an affirmative agricultural mitigation requirement.

While the proposed Guidelines ask applicants to propose agricultural mitigation measures, the Guidelines do not address where mitigation dollars and land will go. Without specific direction, agricultural mitigation could be disbursed to numerous agencies and nonprofits without the necessary expertise and unambiguous commitment to protect farmland. Local governments have inherent conflicts of interest that can make agricultural conservation politically difficult, and the permanent protection and stewardship of farm and rangeland is complex. Agricultural land trusts have dedicated staff with the necessary professional expertise, as well as relationships with state and federal funders and local property owners. BALT recommends that the agricultural mitigation lands and funds be provided to a qualified agricultural land trust with experience in agricultural mitigation and a board of directors that includes local farmers, ranchers and agriculturalists.

Contra Costa agriculture is a unique and important Bay Area asset. Now is the time for LAFCO to require mitigation for the loss of Contra Costa agricultural land. A clear, affirmative mitigation requirement will fund the permanent protection of Contra Costa's farms and ranches. Any mitigation land and funds dedicated through the program should be held and administered to a local agricultural land trust that can leverage the local money with regional, state and federal agricultural conservation funds.

Thank you for the opportunity to comment on the proposed Policy. We look forward to continuing to participate as you continue to consider a Contra Costa LAFCO Agricultural and Open Space Preservation Policy.

Sincerely,



Kathryn Lyddan  
Executive Director





DATE: March 9, 2016

TO: Contra Costa Local Agency Formation Chairwoman Mary Nejedly Piepho, Vice Chairman Don Blubaugh and Commissioners Federal Glover, Rob Schroder, Mike McGill, Don Tatzin, Igor Skaredoff and Sharon Burke

FROM: BIA|Bay Area East Bay Governmental Affairs  
Executive Director Lisa Vorderbrueggen

RE: Draft Agricultural and Open Space Preservation Policy

Dear Chairwoman Piepho and Commissioners:

Thank you for the opportunity to make detailed comments on Contra Costa LAFCO's draft agricultural and open space preservation policy. Now that specific language has been proposed, I would offer the following:

- On Page 3 under BACKGROUND/DISCUSSION, the report states that LAFCO's overriding objectives are "to encourage the orderly formation of local governmental agencies, discourage urban sprawl, and preserve agricultural and open space resources." This is an inaccurate and misleading characterization. The first policy objective articulated by the Legislature in the Cortese-Knox-Hertzberg Act (Gov't Section 56001) reads: "The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state." The staff report also uses the phrase "to encourage orderly formation of local government agencies" where the CKH Act actually reads "to encourage orderly growth and development." Where the CKH does refer to formation of local governmental agencies in Section 56001, it does so in the context of identifying logical formation and determination of local agency boundaries as an "important factor in promoting orderly development. Thus, logical formation of local agencies is not an overriding policy objective but is a means to achieve the overriding objective, which is to encourage orderly growth and development.
- The BACKGROUND/DISCUSSION section also omits language regarding the importance of adequate new housing. Per Gov't Code Section 56001: "The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible."
- The CKH Act focuses overwhelmingly on the preservation of prime agricultural land, a term for which specific conditions must be met. However, the staff report and draft language are replete with references to agricultural land without the "prime" designation. Within the CKH, for example, Section 56001 contains reference to prime agricultural land in describing the Act's overriding objectives. Also, Section 56377 states that "development ... shall be guided away from existing prime agricultural land ... toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area." In

Mailing Address:  
1350 Treat Blvd.  
Suite 140  
Walnut Creek  
California 94597

Tel (925) 951-6840  
Fax (925) 951-6847  
[www.biabayarea.org](http://www.biabayarea.org)



addition, Section 56301 states that "among the purposes of the commission are ... preserving open space and prime agricultural land." In many other parts throughout the Act, it is "prime" agricultural land that is referenced. While it is true that Section 56668 says that "factors to be considered in the review of a proposal" include "the effect of maintaining the physical and economic integrity of agricultural lands," the fact that prime agricultural land is emphasized in so many other places should have significant weight in the language of the background report and the goals and policies themselves.

- Goal 4: Add "prime" after "preserve" and add "growth and" before "development."
- Goal 7 should be deleted. It reads "Protect the natural resources and surrounding areas that sustain agriculture in Contra Costa County." This goal is vague, overly broad and stays too far from the overriding goal of preserving prime agricultural land. What does "natural resources" mean? What are "surrounding areas?" What do these goals have to do with sustaining agriculture? Sustaining agriculture is already adequately covered in Goals 1 through 6, and this one should be deleted as it is unclear and will create confusion and future disputes over what it means.
- Policy 1: Add "prime" before "agricultural."
- Policy 3: The first two sentences should be deleted. The first sentence is especially objectionable as it is over broad and not supported by the text of CKH Act.
- Policy 4: Add "prime" before "agricultural."
- Policy 5: Strike and replace with: "Development near agricultural land should minimize adverse impacts to agricultural operations to the extent feasible."
- Policy 7: Add "prime" before "agricultural."
- Guideline 1a: Add "prime" before "agricultural," add "including providing housing for persons and families of all incomes" after "development."
- Guideline 1d: Add "prime" before "agricultural."
- Guideline 1e: Strike "how" and replace with "whether;" after "agency," add "and if it does not, describe how it will promote the planned, orderly, efficient development of an area."
- Guideline 1f: Strike "protect" and replace with "support."
- Guideline 4a: Strike in its entirety and replace with "The applicant shall submit the project description and statement of project objectives from the CEQA analysis." An applicant should not be required to undertake and submit a costly and burdensome land use inventory for an entire jurisdiction or jurisdictions. LAFCO should proactively secure and update the information it wants relative to local plans and zoning. This section also implies that the existence of land planned and zoned for other uses will result in the production of those uses. We can all cite numerous examples where development proposals for land zoned and planned for housing have been outright denied or approved with far lower densities. This language wrongly assumes there is an inventory of land within Contra Costa County and its cities that is pre-approved for housing and that it is the applicant's job to

Mailing Address:  
1350 Treat Blvd.  
Suite 140  
Walnut Creek  
California 94597  
  
Tel (925) 951-6840  
Fax (925) 951-6847  
www.biabayarea.org



demonstrate as part of a boundary change request why housing hasn't been produced on those properties. Our view may well have been different if all jurisdictions were required – as they are in Oregon – to have a guaranteed 20-year supply of land planned and zoned for jobs and housing at appropriate densities.

- Guideline 4b: Add “prime” to references of “agricultural land” throughout.
- Guideline 6 should be deleted in its entirety as it is inconsistent with, and preempted by, Section 56856.5. That section expressly and comprehensively sets the rules for LAFCO consideration of proposals for land that is subject to agricultural contracts under the Williamson Act. Among the significant conflicts, Section 56856.5 states that LAFCO may approve a proposal affecting Williamson Act land if any of the specified conditions are met, including "the change ... is necessary to provide planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns." Also, under (d) of 56856.5, the general restriction on proposals relating to Williamson Act lands shall not apply to an area for which either a notice of nonrenewal has been served or a tentative cancellation has been approved.

I look forward to continuing to work with Contra Costa LAFCO on the development of an appropriate prime agricultural land preservation policy. Our members are still reviewing the draft language and we will likely have additional comments as the process proceeds. In the meantime, please feel free to contact me at any time with questions or comments at 925-348-1956 or [lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org).

Sincerely yours,

Lisa A. Vorderbrueggen  
East Bay Executive Director for Governmental Affairs  
BIA|Bay Area  
[lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org)  
925-348-1956 (cell)

CC:  
Contra Costa LAFCO Executive Officer Lou Ann Texeira  
Contra Costa County Conservation and Development Director John Kopchik

Mailing Address:

1350 Treat Blvd.

Suite 140

Walnut Creek

California 94597

Tel (925) 951-6840

Fax (925) 951-6847

[www.biabayarea.org](http://www.biabayarea.org)





## California Native Plant Society

East Bay Chapter  
Conservation Committee

---

20 June 2016

To: Executive Officer Lou Ann Texeira  
LAFCO Chair  
651 Pine St, 6<sup>th</sup> Floor  
Martinez CA 94553  
Sent via email 6/20/2016 to: LouAnn.Teixeira@lafco.cccounty.us

RE: Comments on Draft Contra Costa Local Agency Formation Commission (LAFCO)  
Agricultural and Open Space Preservation Policy (AOSPP)

Dear Executive Officer Texeira,

The East Bay Chapter of the California Native Plant Society appreciates this opportunity to address environmental factors potentially affected by the proposed Agricultural and Open Space Policy and annexation questionnaires, especially those affecting native and rare plants. The California Native Plant Society (CNPS) is a statewide non-profit organization that works to protect California's native plant heritage and preserve it for future generations. The Society's mission is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat. We promote native plant appreciation, research, education, and conservation through our 5 statewide programs and 34 regional chapters in California, altogether consisting of about 10,000 members. The East Bay Chapter covers Alameda and Contra Costa Counties and represents some 1,000 members.

Our chapter of CNPS supports the draft LAFCO AOSPP and appreciates the forward thinking behind installing such a policy for Contra Costa County. While CNPS welcomes the proposed policy additions, we urge for and will support even stronger policy and means to protect our dwindling open spaces. We support the language of this draft policy as a step in the right direction.

We are in alliance with LAFCO's mission to avoid urban sprawl and simultaneously, to encourage smart growth and planning. We stand with other local environmental organizations that favor smart growth and avoidance of haphazard urbanization of our open spaces. Other local environmental organizations also have taken steps to value open space and agricultural land on a county-wide scale, such as the East Contra Costa Habitat Conservancy, the Bay Area Open Space Council's Conservation Land Network, and even nonprofits like Save Mount Diablo and Greenbelt Alliance. Thank you for soliciting feedback and considering what resources we can offer to this policy process. Continuing to strengthen and finitely define agriculture and open space would demonstrate commitment to recognizing the high economic and societal benefits of



## California Native Plant Society

East Bay Chapter  
Conservation Committee

---

this valuable land before it is irreplaceably eroded away. Be conservative with our natural lands. They are an important land use component.

Our CNPS East Bay chapter especially values preserving open space for the benefit of protecting native and rare plants, and plant communities, in the unique soils that support great diversity in Contra Costa County. One analysis of open space land value we can provide is our publication, the Guide to Botanical Priority Protection Areas (BPPAs) of the East Bay, published in 2010, which outlines 15 areas of potentially high botanical resource value. Nine of these occur in Contra Costa County.

Our organization looks forward to the day when *enhancement* of our undeveloped land is favored over choosing the lesser of presumed inevitable conversion to urban uses. Contra Costa LAFCO has an opportunity to reinforce land protection principles by requiring terms and conditions when approving annexation project applications. As soon as possible, mitigation for take of open space land should be required to include a mitigation ratio of at least 1:1, but preferably closer to 3:1 in favor of keeping open space open, and farmers farming. The Contra Costa County LAFCO presentation at the Knightsen Farm Bureau in May 2016 indicated that more mapping is needed for prime Agricultural land. We would deduce that since complete mapping of prime Agricultural land is lacking completeness, non-prime Agricultural land and open space land is probably also not mapped completely, and thus cannot begin to be valued accurately.

On the questionnaires for amending a sphere of influence, and for annexations, we also encourage the incorporation of language that brings attention to this land's value. We understand the questionnaires are meant to guide the applicant in considering feasible mitigation or relocation of a project and provide consistency amongst application processes. Contra Costa LAFCO has an opportunity here to continue encouraging cooperation between jurisdictions and lead the way in enforcing the true value of these lands.

The East Bay CNPS organization supports the policy additions and administrative implementation of the questionnaires. We suggest further modest improvements including a mitigation ratio of *at least* 1:1 for take of open space or agricultural lands, preference for permanent preservation of open space and actively farmed land, and mitigation enforcement through a fee-based process where fees would support further mitigation efforts. We appreciate that developers are asked to specify how they could avoid using agricultural and open space lands as feasible alternatives, and beyond avoidance, exact mitigation measures to accommodate for the loss.

Sincerely,  
Karen Whitestone  
Conservation Analyst

[www.ebcnps.org](http://www.ebcnps.org)

PO Box 5597 Elmwood Station  
510-734-0335      [conservation@ebcnps.org](mailto:conservation@ebcnps.org)

Berkeley CA 94705

**MAILING ADDRESS:**  
City Hall  
150 City Park Way  
Brentwood, CA 94513  
Phone: 925-516-5400  
Fax: 925-516-5401  
www.brentwoodca.gov

**CITY ADMINISTRATION**  
150 City Park Way  
Phone: 925-516-5440  
Fax: 925-516-5441

**COMMUNITY DEVELOPMENT**  
150 City Park Way  
Phone: 925-516-5405  
Fax: 925-516-5407

**FINANCE & INFORMATION  
SYSTEMS**  
150 City Park Way  
Phone: 925-516-5460  
Fax: 925-516-5401

**PARKS AND RECREATION**  
35 Oak Street  
Phone: 925-516-5444  
Fax: 925-516-5445

**POLICE**  
9100 Brentwood Boulevard  
Phone: 925-634-6911  
24 Hr. Dispatch: 925-778-2441  
Fax: 925-809-7799

**PUBLIC WORKS**

**Operations Division**  
2201 Elkins Way  
Phone: 925-516-6000  
Fax: 925-516-6001

**Engineering Division**  
150 City Park Way  
Phone: 925-516-5420  
Fax: 925-516-5421

**OFFICE OF THE CITY MANAGER**

June 17, 2016

Mary Piepho, Chairperson  
Contra Costa Local Agency Formation Commission  
651 Pine Street, 6th Floor  
Martinez, CA 94553

**Subject: Comments on Draft Agriculture and Open Space Preservation Policy**

Dear Chairperson Piepho:

On behalf of the Brentwood City Council, I am submitting the enclosed comments on the Draft Agriculture and Open Space Preservation Policy currently under consideration by the commission.

The City Council appreciated Commissioner Don Tatzin and Executive Manager Lou Ann Texeira coming to Brentwood and personally discussing the draft policy on two occasions, first with the City Council and most recently with the Land Use & Development Committee.

The City of Brentwood has a strong legacy of supporting the preservation of agriculture and open space land. In 2001, the City created the county's only Agricultural Enterprise Program, establishing a farmland mitigation program and fee, a transferable agricultural credits program, and the agricultural enterprise program. To date, 980 acres of farmland in the Ag Core are preserved through the purchase of conservation easements funded by the City's agricultural conservation easement fee.

The Brentwood General Plan also establishes a comprehensive framework of policies promoting the preservation of agriculture (Goal COS 2), including:

- Maintenance of permanent agricultural lands surrounding the city limits to serve as community separators
- Encourage and support programs that create or establish permanent ag areas
- Participate with regional partners to maintain permanent agricultural areas
- Work with LAFCO on issues of mutual interest, including conservation of agricultural lands

- Minimize conflicts between agriculture and urban land uses, including the uses of natural buffers
- Require new development to respect agricultural operations
- Assist farmers with programs aimed at increasing opportunities for ag product sales and access to commodities markets

Furthermore, the City continues to implement its Right To Farm ordinance (Chapter 8.0), protecting farms from encroachment by urban uses. The City also annually funds agricultural enterprise programs, including Harvest Time, through its annual Agricultural Enterprise Grant Program.

The proposed Draft Agriculture and Open Space Preservation Policy will affect the City of Brentwood more than any agency in the county. We appreciate the opportunity to provide the following comments, for the Commission's consideration:

**Acknowledge the importance of agricultural enterprise.** We recommend that the draft policy be revised to recognize that - in addition to preserving farmland and open space – the viability agricultural business and enterprise be promoted and encouraged. If a proposed annexation were to consume farm land, but be developed for a use which promotes agricultural enterprise, this should be considered favorably by LAFCO.

**Keep mitigations optional.** Possible mitigation measures (as described in Guideline 4.b.) should be recommended but not mandatory, particularly if the local agency (e.g. the City of Brentwood) has established programs and fees for the promotion of agricultural enterprise and protection.

**Keep mitigations local.** Any mitigation approved with an annexation should stay local. For example, if a 1:1 mitigation should result in preservation of farm land, the land being preserved should be nearby (e.g. in the Brentwood agricultural area) and not at a remote location.

**Consider existing local agricultural programs and fees.** As noted, the City of Brentwood already has programs and fees established to promote agricultural enterprise and preservation. These should be considered by LAFCO when reviewing an annexation application.

**HCP consideration.** Brentwood is a member of the East Contra Costa Habitat Conservancy joint powers authority, participating in the implementation of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan. The Plan provides for comprehensive species, wetlands, and ecosystem conservation and contributes to the recovery of endangered species. Any annexation application being reviewed by LAFCO that includes accompanying HCP mitigations should be taken into consideration by the Commission.

**Local community engagement on future growth.** Any annexation to be considered by LAFCO in any of Brentwood's future growth areas (as designated by the General Plan) will first require a positive vote of the citizens of Brentwood to expand the Urban Limit Line (ULL). No doubt, any future ULL expansion request would include consideration of mitigation measures and inclusion of amenities, possibility including preservation of open space, farmland, or creation of buffers. Any of these measures, which would have been previously approved by the community (in a positive ULL measure vote) should be acknowledged by LAFCO when a subsequent annexation application is proposed.

**Local retention of available land.** Policy 1 states that vacant land in urban areas should be developed before farm land is annexed. The City generally concurs with this policy, but it also reminds the Commission that cities may need to retain vacant land within their boundaries for selected growth (e.g. job-generating uses, which typically have a longer build-out timeframe than residential growth). This policy should recognize that there may be beneficial aspects to retaining vacant land for targeted, desired growth.

**Buffering.** Guideline 4.b.5 encourages the establishment of buffers between development and farm land, to protect agricultural operations. We recommend this guideline also encourage "right to farm" regulations, similar to those already within the Brentwood Municipal Code.

**Minor edits.** We recommend Guideline 4.b.1. be revised to read "acquisition or dedication," rather than "and." Also, Guideline 4.b.3. should be amended to strike "recognized government" and replaced with "local government agency."

**Community Build-out Plan.** The City would like to let LAFCO know that it is taking measures to plan for future growth. Earlier this year, the Brentwood City Council authorized the preparation of a Community Build-out Plan. This plan will be a Specific Plan, containing policies guiding the vision-based orderly development of future growth areas identified on the General Plan Land Use Map which are currently outside the City corporate limits but are designated for future annexation and development. The plan process will start in the fall of 2016 and conclude with adoption in June of 2018.

Again, thank you for this opportunity to comment on the Draft Agriculture and Open Space Preservation Policy. If the Commission has any detailed questions, please contact Casey McCann, Community Development Director, at either (925) 516-5195 or cmccann@brentwoodca.gov.

Sincerely,



Gustavo "Gus" Vina  
City Manager

GV:cjm

cc: City of Brentwood City Council Members  
City of Brentwood Department Directors

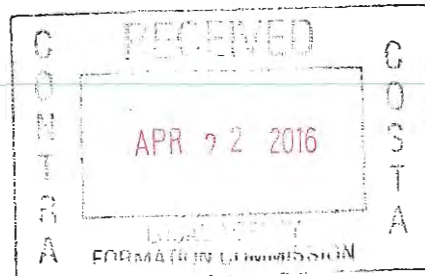
CITY COUNCIL  
Kevin Romick, Mayor  
Sue Higgins, Vice-Mayor  
Vanessa Perry  
Randy Pope  
Doug Hardcastle



CITY HALL  
3231 Main Street  
Oakley, CA 94561  
925.625.7000 tel  
925.625.9859 fax  
www.ci.oakley.ca.us

April 19, 2016

Lou Ann Teixeira, Executive Officer  
Contra Costa LAFCO  
651 Pine Street, 6th Floor  
Martinez, CA 94553



**Subject: City of Oakley Comments on the LAFCO Draft Preservation of Open Space and Agricultural Land Policy**

The City of Oakley has had the opportunity to review the LAFCO Draft Preservation of Open Space and Agricultural Land Policy. The City supports the overall concept of preserving open space and agricultural land and has adopted Policies and Goals in our Oakley 2020 General Plan that speaks to that point. The City is also actively pursuing an Agricultural Conservation and Viticulture Program (ACVP), which would allow property owners to place conservation easements over their property to preserve their agricultural land use.

While the City is in support of programs that preserve valuable resources and protect the region's rich agricultural past, we do have concerns about potential annexation areas in the City of Oakley that are currently within the City's Planning Area, but not within the City's Sphere of Influence (SOI). Specifically, these areas lie in the outer limits of the East Cypress Corridor and the area southeast of the Cypress Road and Sellers Avenue intersection. The second area mentioned consists mostly of agricultural land and, in the future, the City may want to request a modification to the SOI and City limit line to bring these properties into the City. The City would also like to remind LAFCO that the City's Planning Area is inside the Contra Costa County Urban Limit Line (ULL). The intent of the ULL is to protect open space and agricultural lands, discourage urban sprawl, and prevent traffic congestion. The City of Oakley may still in fact wish to expand the City limit line in certain areas to align with the City's Planning Area, which in turn aligns with the ULL. The City would hope any Policies and Goals adopted by LAFCO wouldn't negatively impact the City of Oakley and any future annexations within the ULL.

Thank you for the opportunity to provide comments on the proposed policy. If you have any questions or would like further clarification of the information in this letter please contact me at any time.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a long, sweeping horizontal line that curves upwards at the end.

Joshua McMurray  
Planning Manager





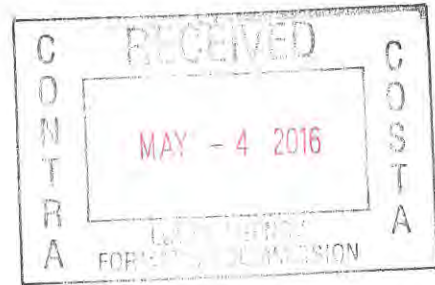
# City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

April 28, 2016

Lou Ann Texeira  
Contra Costa Local Agency Formation Commission  
651 Pine Street, 6<sup>th</sup> Floor  
Martinez, CA 94553



Subject: **LAFCO Agricultural & Open Space Preservation Policy Comments**

Ms. Texeira,

Thank you for providing the City of Pittsburg with the opportunity to review and comment on the Draft LAFCO Agricultural & Open Space Preservation Policy. Our comments on the policy are as follows:

- 1) It is important to note that California law gives solely to cities and to counties the authority to make land use decisions, so it is important to ensure that this policy does not overreach in LAFCO's authority as it relates to land use decisions.
- 2) Goal 1, Policy 1 and Policy 4 make reference to the conversion of agricultural land to "other land uses" and/or to "non-agricultural purposes," without providing a definition as to what these uses or purposes would encompass. To ensure this is clear, the document should provide a definition or examples of what these "other land uses" or "non-agricultural purposes" would be likely include. In lieu of a definition, the document should at minimum ensure an exception is provided for public roadways or other infrastructure deemed necessary for the safe and efficient movement of people, goods and services within Contra Costa County.
- 3) The document should incorporate the definition for 'prime farmland' to ensure the distinction between 'prime farmland', 'prime agricultural land', and 'agricultural lands' is clear. This is a very important distinction to keep in mind, as it would impact what lands this policy would apply to. Further, existing text in Policy 6 specifically relates to the farmland definition, not the agricultural definition.
- 4) Several of the goals/policies seem to be repetitive and should be consolidated to more efficiently make the same point and streamline the document. Our suggested consolidations would include:
  - o Goals 1, 3 & 4
  - o Policies 1, 3 & 4
- 5) Policy 2 should be removed since it does not directly relate to agricultural or open space lands.



- 6) Policy 9 would more appropriately fit in as a guideline, rather than a policy.
- 7) Guideline 1 should more clearly apply to proposals that include 'agricultural lands' (including 'prime agricultural land') and 'open space', as defined in the policy.
- 8) Guideline 1, sections d and e, should be removed. Annexation proposals involving development of agricultural lands and open space lands consistent with a City's General Plan and pre-zoning would be consistent with Government Code section 56375 (7), which states "the decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city." Asking an applicant to provide this additional analysis for a proposal that complies with the underlying General Plan and pre-zoning designations could be considered overly burdensome and likely ineffective. Further, such annexation proposals that include a development of the subject site would inherently not "guide development away from agricultural and/or open space land," nor would they "facilitate development of existing vacant or non-agricultural and/or open space lands within existing city boundaries."
- 9) Guideline 4b should be deleted, or at least, re-worded to suggest the review of the measures listed as possible CEQA mitigation for the potential loss of agricultural lands. Requiring a subsequent evaluation of the effectiveness of mitigation measures for a project that has not yet been implemented is not only inconsistent with CEQA as applicable law, but would also be excessive, overly burdensome and likely unachievable. Further, if a CEQA document with mitigation included for agricultural resources is adopted/certified by the Lead Agency, then that lead agency has made a determination that the measures included are the appropriate measures to mitigate the impact. CEQA, as implemented by the Lead Agency, is determinative of any mitigation measures. A Responsible Agency, which does not agree with the Lead Agency's determination, does have steps available under CEQA if it believes it should assume Lead Agency status.

Thank you again for the opportunity to comment on this draft policy. If you have any questions on the comments provided, please feel free to contact me using the information provided above. The City looks forward to continuing to work with LAFCO on the development of the Agricultural and Open Space Preservation Policy.

Sincerely,



Kristin Pollot, AICP  
Planning Manager

Cc: Joe Sbranti, City Manager  
Fritz McKinley, Community Development Director  
Ruthann Zeigler, City Attorney

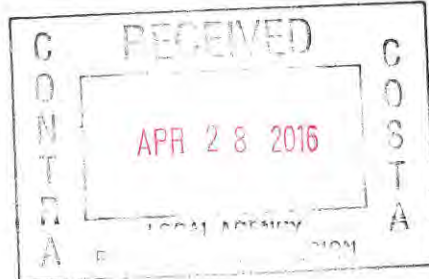


**CONTRA COSTA COUNTY FARM BUREAU**  
5554 Clayton Road, Concord, CA 94520  
925-672-5115 Fax 925-672-8382  
[cccfb@sbcglobal.net](mailto:cccfb@sbcglobal.net)

PRESIDENT  
Wayne Reeves  
1st VICE-PRESIDENT  
John Viano  
EXECUTIVE DIRECTOR  
Betty Compilli

April 26, 2016

LAFCO Commissioners  
CCC LAFCO  
641 Pine St, 6<sup>th</sup> Floor  
Martinez CA 94553



Dear Members of the Commission:

The Contra Costa County Farm Bureau is happy to see the efforts of LAFCo to protect Agriculture in Contra Costa County. There is a difference between Production Agriculture and Open Space and your definitions appear to express that position.

Contra Costa County Farm Bureau does however; feel there needs to be a component that protects Agricultural land when surrounded by homes. Often times, municipalities like to use any remaining open land to keep the open space ratio as open space or neighborhood parks. Just because it is the last space available should not give rise to that parcel barring the burden for the rest of the development in the area. CCCFB would like to request some type of language should be included to help with that protection.

Sincerely,

Wayne Reeves  
President





(925) 672-6522 | PHONE  
(925) 672-8064 | FAX

5552 Clayton Road, Concord, CA 94521

Contra Costa County Local Agency Formation Commission  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Dear LAFCO Commissioners,

On behalf of Contra Costa Resource Conservation (CCRCD) Board of Directors, I am writing to comment on the Contra Costa Local Area Formation Commission (LAFCO) to Agriculture and Open Space Policy. CCRCD supports a policy that will ensure the long-term conservation of Contra Costa County's farmlands and range lands.

Since 1941, CCRCD has worked in partnership with farmers and ranchers to support voluntary conservation of Contra Costa County's natural resources. We work in partnership with the USDA Natural Resources Conservation Service to identify local resource concerns and provide technical and financial assistance to help private landowners be good stewards of the land.

During the past 75 years, a significant proportion of Contra Costa County's agriculture and open space lands have been converted to urban, suburban, industrial, and commercial development. Nonetheless, Contra Costa County remains one of the most important agricultural counties in the Bay Area, with more than 30,000 acres of harvested croplands and more than 100,000 acres of rangelands at the basis of a vital agricultural economy.

The farmlands in the Agricultural Core and Delta comprise an intact landscape of commercially viable family farms, with highly productive soils, senior water rights, and access to markets and services. Range lands are distributed widely through-out Contra Costa's watersheds. These natural assets yield bountiful agricultural production, as well as environmental, aesthetic, and cultural resources that benefit the County as a whole.

As the Bay Area continues to develop and grow, Contra Costa County's agricultural and open space lands are at high risk of continued conversion. If left unchecked, fragmentation may compromise the agricultural production capacity of these landscapes and diminish the environmental services they provide. This, in turn, will impact the long-term economic vitality and quality of life of the surrounding communities.

As an independent, locally led, non-regulatory agency, CCRCD works by invitation of local landowners and land managers to foster stewardship of our natural resources. At CCRCD we believe it is vital to recognize Contra Costa County's agricultural and open space lands as natural assets and protect these values for the benefit of the community, today and for the future.

Please feel free to contact us if you have questions. Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Bethallyn Black".

Bethallyn Black, Director



2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381 T: 1-888-EBPARKS F: 510-569-4319 TRS RELAY: 711 WWW.EBPARKS.ORG

May 9, 2016

Lou Ann Texeira, Executive Officer  
Contra Costa Local Agency Formation Commission  
651 Pine Street, Sixth Floor  
Martinez, CA 94553

**RE: Draft Contra Costa LAFCO Agriculture and Open Space Preservation Policy**

Dear Ms. Texeria,

Thank you for the opportunity to comment on the draft Contra Costa Local Agency Formation Commission (LAFCO) Agriculture and Open Space Preservation Policy. The East Bay Regional Park District stewards 120,000 acres of parklands in both Contra Costa and Alameda Counties. As a special district that owns and manages agricultural and open space lands, our Master Plan policies specifically guides the District in the stewardship of these lands. We appreciate your effort at providing protections for these lands that define the quality of life in Contra Costa County.

The District suggests that an additional definition of recreation be provided. The policy includes a definition of open space used for outdoor recreation, but does not specifically define or describe what type of recreational uses would be permitted. The definition of outdoor recreation should include the development and maintenance of trails, staging areas, and interpretive facilities while defining outdoor recreation as including hiking, biking, equestrian use, historic and environmental interpretation, picnicking and similar low impact recreation uses.

As the owner and manager of agricultural lands throughout the County, we applaud the inclusion of the goal to minimize the conversion of prime agricultural land to other uses. The District also supports the suggestion of other organizations to increase the ratio of mitigation depending on the designation of the land as prime agricultural lands.

Board of Directors

Doug Siden President Ward 4	Beverly Lane Vice-President Ward 6	Dennis Waespi Treasurer Ward 3	Diane Burgis Secretary Ward 7	Whitney Dotson Ward 1	John Sutter Ward 2	Ayn Wieskamp Ward 5	Robert E. Doyle General Manager
-----------------------------------	--	--------------------------------------	-------------------------------------	--------------------------	-----------------------	------------------------	------------------------------------

This draft Agriculture and Open Space Preservation Policy is a move in the right direction to protect these invaluable resources that define the character of Contra Costa County. The District looks forward to LAFCO clarifying its definition of outdoor recreation and uses permitted on open space lands and specifying adequate protections for prime agricultural lands. Please feel free to contact us if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink that reads "Sandra Hamlat". The signature is written in a cursive, flowing style.

Sandra Hamlat  
Senior Planner

Cc: Diane Burgis, EBRPD Board of Directors  
Bob Nisbet, EBRPD Assistant General Manager  
Larry Tong, EBRPD Chief of Planning/GIS



# FRIENDS OF THE CREEKS

June 16, 2016

Hon. Mary Piepho, Chair  
Contra Costa LAFCO  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Dear Commissioners:

We are writing today to offer our comments in support of your proposed Open Space Policy. It is a good beginning, but we believe it should be strengthened in two areas.

First, while there are many mentions of creeks in the policy, there is no mention of watersheds. Creeks are wildlife highways; by extension, a watershed is a road network. They are important migration corridors for everything from butterflies to mountain lions. If they are interrupted by a developed area with impassable stretches, their usefulness is diminished, their network broken up because one piece has been isolated. Wildlife must still be able to reach the water and travel in the channel in these areas. When decisions are made whether to allow development in an open space area, keeping creeks accessible to wildlife should be one of the requirements.

Second, a mitigation ratio of 1:1 for the taking of agricultural land is not adequate. That would allow half of our remaining ag land to be swallowed by development. Our agricultural economy is already close to critical mass; it cannot sustain such losses and remain viable. It is not only the farmers and the land that are at risk; it is also all the support services they need. A mitigation ratio of 3:1, where the mitigation land is of equal or better quality than the land being taken, might be more appropriate. Whatever the final number, it should be set at a level that assures the viability of the agricultural economy. Mitigation at this level must be mandatory.

Open space is an important and cherished part of our quality of life in this county and it is worth protecting. Not only does it provide us with ecosystem services and a nature fix, it helps to define our sense of place. Our greenbelts separate our towns into distinct clusters, helping to give each a unique identity. Every city borders on open space somewhere. While taking open space land for development may not be the last choice in every circumstance, it should never be the first.

Sincerely,

A handwritten signature in black ink that reads "Lesley Hunt". The signature is written in a cursive, flowing style.

Lesley Hunt, President



Walnut Creek Office  
1601 N. Main St., Suite 105  
Walnut Creek, CA 94596  
(925) 932-7776

June 20, 2016

Contra Costa Local Agency Formation Commission  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Dear Contra Costa Local Agency Formation Commission:

**RE: Draft Agricultural and Open Space Policy**

Thank you for the opportunity to comment on the draft Contra Costa LAFCo Agriculture and Open Space Policy (AOSP). We have been excited to be a part of the development of the draft AOSP since the Agriculture and Open Space Preservation Policy Workshop on July 8, 2015.

Greenbelt Alliance is the San Francisco Bay Area's leading organization working to protect natural and agricultural landscapes from development and help our cities and towns grow in ways that create great neighborhoods for everyone. We are the champions of the places that make the Bay Area special, with more than 10,000 supporters and a 56-year history of local and regional success.

At a time when significant natural and agricultural lands are at risk, our county needs the leadership of LAFCo to ensure smart and orderly growth, while also protecting important agricultural and open space lands and mitigating for development impacts. The current AOSP is a strong step in the right direction and we commend LAFCo staff and commissioners for their thoughtful and detailed draft policy. The current AOSP appropriately addresses the range of duties within the broad authority granted LAFCos and makes a clear case for the continued vitality of agricultural and open space lands in Contra Costa County.

Greenbelt Alliance recommends that Contra Costa LAFCo build on this foundation to adopt an AOSP that strongly encourages infill development on vacant sites, protects our most valuable natural and agricultural resources, ensures continued operations on actively farmed land, and requires mitigation for the loss of agricultural and open space lands.

**LAFCo tools are critical for addressing smart and orderly growth**

Greenbelt Alliance recently released our "HomeGrown," report, which lays out the barriers facing farmers and ranchers today, along with strategies to keep them in business and reduce the pressure to sell their land for sprawl development. Many of the successful tools we identify come from the policies and guidelines in other LAFCos around the Bay Area and State of California.

Our research points to the need for proactive LAFCo leadership as a critical component in the smart and orderly development of growing communities, especially with regard to impacts on agricultural and open space lands. It is a critical time for the Contra Costa LAFCo to join colleagues around the state to ensure strong policies in support of your mission and legislative mandates in the Cortese-Knox-Hertzberg Act (CKH Act).

The annexation checklist adopted by Contra Costa LAFCo in January 2016 is a very important step to encourage infill development, protect vital natural and agricultural resources, and request mitigation plans from applicants. The final AOSP should provide the clarity and strength to make these commitments meaningful.

We offer the following recommended changes to the AOSP to ensure orderly growth and protect open space and agricultural lands in Contra Costa County. These recommendations are well within the broad authority granted to LAFCo in the CKH Act and California case law as evidenced in Shute, Mihaly & Weinberger's letter to Contra Costa LAFCo<sup>1</sup>.

#### Summary of recommendations:

1. **The AOSP shall prohibit annexations of actively farmed land.**
2. **The AOSP shall recognize Contra Costa Urban Limit Lines (ULLs) and require applicants to address impacts that annexations will have on regional goals in compliance with state law (SB375).**
3. **The AOSP shall reduce conflicts and ensure more orderly growth between jurisdictions throughout the county.**
4. **The AOSP shall require mitigation for the loss of agricultural lands.**

The following describes our recommendations in detail:

#### **Protect at risk natural and agricultural land in Contra Costa**

Contra Costa County has always had a rich agricultural heritage, thanks to our mild climate, productive soil, and the dedication of farmers over many generations. The Delta provides plentiful water, a golden resource in thirsty times. Agriculture contributes \$225 million to the local economy, including jobs producing, selling, and serving local food.

But the land it all depends on is at risk. Between 1990 and 2008, 40 percent of Contra Costa County's prime farmland was lost to sprawling development. For a while, Brentwood was the fastest growing city in the state, and orchards fell fast to subdivisions. Today, land speculation is putting on the pressure all over again. In fact, Contra Costa County has the most natural and agricultural land at risk of development in the entire region: more than 18,000 acres or the equivalent of 18 Golden Gate parks. To maintain a future agricultural economy in Contra Costa, **LAFCo should strengthen Policy 3 to expressly prohibit annexations of actively farmed land.**

Contra Costa is losing agricultural land along the urban edge at alarming rates, partly due to the incentive for farmers and ranchers to sell their land for sprawl development. The most vulnerable lands are at the urban edge of the Contra Costa County Urban Limit Line (ULL) and similar city-adopted ULLs, which can be breached under current policy without a vote of the people. For LAFCo, this means that expansions of 30 acres could increasingly chip away at current policy protections for agricultural and open space lands. It doesn't sound like

---

<sup>1</sup> Shute, Mihaly & Weinberger LLP letter to Contra Costa LAFCo dated June 13, 2016.



much but in fact, this loophole puts 9,300 acres of agricultural and open space land at risk (**Attachment A**). It's death by a thousand cuts and LAFCo should be prepared for it.

And if voters decide to move the ULL and annex agricultural and open space lands, the AOSP should provide LAFCo with the proper tools to ensure the permanent protection of natural and agricultural lands. **Attachment B** shows previous efforts to move the ULL over the last decade. These past actions should serve to inform the likelihood for future efforts that may result in new annexation applications to convert prime farmland to sprawl development. **One such proposal is moving forward—and it's massive. Brentwood's upcoming "Community Build-out Plan" puts nearly 2,360 acres of farmland, rangeland, and open space at risk of low-density sprawl development outside of the current ULL and city limits.**

As we have stated before in comment letters and public testimony, there is no need for sprawl development in Contra Costa County. Plan Bay Area demonstrated that 100% of new development could and should take place within the current urban boundaries for at least the next 30 years. Indeed, LAFCo is required by Senate Bill 215 to consider regional planning goals set by the SB 375's Sustainable Community Strategies when considering annexation requests. LAFCo has the authority to ensure that each city practice prudent land use planning and opt for compact and efficient development patterns to reduce greenhouse gas emissions. Applicants should ensure that proposals for annexation are consistent with the currently adopted Plan Bay Area, and LAFCo should reject incomplete applications that do not demonstrate consistency with Plan Bay Area's goals for reducing greenhouse gas emissions and the preservation of agricultural and open space lands.

We strongly **support the AOSP's inclusion of Guideline 1e and 4a** to require applicants to review local land inventories and describe how a proposal will facilitate the development of existing vacant land within existing boundaries. There are ample opportunities within Contra Costa County to grow in smart ways that reduce congestion, bring economic opportunities, and increase quality of life while preserving agricultural and open space lands for future generations. Contra Costa LAFCo should be fully prepared to meet this regional framework head on and use the most effective tools to meet its legislative mandate.

**Recommendations: LAFCo AOSP Policy 3 shall prohibit annexations of actively farmed land. LAFCo should recognize Urban Limit Lines (ULLs) and reference the importance that ULLs plays in orderly growth in the county. To comply with SB215, LAFCo shall require applicants to address impacts that annexations will have on regional goals in compliance with state law (SB375) as part of Guideline 4a.**

### **Provide clear guidelines for ensuring that boundary changes result in orderly growth**

Greenbelt Alliance appreciates the inclusion of Policy 8, which states that the "Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and SOI areas and that encourage protection of prime agricultural land in a manner that is consistent with this policy."

As shown in **Attachment C**, there are numerous jurisdictions that adopted Planning Area and Sphere of Influence boundaries that overlap and extend outside voter-approved ULLs. These boundaries demonstrate clear intentions for future expansions, often in conflict with neighboring jurisdictions and with current agricultural and open space land uses.

These inter-jurisdictional conflicts extend throughout the county. Within the last few years, development proposals on the hills between Concord and Pittsburg escalated tensions around the future of urban development and the proposed Regional Park at the Concord Naval Weapons Station. In East County, Brentwood and Antioch are signaling future annexations of hillsides and open space in an apparent race for sprawl development. These land use tensions would be eased, if not resolved, with clear and consistent policies adopted by the various jurisdictions and supported by LAFCo decisions for orderly growth.

The letter from Shute, Mihaly & Weinberger provides a clear understanding of LAFCo's legislative authority to provide the appropriate checks and balances on local governments and ensure that regional and state environmental considerations are placed above "narrow selfish interests."<sup>2</sup>

**Recommendation: The final AOSP should add a guideline that ensures future boundary changes shall reduce conflicts and ensure more orderly growth between jurisdictions throughout the county.**

### **Require mitigation of agricultural and open space lands**

Every acre of farmland lost in Contra Costa County brings the entire local agricultural economy closer to irreversible decline. The charge of LAFCo is to "encourage the orderly formation of local government agencies, discourage urban sprawl, and preserve agricultural and open space resources." Without required mitigation, the preservation part of the equation is bound to fail.

Ensuring financial resources for the permanent protection of farmland directly results in the continued success of the agricultural economy. Conservation easements are a critical component of this success. These appeal to farmers who want to continue farming but struggle to succeed economically. The funds from the easement sale are often used to finance infrastructure improvements, purchase more land, or to invest for retirement. While many farmers in Contra Costa have successfully preserved land, many more easements are needed along the urban edge, within the County Agricultural Core, and throughout East County inside and outside of the ULL.

As evidenced by Shute, Mihaly & Weinberger's letter, required mitigation policies are standard practice and are essential to stem the loss of our natural and agricultural resources. It is worth repeating the following conclusive evidence of the legal standing of LAFCo to require mitigation:

"In repeatedly upholding agricultural mitigation requirements, California courts of appeal have recognized that a 1:1 mitigation ratio is not sufficient to fully mitigate the permanent loss of agricultural land because it does not "offset" the loss of that land. *See, e.g., Building Industry Assn. of Central Cal. v. County of Stanislaus* (2010) 190 Cal.App.4th 582, 592. California jurisdictions, such as the cities of Davis and Hughson, have acknowledged the inadequacy of 1:1 compensation by adopting minimum mitigation ratios of 2:1."<sup>3</sup>

---

<sup>2</sup> *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 284

<sup>3</sup> Shute, Mihaly & Weinberger LLP letter to Contra Costa LAFCo dated June 13, 2016.

There is overwhelming evidence that LAFCo can require mitigation for a wide variety of open space and agricultural lands covered by the CKH Act. While Contra Costa County has some of the best prime agricultural soils in the State of California, there are also ample rangelands, critical species habitat, and watershed lands that provide vital resources for public health and welfare.

LAFCos in surrounding counties have adopted strong mitigation policies to protect similar prime farmland and open space. For instance, Yolo County has one of the strongest LAFCo policies and mitigates the loss of farmland at a ratio of 3 acres preserved to 1 acre lost. We recommend that Contra Costa LAFCo make the same commitment to the longevity to one of the Bay Area's vital agricultural economies.

Along with the ample research collected by LAFCo staff, Greenbelt Alliance reviewed LAFCo mitigation policies throughout the State of California, gathering best practices that have led to the successful preservation of natural and agricultural lands.

**Greenbelt Alliance recommends the final AOSP replace Guideline 4(b) with the following language:**

**Where the Commission approves an annexation or sphere of influence that impacts agricultural and open space resources, the Commission shall condition such approval upon appropriate mitigation as outlined below:**

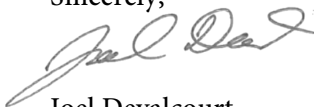
- a. **Where prime agricultural lands are impacted, the Commission shall require the applicant to mitigate to permanently protect at least three acre of comparable agricultural land for every acre of land converted (a ratio of 3:1). The mitigation lands must be located within Contra Costa County, except as described below, must be of equal or better soil quality, and have a dependable and sustainable supply of irrigation water. The mitigation lands may not be already effectively encumbered by a conservation easement of any nature.**
- b. **Where non-prime agricultural and open space lands are unavoidably impacted, the Commission shall require the applicant to mitigate to permanently protect at least two acre of comparable agricultural and open space land for every acre of land converted (a ratio of 2:1). The mitigation lands must be located within Contra Costa County, except as described below, must be of equal or better soil quality, and have a dependable and sustainable supply of irrigation water. The mitigation lands must not be already effectively encumbered by a conservation easement of any nature.**
- c. **All mitigation ratios must be increased by one if the mitigation is not within Contra Costa County, in which case the mitigation land must be located within Alameda or Solano County. All mitigation rations must be increased by one if the impaired land is listed as priority for preservation.**
- d. **All mitigation lands and funds shall pass directly to qualified land trusts, such as Brentwood Agricultural Land Trust, or another local, qualified land trust. Land trusts like BALT have the legal and technical ability to hold and administer agricultural preservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production.**

- e. **The applicant must submit an adopted ordinance or resolution confirming that mitigation has occurred, or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit, or final map approval for the site, whichever comes first.**
- f. **Proposed in-lieu fees shall be granted only with commission approval and shall fully fund the costs associated with acquiring and managing an agricultural conservation easement, including the estimated transaction costs and the costs of administering, monitoring, and enforcing the easement.**
- g. **The applicant shall adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. This can include, but is not limited to, the following measures:**
  - a. **Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location, and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses. Such buffers may be permanent, temporary, or rolling, and may take many forms; easements, dedications, appropriate zoning, streets, or parks.**
  - b. **Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.**
  - c. **Development of educational and informational programs to promote the continued viability of surrounding agricultural land.**
  - d. **Development of a real estate disclosure ordinance that fully informs all directly affected parties and the greater community about the importance of maintaining productive agriculture in the face of encroaching development.**

Greenbelt Alliance is encouraged by the policies and guidelines in the draft AOSP. We hope the final policy will incorporate our recommendations to result in the effective prioritization of infill development on vacant sites, the permanent preservation of agricultural and open space land, and appropriate required mitigations when agricultural and open space lands are lost to development.

We welcome any questions about our recommendations and look forward to the opportunity to present them at the July 13, 2016 LAFCo Commission meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel Devalcourt".

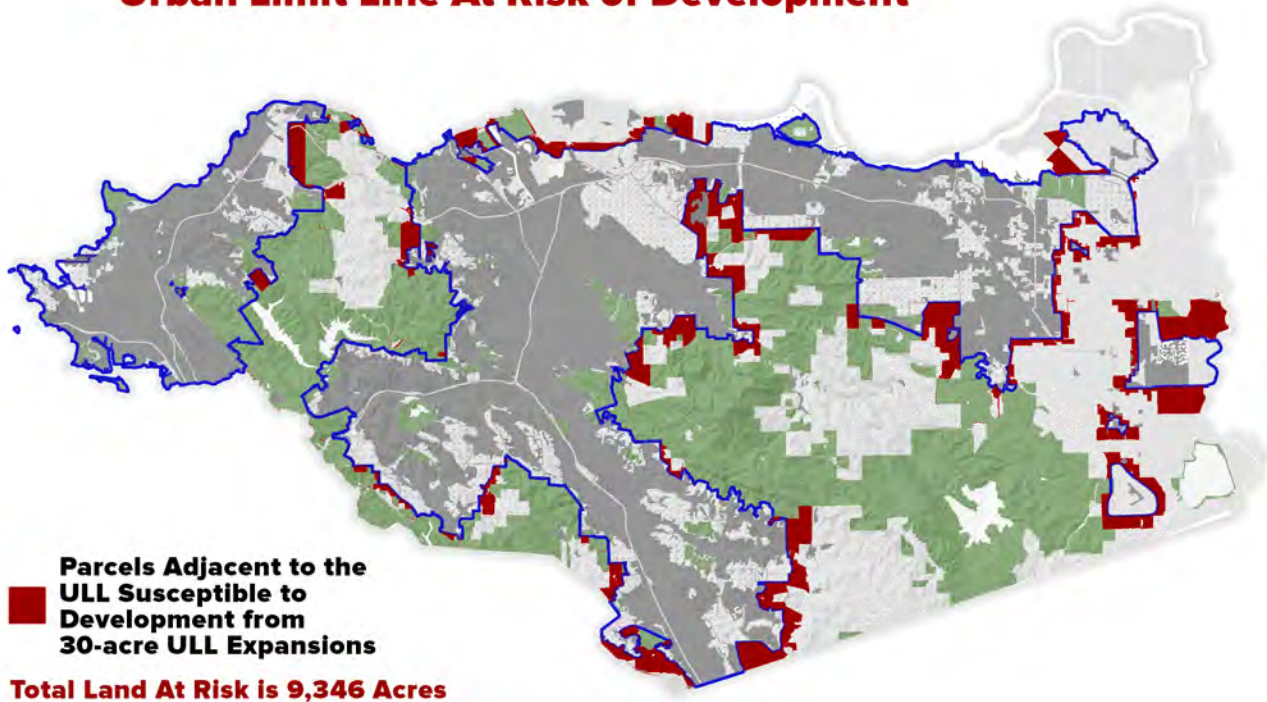
Joel Devalcourt  
East Bay Regional Representative  
Greenbelt Alliance



Attachment A



# Parcels Outside of Contra Costa County's Urban Limit Line At Risk of Development



### Planning Boundaries

- City Limits
  - Contra Costa County Urban Limit Line
- Contra Costa County Mapping Information Center 2015

### Other Lands

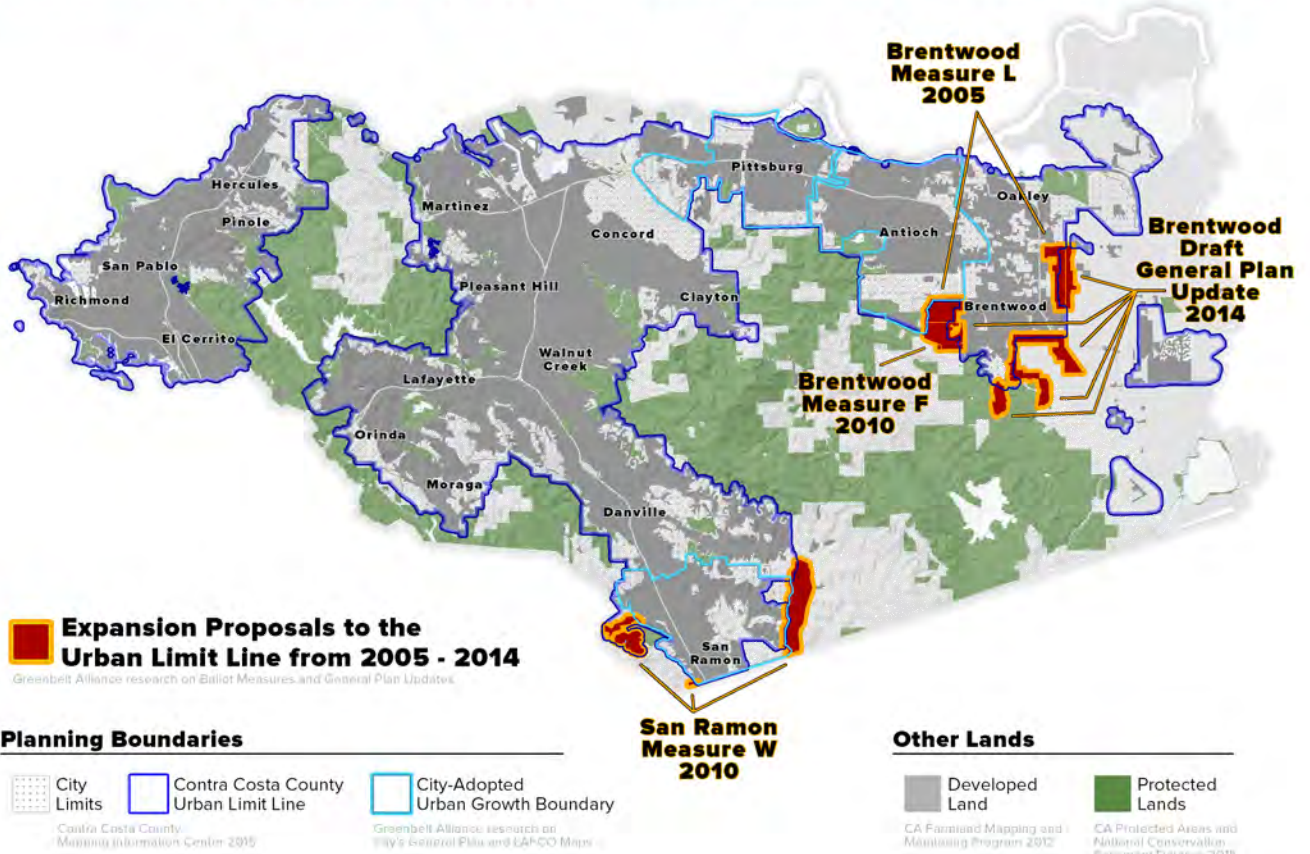
- Developed Land
  - Protected Lands
- CA Farmland Mapping and Monitoring Program 2012      CA Protected Areas and National Conservation Easement Datasets 2015

Notes: A vote of the people is required to expand Contra Costa County's Urban Limit Line by more than 30 acres. Parcels shown in red are those parcels adjacent to Contra Costa County's Urban Limit Line excluding irrigation canals and railroad right-of-ways. Parcels smaller than 30 acres are tallied as their actual acreage, while parcels larger than 30 acres are assumed to only allow 30-acre development despite their larger size. If no further subdivisions of these parcels occur, this calculation shows the total acreage of parcels at risk of development from their adjacency to the Urban Limit Line is 9,346 acres.

Attachment B



## Expansion Proposals to Contra Costa County's Urban Limit Line

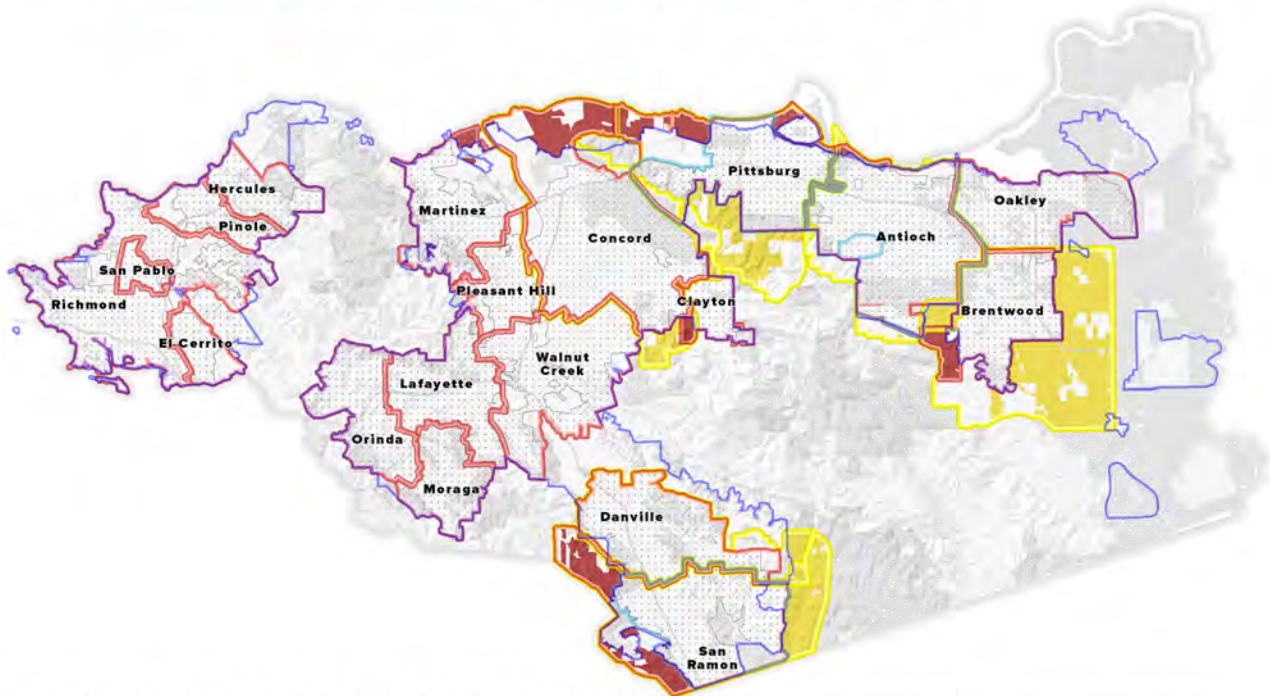




Attachment C



## Planning Boundaries in Contra Costa County



### UnDeveloped and UnProtected Land within Planning Boundaries Extending Past the County's Urban Limit Line

Note: Developed/Urban land used from CA Farmland Mapping and Monitoring Program 2012, Protected land used from CA Protected Areas and National Conservation Easement Databases 2015.

- 

**City Limits**  
Contra Costa County Mapping Information Center 2015
- 

**City-Adopted Urban Growth Boundary**  
Greenbelt Alliance research on Cities' General Plan and LAFCD Maps
- 

**Contra Costa County Urban Limit Line**  
Contra Costa County Mapping Information Center 2015
- 


**Sphere of Influence**
- 

**Planning Area**  
Greenbelt Alliance research on Cities' General Plans



April 29, 2016

**To:** Mary N. Piepho, Chair  
Don Tatzin, Member, LAFCO Policy Committee  
Sharon Burke, Member, LAFCO Policy Committee

**From:** Linus Eukel, Executive Director   
John Muir Land Trust

**SUBJ:** Contra Costa LAFCO Agricultural & Open Space Preservation Policy Draft ("Draft")

John Muir Land Trust (JMLT) commends LAFCO for moving forward in developing an Agricultural & Open Space Policy. We appreciate the revisions LAFCO has proposed to the Questionnaire for Amending a Sphere of Influence and Annexations, in particular, the Open Space & Agricultural Impact Assessment. Below please find revisions and strategies to the Draft that we believe could more effectively lead to the preservation of open space in the region.

Since 1989, John Muir Land Trust (JMLT) has protected and cared for open space, ranches, farms, parkland and shoreline in Contra Costa County. We have approximately 2,500 acres under management and are currently engaged in an effort to double our acreage by 2020. Once the land is secured, our work is far from over as we responsibly manage and care for these resources in perpetuity.

John Muir Land Trust recommends the following revisions and additions, highlighted in *italics* throughout this document:

**1. PURPOSE OF THIS POLICY**

- 1) to provide clear direction and guidance *that will help steer applicants away from proposals that could negatively impact open space or agricultural lands;*
- 2) to provide a *consistent* framework for LAFCO *and a heightened level of review when evaluating proposals that may have a negative impact on agricultural and/or open space lands;*

BOARD OF DIRECTORS

Charles Lewis IV  
*Chair*

Dawn Block  
*Vice Chair*

Eliot Hudson  
*Secretary*

Bill Wadsworth  
*Treasurer*

Arthur Bart-Williams

Peggy S. Cabaniss

Katie Hill

Steve Hutchcraft

Steven Kirby

Joseph A. Ovick

Ted C. Radosevich

STAFF

Linus Eukel  
*Executive Director*

Karen Booth  
*Individual Giving Manager*

Jay Dean  
*Marketing Director*

Carla Din  
*Program Development Director*

Krista Jordan  
*Development & Communications Manager*

Glen Lewis  
*Open Space Ranger*

Gaye Markham  
*Administrative Manager*

Carolina do Val Callao  
*Database Manager*

P.O. Box 2452  
Martinez CA 94553  
925-228-5460  
925-372-5460 Fax  
jmlt.org



- 3) *to facilitate an efficient and timely project approval process that will have the most beneficial conservation and agricultural outcomes possible;*
- 4) *to develop Advance Mitigation Planning (AMP) for LAFCO projects, and to apply the Hierarchy of Mitigation Measures--a crucial tool that guides users towards limiting possible negative environmental impacts from development projects to the greatest degree possible.*

## **1. GOALS, POLICIES AND GUIDELINES**

The preamble (“The following Goals, Policies, and Guidelines...”) references the Cortese-Knox Hertzberg Act, yet leaves out natural open space resources. For this reason, we recommend the final sentence in the paragraph to read:

*“Guidelines give stakeholders procedures and practical tips regarding what information LAFCO decision makers need to evaluate a proposal that affects agricultural resources and open space lands. Applicants are encouraged to work with LAFCO and with stakeholders early in the process, e.g. during the conception stage, so projects can incorporate strategic approaches that will lead to the lowest impact possible.”*

## **2. GOALS**

The GOALS section lacks an overall statement and mainly references agricultural resources. John Muir Land Trust recommends the following comprehensive statement covering both agricultural and open space lands:

*The goal of LAFCO’s AOSP Policy is to ensure that advance development planning leads to the protection of environmental, ecosystem and economic assets, and in the process, maintains Contra Costa’s high quality of life.*

After the existing paragraph related to agriculture, JMLT recommends inserting the following section highlighting the assets that open space provides to bring balance:

- *Natural open space lands provide the region with invaluable public benefits for all who live in Contra Costa County, including ecosystem services, e.g. clean drinking water and air quality, food production, healthy outdoor recreation, and scenic viewsheds; ecological integrity, with connectivity across a broad landscape creating unbroken habitat and wildlife corridors, and the economic benefits resulting from a healthy watershed and strong tax base.*

## **OPEN SPACE GOALS**

*Through its actions, LAFCO can facilitate the open space character and unique quality of life in Contra Costa County by working towards the following Open Space goals:*

1. *Exclude open space lands from LAFCO's and Special Districts' spheres of influence to minimize the possible conversion of valuable open space lands to other land uses;*
2. *Encourage cities, the County, special districts, property owners and other stakeholders to work together to preserve agricultural and natural open space lands;*
3. *Protect the County's natural settings from the encroachment of urban development by guiding development away from open space uses;*
4. *Promote open space land preservation into long range planning to discourage urban growth at the State, County and municipal levels.*

LAFCO's draft **POLICIES** section mentions "open space" in the preamble but there are no related open space policies. *JMLT recommends that the POLICIES section be revised to add comparable language regarding the protection of open space lands:*

1. *Urban development should be discouraged in open space areas;*
2. *Vacant and/or previously developed land within urban areas (e.g. distressed, blighted, under-utilized) should be considered for development before considering alternatives that could lead to the alteration or development of natural open-space lands;*
3. *Development near open space lands should not have negative impacts;*
4. *In keeping with other regional efforts (e.g. Contra Costa Transportation Authority and San Diego TransNet's successful Environmental Mitigation Program), LAFCO will be guided by an Advance Mitigation Program (AMP), based on the belief that mitigation activities are the off-site capital costs of doing business. The process will include an advance time frame to allow for strategic mitigation to be effected long before a project's impacts occur, leading to better conservation outcomes for the region.*

### **ADVANCE MITIGATION PLANNING**

*A well designed and implemented AMP would assess the cumulative impacts of LAFCO projects to natural open space and agricultural lands. It would follow the sound Mitigation Hierarchy of impact avoidance, reduction/restoration, and compensatory mitigation for unavoidable impacts.*

*Potential impacts assessed early in the process would allow for innovative design and strategic approaches leading to the lowest level of impact, and more efficient and timely project approvals. It would offer restoration opportunities for the County that build on the best available science, and shift from the practice of using fragmented mitigation lands to contiguous protected areas.*

*Mitigation measures could fully fund land management activities including acquisition, stewardship, restoration and maintenance of natural open space in perpetuity that contributes to regional conservation priorities of the County. Savings resulting from an effective, less costly and more efficient AMP could be reinvested back into the Advance Mitigation Program for additional returns to the County.*

## **GUIDELINES**

John Muir Land Trust recommends the revisions and added guidelines *in italics* below:

**Guideline 1.** Applications submitted to LAFCO that have an effect on agricultural and/or open space resources shall include an Agricultural and Open Space Impact Assessment. *The following guidelines should be added:*

- *A proposal must address how it maintains the natural resources and ecological integrity of open space lands;*
- *A proposal must describe how it facilitates development of existing vacant areas (e.g. distressed, blighted, under-utilized) or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency;*
- *Applications shall follow the Mitigation Hierarchy of impact avoidance, reduction and restoration, followed by compensatory mitigation for “unavoidable” impacts, and enhancement, or “net benefit” for projects that could have substantial negative impacts;*
- *Proponents must demonstrate that they have maximized their potential to avoid negative impacts before they are allowed by LAFCO to consider the next level of mitigation;*
- *Applicants must submit, as part of their application, an adopted ordinance or resolution confirming that appropriate mitigation measures will be carried out before the issuance of a grading or building permit or final map approval for the site.*

**Guideline 3.** *If a proposal involves a potential loss of prime agricultural or open space lands, LAFCO, together with developer, property owners, cities, the County, special districts, and environmental conservation agencies and organizations should work together as early in the process as possible to develop strategic approaches that could lead to the lowest level of impact possible.*

**Guideline 4b.** *The applicant should provide an evaluation of the effectiveness of proposed measures to mitigate the loss of agricultural and open space.*

*Applicants are encouraged to work with Contra Costa LAFCO and with qualified organizations throughout the entire process to initiate and execute plans that effectively mitigate in a manner consistent with this Policy.*

- *If proposed mitigation is in the form of land acquisition, it shall result in the addition of new lands providing a net gain and not accept previously conserved lands for the purpose of mitigation;*
- *Any mitigation measures shall preserve key open space of reasonably equivalent quality and character (re: conservation values, soil quality, terrain, etc.);*

- *Mitigation ratios for agricultural land will be set by appropriate California State and federal agencies utilizing science-based impact analysis and at a minimum, 1:1 for the conversion of land designated for agriculture uses and up to 5:1 for impacts to biological resources;*
- *If lands cannot be found within the vicinity of the impact, greater acreage within Contra Costa County may be considered further from the impacted area;*
- *If it is not possible to avoid, minimize or adequately offset harm, the activity should not proceed.*

John Muir Land Trust appreciates your consideration of the aforementioned recommendations. We would be happy to serve in an advisory capacity throughout the process of refining an Agricultural and Open Space Preservation Policy and developing an effective and comprehensive Advance Mitigation Program. Please feel free to contact me at [linus@jmlt.org](mailto:linus@jmlt.org); (925) 228-1130 (office); or (925) 788-7525 (cell) for any reason. Thank you again.

> ----- Forwarded Message -----

> From: Judy Newberry <[sassynewberry3@gmail.com](mailto:sassynewberry3@gmail.com)>

> To: [emulberg@solanofco.com](mailto:emulberg@solanofco.com)

> Sent: Monday, May 23, 2016 4:02 PM

> Subject: Urban sprawl in Brentwood California

>

>

>

> I am a resident of Brentwood California and read in our Brentwood press about your concerns over urban sprawl and preserving agriculture and open land. I am very concerned about the rapid building of homes and increase in population and traffic in our town. In my opinion our city fathers are more concerned about increasing the size of Brentwood bringing in more taxes for which, I'm sure, will increase their salary without the respect for keeping our farming community intact. I believe that we have already ruined Brentwood with the population increase... houses are being built everywhere you turn. I personally hope you will be able to help us control this growth and save our farmland in Brentwood, Knightsen and the surrounding areas before it's way too late.

>

> Thank you

> Judy Newberry

## Lou Ann Texeira

---

**From:** Kristen Wick <kristenwick45@sbcglobal.net>  
**Sent:** Friday, June 10, 2016 2:21 PM  
**To:** Lou Ann Texeira  
**Subject:** Open Space Preservation

Dear Executive Director Texeira:

As a habitat restoration volunteer and avid supporter of open space preservation, I am writing to you in support of the draft LAFCO Agricultural and Open Space Preservation Policy. I appreciate the work that LAFCO commissioners and staff have put into the Policy, but think that it should be strengthened by requiring a mitigation ratio of at least 1:1 for annexations affecting open space and agricultural land. This modest change is in agreement with what many other LAFCOs across the state have done, and would help to mitigate the impact of development that has already greatly reduced the amount of agricultural land in Contra Costa and across the San Francisco Bay Area. I ask you to support the draft Policy with the incorporation of a modest change to include a 1:1 mitigation requirement. Thank you for your attention to this matter of great concern to me.

Sincerely,

Kristen C. Wick  
Retired County Library Employee  
Save Mount Diablo Habitat Restoration Volunteer

---

**From:** Anguiano, Armando <AAnguiano@manatt.com>  
**Sent:** Monday, June 20, 2016 4:31 PM  
**To:** District3  
**Cc:** LParsons@discoverybuilders.com; jpavao@seenohomes.com; Lou Ann Texeira; Kate Sibley; Lou Ann Texeira; Lawson, Kristina; Crisp, Robia  
**Subject:** Draft Agricultural and Open Space Preservation Policy  
**Attachments:** 20160620133526.PDF; 20160620133553.pdf; 20160620133617.pdf

Dear Chair Mary Piepho and Members of Contra Costa County LAFCO:

Pursuant to directives received from Kristina D. Lawson of this office, please find attached to this e-mail three PDF's:

1. A Letter dated June 20, 2016, to you from Ms. Lawson;
2. A Letter dated April 7, 2016, to you from Ms. Lawson; and
3. A red-line Attachment – Requested Revisions to Draft Policy.

Ms. Texeira and Ms. Sibley: Would either of you please be so kind as to make sure that both Ms. Piepho and the Members of Contra Costa County LAFCO receive copies of this e-mail with its attachments? A hard copy of the attachments will also arrive by U.S. Mail.

Thank you so much.

Should you have any questions, concerning these items, please do not hesitate to contact this office.

Respectfully,

--Armando B. Anguiano  
Secretary to Kristina D. Lawson, Esq.

**Armando Anguiano**  
Legal Secretary

---

**Manatt, Phelps & Phillips, LLP**  
One Embarcadero Center  
30th Floor  
San Francisco, CA 94111  
**D** (415) 291-7562 **F** (415) 291-7474

AAnguiano@manatt.com  
[manatt.com](http://manatt.com)

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by reply email and destroy the original transmission and its attachments without reading them or saving them to disk. Thank you.

---

**From:** Anguiano, Armando [<mailto:aanguiano@manatt.com>]  
**Sent:** Monday, June 20, 2016 1:30 PM

**To:** Anguiano, Armando  
**Subject:** Document



June 20, 2016

**BY E-MAIL**

Chair Mary Piepho and Members of  
Contra Costa County LAFCO  
651 Pine Street, Sixth Floor  
Martinez, CA 94553

Re: Draft Agricultural and Open Space Preservation Policy

Dear Chair Piepho and Members of Contra Costa County LAFCO:

As you know, we previously provided written and oral comments to LAFCO regarding the draft agricultural and open space policy. The purpose of this correspondence is to remind LAFCO to include those prior comments as it revises the draft policy, and to provide additional comments and legal analysis regarding the draft policy. As described below, the current draft policy conflicts with the Cortese-Knox-Hertzberg Act provisions regarding LAFCO review of agricultural and open space considerations in connection with proposed reorganizations. Implementation of the draft policies and goals would result in numerous legal conflicts during the processing of routine LAFCO applications.

**1. The Policy Proposes to Directly Regulate Land Use, Which LAFCO Is Prohibited From Doing By The Cortese-Knox-Hertzberg Act**

Pursuant to the Cortese-Knox-Hertzberg Act, LAFCOs have limited authority and jurisdiction and are prohibited from directly regulating land use. The Act is clear that LAFCOs may not impose any conditions that would directly regulate land use, land use density or intensity, property development, or subdivision requirements. (Gov. Code, section 56375(a)(6) ["A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements."].) LAFCOs cannot impose conditions that directly impact land use regulation – that function is expressly left to the cities and counties. Imposing a mitigation requirement for agricultural lands or adoption of a policy to allow LAFCO to deny applications for annexation of agricultural land would constitute the direct regulation of land use or property development and is entirely outside the scope of LAFCO's regulatory authority.

In addition, while LAFCO can require an annexing city to prezone territory to be annexed, LAFCO cannot specify how or in what manner the territory shall be prezoned.

Lou Ann Texiera  
June 20, 2016  
Page 2

Government Code section 56375(a)(7) states: “The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city’s general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.” Thus, the proposed zoning must be consistent with the annexing city’s general plan and LAFCO may not dictate how the specific zoning is to be applied by the city. The draft policy conflicts with this mandatory statutory directive.

**2. The Policy Conflicts With CEQA’s Clear Requirements For Identification, Analysis, And Mitigation Of Impacts To Agricultural Resources**

We previously provided comments to LAFCO which describe in detail how the draft policy conflicts with CEQA. A copy of that correspondence is attached for your convenience.

**3. The Policy Creates A New Review Scheme For Agricultural And Open Space Lands That Goes Far Beyond The Requirements Of The Cortese-Knox-Hertzberg Act**

This draft policy will require LAFCO to conduct a far more extensive review of the agricultural nature of real property than authorized by existing law. The draft policy cannot be adopted as it represents an impermissible change in the way LAFCO processes reorganization applications, and far exceeds the authority granted to LAFCO by its implementing statute.

One of the key problems with the draft policy is its lack of consistency of terms with the Cortese-Knox-Hertzberg Act. In some cases, the proposed definitions track the Act’s definitions, but in other cases new terms are created (e.g., “agricultural resources”, “agricultural impact”). Given that these definitions are unclear, it is difficult to understand the scope of the policy, how it will be implemented by LAFCO, and/or how it will impact particular properties or proposals.

Pursuant to Government Code section 56668(e), LAFCO must consider: “[t]he effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.” Section 56016 defines “agricultural lands” as “land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.”

Additionally, under existing law, one of the purposes of LAFCO is preserving prime agricultural lands. (Gov. Code, section 56301.) “Prime agricultural land” is defined as:

Lou Ann Texiera  
June 20, 2016  
Page 3

...an area of land, whether a single parcel or contiguous parcels, *that has not been developed for a use other than an agricultural use* and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

The draft policy departs from these established LAFCO tenets and creates both legal and practical confusion by failing to limit the reach of the policy to prime agricultural lands as authorized by the Cortese-Knox-Hertzberg Act. Other commenters have raised this same concern. LAFCO must revise the draft policy so that the scope of the policy is clearly defined.

Lou Ann Texiera  
June 20, 2016  
Page 4

4. **The Policy's Proposal To Prioritize Preservation Of Agricultural And Open Space Lands Over All Other Land Uses Ignores The Purposes Of LAFCO And The Legislature's Express Mandates To LAFCO**

Contrary to the articulated policy objectives and findings set forth in the Cortese-Knox-Hertzberg Act, the draft policy proposes to prioritize preservation of agricultural and open space land over all other land uses. As a result, the draft policy ignores the Cortese-Knox-Hertzberg Act's directive to encourage orderly growth and the economic well-being of the state through the provision of housing for persons and families of all incomes. (See Gov. Code, section 56001.)

\* \* \*

Given the broad and far-reaching implications of the draft policy, which will disproportionately affect the newer and growing communities in East Contra Costa County, LAFCO must strictly adhere to the law prescribing its authority and powers. We have attached proposed edits to the policy which we believe will address the concerns articulated above and remedy the impropriety of the currently proposed policy.

Once the revised policy is released, we would appreciate if you could send a copy directly to me at [klawson@manatt.com](mailto:klawson@manatt.com). Please do not hesitate to call with any questions or if we can provide further clarification regarding these comments or our proposed revisions.

Very truly yours,



Kristina Lawson

KXL:KXL

cc: Louis Parsons  
Jeanne Pavao

April 7, 2016

Chair Mary Piepho and Members of  
Contra Costa County LAFCO  
651 Pine Street, Sixth Floor  
Martinez, CA 94553

Re: Draft Agricultural and Open Space Preservation Policy

Dear Chair Piepho and Members of Contra Costa County LAFCO:

We appreciate the opportunity to provide input on the draft agricultural and open space preservation policy being considered by LAFCO. As you know, we were present at the March 9, 2016 and provided public comments regarding the policy. The purpose of this correspondence is to provide additional detail and to request clarification and revisions regarding the intent and scope of proposed Guideline 2. As currently proposed, the draft guideline provides:

The California Environmental Quality Act (CEQA) analysis for a proposal should evaluate the impacts affecting agricultural and open space resources, and should include an assessment of impacts to agricultural, prime agricultural, and open space lands as defined in the CKH Act. In the absence of an evaluation in the CEQA document, a supplemental agriculture and impact analysis will be required as part of the LAFCO application.

This Guideline conflicts with applicable law.

The California Environmental Quality Act (“CEQA,” Pub. Resources Code, §§ 21000, *et seq.*) and a vast body of applicable caselaw mandates the environmental topics that must be addressed in an adequate CEQA review. CEQA’s environmental review requirements for agricultural impacts do not mandate that lead agencies consider certain definitions or requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 1985 (Gov. Code, §§ 56000, *et seq.*).

If a CEQA initial study is completed for a project (an initial study is not mandatory for all projects), the lead agency completes a preliminary assessment to determine if agricultural impacts should be studied in an EIR or other CEQA document. In some cases, agricultural impacts are “scoped out” of and, therefore, not evaluated in a project’s ultimate CEQA analysis



Chair Mary Piepho and Members of Contra Costa County LAFCO

April 7, 2016

Page 2

because of a determination by the lead agency that the project will not have a potentially significant impact on agricultural resources. In other cases, a project is deemed to be statutorily or categorically exempt from CEQA, and, therefore, no impact analysis is prepared. In those cases agricultural impacts are not evaluated because of the applicable legal exemption. There are a variety of other cases in which agricultural impacts may not be evaluated in a CEQA document prepared for a project, including, but not limited to, where such impacts were previously analyzed in a General Plan or Specific Plan EIR, and where such impacts do not exceed applicable thresholds of significance.

Given these CEQA principles and requirements, it is unclear what LAFCO intends in the second sentence of proposed Guideline 2, which requires a new, supplemental "impact analysis" if agricultural impacts were not evaluated in the CEQA document. As indicated above, there are a variety of circumstances under which there may be an "absence of an evaluation" of agricultural impacts in a project's CEQA documentation. If this information is not required to be provided by CEQA, LAFCO cannot require a supplemental "agricultural impact analysis" be completed. Moreover, it is unclear what LAFCO means by the term "impact analysis."

It also appears that Guideline 2 would establish a separate CEQA process for Contra Costa County LAFCO. Please note that in order to ensure the adequacy of CEQA analyses for responsible agencies (such as LAFCO), CEQA already provides a very clear process for responsible agency participation in the preparation of CEQA documentation. As provided in CEQA Guidelines section 15096, a responsible agency is required to respond to consultation by the lead agency, and if the responsible agency disagrees with any decisions by the lead agency, it is required to provide relevant comments. The responsible agency is required to designate employees or representatives to attend meetings requested by the lead agency to discuss the scope and content of an EIR. Responsible agencies are also directed to focus comments on any shortcomings in the project environmental review, the appropriateness of using a negative declaration, or on additional alternatives or mitigation measures, which the EIR should include. Responsible agency comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency and shall be as specific as possible and supported by either oral or written documentation. Following certification of a CEQA document by a lead agency, LAFCO cannot require a supplemental CEQA analysis unless it complies with the CEQA Guidelines requirements.

Chair Mary Piepho and Members of Contra Costa County LAFCO  
April 7, 2016  
Page 3

Given the applicable CEQA requirements, we believe it is important that LAFCO clarify and revise its intent regarding the scope of proposed Guideline 2. We understand that the draft policy will return to LAFCO at its regularly scheduled meeting of May 11, 2016 and may be presented for adoption on June 8, 2016. We look forward to continuing to participate in the policy development process.

Very truly yours,



Kristina Lawson

KXL:KXL



## Attachment

### Requested Revisions to Draft Policy

#### 4.1 DRAFT PRESERVATION OF OPEN SPACE AND AGRICULTURAL LAND

##### INTRODUCTION

In accordance with the Cortese Knox Hertzberg Local Government Reorganization Act (“CKH Act”), the State Legislature finds and declares that the preservation of open space and prime agricultural lands is a “state interest” to be balanced with orderly growth and development (§56001).

Among the purposes of LAFCO are discouraging urban sprawl and preserving open space and prime agricultural lands (§56300). ~~The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands.~~

~~LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract farmland or farmland security zone unless certain conditions exist (§§56426 and 56426.5).~~

Contra Costa LAFCO encourages planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of open space and prime agricultural land (§56300).

When making a decision, LAFCO must give appropriate consideration as to ~~consider~~ whether a proposal could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space and prime agricultural lands to other uses. ~~Further, LAFCO should guide development away from existing open space and agricultural land, and encourage development of existing vacant and non-prime agricultural lands within a local agency's existing jurisdiction or SOI [§§56377(a) and 56668(d)]. Finally, Further, LAFCO must consider the effect of a proposal on maintaining the physical and economic integrity of agricultural lands [§56668(e)].~~

An application or proposal for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted policy on the Preservation of Open Space and Agricultural Land.

##### AUTHORITY OF LAFCO

LAFCO regulates boundary change and other proposals (e.g., SOI changes, extension of extraterritorial services, etc.) through approval or denial. The Commission ~~also~~ has limited ~~the~~ authority to impose terms and conditions on such approvals (§§56885 -56890).

While LAFCO may analyze ~~has considerable authority to provide for~~ the effect a proposal may have on the preservation of open space and prime agricultural land, ~~and impose terms and conditions~~, it may not directly regulate land use: *“A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements”* [§§56375(6), 56886].



## PURPOSE OF THE POLICY

The purpose of this policy is ~~twofold: (1) to provide guidance to the applicant on how to assess the impacts of LAFCO proposals on agricultural and open space and to explain how the proposal intends to mitigate these impacts; and 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact prime agricultural and/or open space lands.~~

## DEFINITIONS

Several terms are important in understanding LAFCO's responsibility ~~pertaining to~~ ~~preserve~~ agricultural and open space ~~lands~~~~resources~~. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

**56016. "Agricultural lands"** means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

**56064. "Prime agricultural land"** means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

**56059. "Open space"** means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

**65560.** (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for



the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

LAFCO's overriding objectives are to encourage the orderly formation of local government agencies, discourage urban sprawl, and preserve prime agricultural and open space resources. LAFCO must consider the effects that a proposal will have on agricultural and open space lands. ~~By guiding development toward vacant urban land and away from agricultural and open space land, LAFCO promotes the protection of our valuable agricultural and open space lands.~~ In furtherance of these objectives, the CKH Act describes the intent of the legislation with regard to open space uses ~~agricultural resources~~ in §56377, which states:

**56377.** In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.

## **GOALS, POLICIES AND GUIDELINES**

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO decision makers need to evaluate a proposal that affects open space and agricultural lands ~~resources~~.

### **GOALS**

Agriculture is a vital and essential part of the Contra Costa County economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. The following goals will help guide LAFCO's decisions regarding agricultural and open space lands ~~resources~~.

**Goal 1.** ~~Carefully analyze~~ **Minimize** the conversion of prime agricultural land to other land uses.



**Goal 2.** Encourage cities, the county, special districts, property owners and other stakeholders to work together to promote orderly growth and consider impacts to open space and ~~preserve~~ agricultural lands.

~~**Goal 3.** Promote agricultural land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.~~

~~**Goal 4.** Preserve agricultural lands for continued agriculture uses while~~ Bbalancing the need to ensure orderly development and the efficient provision of services while considering impacts to agricultural and open space lands.

~~**Goal 5.** Strengthen and support the agricultural sector of the economy.~~

**Goal 46.** Fully consider the impacts a proposal will have on existing agricultural lands.

~~**Goal 7.** Protect the natural resources and surrounding areas that sustain agriculture in Contra Costa County.~~

## POLICIES

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application or proposal for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“proposals”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space and prime agricultural lands within those patterns. The following policies support the goals stated above and shall be used by Contra Costa LAFCO when considering a proposal that involves prime agricultural and/or open space ~~lands~~resources:

~~**Policy 1.** Vacant land within urban areas should be developed before agricultural land is annexed for non-agricultural purposes.~~

~~**Policy 2.** Land substantially surrounded by existing jurisdictional boundaries should be annexed before other lands.~~

~~**Policy 3.** In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services and causes agricultural areas to be infeasible for farming is discouraged.~~

~~**Policy 4.** The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers should be established to promote this policy.~~

~~**Policy 5.** Development near agricultural land should not adversely affect the sustainability of or constrain agricultural operations.~~

~~**Policy 6.** Where feasible, and consistent with LAFCO policies, non-prime farmland should be annexed before prime farmland.~~

**Policy 27.** The Commission shall evaluate and consider the analysis ~~will consider feasible mitigation (found in the following guidelines) if~~ where a proposal would result in the loss of agricultural land.



**Policy 38.** The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and SOI areas and that encourage protection of prime agricultural land ~~in a manner that is consistent with this policy.~~

**Policy 49.** Property owners of agricultural lands adjacent to land that is the subject of a LAFCO proposal shall be notified when an application is submitted to LAFCO.

## **GUIDELINES**

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers and other stakeholders with regard to LAFCO's expectations in reviewing a proposal that involves agricultural ~~lands, resources; and to provide sample mitigation measures to address impacts to agricultural land.~~

**Guideline 1.** Applications submitted to LAFCO involving agricultural and/or open space resources shall have consider impacts to include an Agricultural and Open Space lands Impact Assessment. ~~At a minimum the following should be addressed:~~

~~a. — A proposal must discuss how it balances the State's interest in preserving open space and agricultural lands against the need for orderly development (§56001).~~

~~b. — A proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668(e)].~~

~~c. — A proposal must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).~~

~~d. — A proposal must describe how it guides development away from agricultural and/or open space lands.~~

~~e. — A proposal must describe how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.~~

~~f. — A proposal must discuss what measures it contains that will protect the physical and economic integrity of adjacent agricultural and/or open space land uses.~~

**Guideline 2.** The California Environmental Quality Act (CEQA) analysis for a proposal should evaluate the impacts affecting agricultural and open space ~~lands resources,~~ and should include an assessment of impacts to agricultural, prime agricultural, and open space lands as defined in the CKH Act. ~~In the absence of an evaluation in the CEQA document, a supplemental agriculture and impact analysis will be required as part of the LAFCO application.~~

**Guideline 3.** If a proposal involves a loss of prime agricultural lands, this impact must be considered as part of the project approval and a summary of this evaluation must be included in the application. ~~property owners, cities, the County, special districts, and other agricultural conservation agencies should work together as early in the process as possible to adequately mitigate the impacts.~~

**Guideline 4.** ~~The following factors should be considered for an annexation of prime agricultural and/or open space lands:~~

~~a. — The applicant should provide a land use inventory of the jurisdiction that indicates the amount of available land within the subject jurisdiction for the proposed land use.~~

~~b. The applicant should provide an evaluation of the effectiveness of proposed measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Examples of such measures include, but are not be limited to:~~

- ~~1. acquisition and dedication of farmland (e.g., substitution ratio of at least 1:1 for the prime land annexed), development rights, open space and agricultural conservation easements to permanently protect adjacent and other agricultural lands within the county~~
- ~~2. participation in other development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits)~~
- ~~3. payment to responsible, recognized government and/or non-profit organization in Contra Costa County for the purpose of preserving agricultural lands; payment should be sufficient to fully fund the acquisition and dedication~~
- ~~4. establishment of buffers to protect adjacent agricultural operations from the effects of development~~
- ~~5. other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural land at a minimum 1:1 ratio~~

~~**Guideline 5.** Detachment of prime agricultural lands and other open space lands should be encouraged if consistent with the SOI for that agency.~~

**Guideline 46.** Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The property is not ~~soil is not categorized as~~ prime agricultural land.
- e. ~~Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the County.~~
- ~~f.~~ There is a pending, or approved, cancelation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- ~~f.g.~~ The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

[317185210.1](#)





April 27<sup>th</sup>, 2016

**Board of Directors**

Scott Hein  
*President*

Amara Morrison  
*Secretary*

Burt Bassler  
*Treasurer*

Heath Bartosh  
Joe Canciamilla  
John Gallagher  
Claudia Hein  
Doug Knauer  
Sue Ohanian  
Malcolm Sproul  
Jeff Stone  
*Directors*

**Staff Directors**

Edward Sortwell Clement Jr.  
*Executive Director*

Seth Adams  
*Land Conservation Director*

Meredith Hendricks  
*Land Programs Director*

Monica E. Oei  
*Finance & Administration  
Director, Interim Events &  
Volunteers Director*

Deborah Toll White  
*Development Director*

**Founders**

Arthur Bonwell  
Mary L. Bowerman

**Proud Member of**

Land Trust Alliance  
California Council of Land Trusts  
Bay Area Open Space Council



Supervisor Mary Piepho  
LAFCO Chair  
651 Pine St., 6<sup>th</sup> Floor  
Martinez, CA 94553

**RE: Draft Contra Costa Local Agency Formation Commission (LAFCO)  
Agricultural and Open Space Preservation Policy**

Dear Supervisor Piepho,

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land for addition to parks on and around Mount Diablo and monitors land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971 there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 110,000 acres. We include more than 8,000 donors and supporters.

We are writing this letter to support the draft LAFCO Agricultural and Open Space Preservation Policy (Policy) and express our appreciation to LAFCO staff and the LAFCO Policies and Procedures Committee for their work in developing the Policy. We also thank you for the administrative change you have made to the annexation application checklist. For the first time, agencies and project proponents will now have to tell LAFCO how they will mitigate for agricultural and open space loss before their annexation is considered.

We consider the Policy and checklist change to be reasonable positive steps forward, and recommend a modest change to the proposed Policy that would make it a stronger tool for preserving agricultural land and open space in the Diablo region.

This change is:

- Require a mitigation ratio of at least 1:1 for annexations affecting open space and agricultural land.

We describe the reasoning behind this proposed change to the Policy, the environmental and economic benefits of the Policy as a whole, and the necessity of the Policy given the steep reductions of agricultural land and open space below.



### ***Recommended Changes to Proposed Policy – Mitigation Requirements***

We wholeheartedly agree with the Policy statement that agriculture is a vital and essential part of the Contra Costa County (County) economy and environment. This Policy affirms LAFCO's commitment to the preservation of agricultural land and open space, but requiring mitigation would improve it.

Incorporating into the Policy a requirement to mitigate the impacts of annexation by protecting other agricultural or open space land in perpetuity would help encourage local agencies to seek development alternatives within their current borders as opposed to expanding by annexation, fulfill LAFCO's duty to preserve agricultural land and open space and be consistent with policies implemented by a number of other LAFCOs across the state.

For example, Santa Clara, San Luis Obispo, Stanislaus and Yolo counties all have policies that require some form of mitigation for annexation of agricultural or open space land in order to approve an annexation proposal. Most use a 1:1 ratio for either all agricultural land or prime agricultural land, but Stanislaus County cities are currently considering mitigation ratio requirements of 2:1 or 3:1. San Luis Obispo and Santa Clara counties also include the payment of in-lieu fees as an optional mitigation measure. If mitigation requirements work for another Bay Area county, Santa Clara, and close neighbors Yolo and Stanislaus, there is no reason why they can't work for Contra Costa.

We encourage LAFCO to include a requirement to mitigate the impacts of annexation by protecting other agricultural or open space land in perpetuity using a 1:1 acre mitigation ratio. Such a policy would be entirely consistent with policies adopted by other LAFCO's, enhance agricultural and open space protection, benefit the economy and encourage orderly development.

The Policy would only affect annexations, and it would support the County's 65/35 Land Preservation Plan for agricultural land and open space vs developed areas, standards created along with the first county Urban Limit Line.

While the current draft Policy reinforces and adds to existing protections for agricultural land and open space in the County, it does not require mitigation for impacts to these lands. Agriculture and open space have already been replaced by urban development over a wide swath of the County, and continue to face consistent conversion pressure. While we consider this Policy to be a simple modest step forward that will likely have a limited effect, we feel it to be very necessary given the extent to which important agricultural land and open space in the County have already been lost.

### ***Loss and Importance of Agricultural Land and Open Space***

The County has already lost a significant amount of agricultural and open space land to development over the past several decades. The American Farmland Trust presentation made during LAFCO's Agricultural and Open Space Preservation Workshop in July 2015 indicated that the County lost 19% of its total cropland between 1990 and 2008, and lost more than 40% its high quality farmland between 1990 and 2010. On a regional scale, more than 78% of the land converted to urban use in the Bay Area between 1990 and 2010 was agricultural land. This value includes a significant percentage of grazing land and land defined by LAFCO as open space. Clearly, open space and agricultural land in the County and throughout the Bay Area has been dramatically reduced and still faces significant risk of conversion.

Open space and agricultural land provide an important economic return; value that is lost and may or may not be replaced by the land uses which replace it. In 2008, the value of agriculture in the County amounted to nearly \$72 million. However, recent studies in the Bay Area have shown that once the environmental services of open space and agriculture (which are not typically included in current economic balance sheets) are accounted for, they represent an immense economic benefit that dwarfs current valuations.

For example, traditional valuation methods place the agricultural value of Santa Clara County in 2008 at nearly \$248 million for that year. However, when an attempt is made to put a value on the environmental services that open space (general term, not as defined by LAFCO) and agricultural land provide, such as clean air and water, storm and flood protection, energy, recreation, etc., annual value estimates rocket up to \$1.6-3.9 billion in benefits to people and the local economy (Batker et al. 2014<sup>1</sup>). This is likely a significant underestimate since many environmental services cannot yet be fully accounted for. As new valuation methods are developed, and the science of comprehensive ecosystem valuation matures, the value of open space and agricultural land is sure to be recognized as being even more fundamental to a healthy economy.

A modestly strengthened Policy could play an important role in protecting agricultural land and open space, and the fundamental importance these lands hold for a healthy economy and high quality of life. The modest change of requiring mitigation ratios for annexation of agricultural land and open space could strengthen this role. It is important that LAFCO fully recognize that to effectively fulfill its mandate as defined by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), it should help preserve all agricultural land types.

### ***Policy and the CKH Act***

As the CKH Act states, the legislative intent of the CKH Act is to encourage planned, orderly urban development “with appropriate consideration of preserving open-space and agricultural lands...”. In addition, factors to be considered in review of proposals include “(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands...”

While the CKH Act repeatedly highlights the need to preserve prime agricultural land, this does not diminish the importance of working to preserve non-prime agricultural land. Rather, by considering the importance of preserving all agricultural land types in the County, LAFCO helps accomplish the goal of discouraging urban sprawl and encouraging planned, orderly urban development, especially since the vast majority of agricultural land in the County in areas other than the east-side of Brentwood is non-prime. By giving full consideration to all agricultural and open space land types, the Policy will have a positive impact in encouraging appropriate development throughout the County, rather than just far East County, where prime agricultural land dominates. Helping steer development away from the urban edge, where agricultural land typically meets urban land uses, is more environmentally, as well as fiscally, sustainable than urban sprawl (Smart Growth America 2013<sup>2</sup>).

### ***Policy Is a Good First Step***

We appreciate and support the modest positive change in the LAFCO annexation application process that the current draft Policy proposes. These enhanced application requirements will make it clear how proposals intend to mitigate impacts to open space and agricultural land, as well as create a more consistent way for LAFCO to evaluate and process relevant proposals. In addition, we hope that this Policy is seen as a clear pathway by which LAFCO can impose additional terms and conditions on applicants when they propose to impact open space and agricultural land without mitigation.

LAFCO has the authority to impose terms and conditions when approving boundary changes, Sphere of Influence (SOI) changes, extension of extraterritorial services and other actions as contained in the CKH Act. If a proposal will impact open space or agricultural land yet offers no mitigation for said impacts, adoption and implementation of the Policy will make such a situation very clear to LAFCO. Depending on the specifics of the proposal, LAFCO should then exercise its authority to impose terms and conditions that can mitigate impacts. Of course,

---

<sup>1</sup> Batker, D., Schwartz, A., Schmidt, R., Mackenzie, A., Smith, J., Robins, J. 2014. Nature’s Value in Santa Clara County. Earth Economics, Tacoma, WA and the Santa Clara Valley Open Space Authority, San Jose, CA.

<http://www.openspaceauthority.org/about/healthylandshealthyeconomies.html>

<sup>2</sup> Smart Growth America. 2013. Building Better Budgets: A National Examination of the Fiscal Benefits of Smart Growth Development <http://www.smartgrowthamerica.org/building-better-budgets>

this process could be made even simpler by including agriculture and open space mitigation requirements into the Policy, as we have proposed.

***The Policy is Relevant at the Specific Project-level***

There have been some questions about the utility of the Policy, considering that it would only come into effect when a proposal is put before LAFCO, and it is uncertain how many projects on the horizon would actually offer an opportunity to apply the Policy. We know that there are a number of proposals currently being planned that would affect open space and agricultural land in the County, especially the eastern region, and would require some level of LAFCO approval. In order to increase the Policy's effectiveness at preserving open space and agricultural land, as well as encouraging orderly development, we suggest including the mitigation ratio requirement we have described into the Policy, as several other LAFCOs in the region have already successfully done.

We once again thank LAFCO staff and Policies and Procedures Committee for their work in developing this Policy, and for already making the administrative change to the annexation proposal checklist. We hope that full consideration is given to our recommendation to include a mitigation ratio of at least 1:1 for annexations that would affect agricultural land and open space.

Sincerely,

Juan Pablo Galván  
Land Use Manager

SHUTE, MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

MATTHEW D. ZINN  
Attorney  
zinn@smwlaw.com

June 15, 2016

***Via E-Mail and FedEx***

Contra Costa County Local Agency  
Formation Commission  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Re: Contra Costa LAFCO Draft Agricultural and Open Space  
Preservation Policy

Honorable members of the Commission:

We submit these comments on behalf of the Greenbelt Alliance in response to the Draft Agricultural and Open Space Preservation Policy (the "Policy") under consideration by Contra Costa County Local Agency Formation Commission (the "Commission"). Greenbelt Alliance is the San Francisco Bay Area's leading organization working to protect natural and agricultural landscapes from development. Greenbelt Alliance believes the Policy under consideration is a strong step toward protecting Contra Costa County's agricultural and open space lands and mitigating for the development impacts of local agency reorganizations and annexations. However, Greenbelt Alliance recommends the Commission take further action within its authority under the Cortese-Knox-Hertzberg Act ("Cortese-Knox" or the "Act") to make its Policy even more protective of these one-of-a-kind, at-risk lands.

This letter also responds to the comments submitted on March 9 by the Building Industry Association ("BIA") and April 7 by Manatt, Phelps and Phillips, LLP ("Manatt"). These comments misstate the Commission's authority under the Act and misleadingly assert that it is constrained by other laws, including the California Environmental Quality Act ("CEQA"). These arguments are meritless.

**I. The Commission Has Broad Authority to Condition Approvals on the Permanent Preservation of Agricultural Lands.**

Cortese-Knox grants the Commission broad authority to “preserv[e] open-space and prime agricultural lands.” Gov. Code § 56001. This authority is consistent with the Legislature’s finding that preservation of a “maximum amount” of the state’s “limited” agricultural land is “necessary . . . to the maintenance of the agricultural economy of the state.” § 51220. The Commission may adopt written procedures to evaluate local agency reorganization proposals, including standards and criteria to guide the Commission’s review (§ 56375(g)), and may condition approval on applicants’ compliance with its written policies (§ 56885.5). Applications for reorganizations, including annexations, “shall contain” any information required by the Commission. § 56652(d); *see also* § 56652(e) (Commission’s executive officer may require additional information from applicants).

The only express limitation on the Commission’s authority to impose conditions of approval is that it may not “directly regulate” land use. § 56375(a)(6); § 56886. Requiring preservation of agricultural land as mitigation for conversion of other agricultural land is not “direct regulation” of land use: it neither authorizes nor forbids any use of land. In *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 284, the Supreme Court explained that the prohibition on direct land use regulation “merely insures that final zoning decisions are made by the local agencies concerned. It certainly does nothing to detract from the power of a LAFCO to disapprove an annexation if it finds that it violates the detailed criteria which a LAFCO must consider.”

**II. The Commission Should Strengthen Guideline 4, Including by Requiring Mitigation of Agricultural Lands at a Ratio of at Least 2:1.**

Guideline 4, the heart of the proposed Policy, sets forth various options for mitigating impacts to County agricultural land. In its current form, however, it does not ensure the preservation of agricultural land. Rather, it only encourages applicants for Commission approval to consider various mitigation measures, including but not limited to (1) acquisition and dedication of substitute farmland at a minimum 1:1 ratio for agricultural land designated “prime,” or open-space and agricultural conservation easements within the County; (2) transfer of development rights; (3) payment to approved government and/or non-profit organizations to preserve agricultural lands (e.g., “in lieu fees”); or (4) establishment of agricultural “buffers.”



The Commission should require, not merely encourage consideration of, agricultural mitigation through the establishment of agricultural conservation easements. Government Code section 56886, which sets forth terms and conditions upon which the Commission may base approvals, states that the Commission may require the “acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.” § 56886(h). The Commission therefore has authority to adopt such a requirement.

Guideline 4 should require the applicant to convey, or arrange for the conveyance of, agricultural conservation easements at a ratio of at least 2:1 (i.e., preserving no less than two acres of mitigation land for each acre of land proposed for conversion) for all impacted agricultural lands — not just “prime” agricultural lands.<sup>1</sup> In repeatedly upholding agricultural mitigation requirements, California courts of appeal have recognized that a 1:1 mitigation ratio is not sufficient to fully mitigate the permanent loss of agricultural land because it does not “offset” the loss of that land. *See, e.g., Building Industry Assn. of Central Cal. v. County of Stanislaus* (2010) 190 Cal.App.4th 582, 592.<sup>2</sup> California jurisdictions, such as the cities of Davis and Hughson, have acknowledged the inadequacy of 1:1 compensation by adopting minimum mitigation ratios of 2:1.

The Policy should expressly require that mitigation land be comparable to the land proposed for conversion; of equal or better soil quality; have a dependable and sustainable supply of irrigation water; and be within Contra Costa County. Furthermore, the Policy should state that proposed mitigation lands may not

---

<sup>1</sup> In its March 9 letter, BIA incorrectly states that the Commission’s authority to preserve “agricultural lands” (defined in Government Code section 56016) is limited only to agricultural lands designated “prime” (defined in section 56064). To the contrary, the Commission may condition approvals on the applicant’s evaluation of impacts to the “physical and economic integrity of agricultural lands, as defined by Section 56016.” Gov. Code § 56668(e). BIA also incorrectly claims that the first sentence of proposed Policy 3 is “over broad” because it states “[i]n general, urban development should be discouraged in agricultural areas,” as opposed to “prime” agricultural areas. Urban development would impact the physical and economic integrity of agricultural land; thus, the Commission may consider the severity of this impact. § 56668(e); § 56885.5.

<sup>2</sup> This firm successfully defended Stanislaus County’s farmland mitigation program against BIA’s challenge in the *Building Industry of Central California* case.

already be encumbered by a conservation easement of any nature. The Policy should ensure compliance with the mitigation requirement by requiring a resolution or other certification by the local agency that mitigation has occurred, or that local ordinances require that mitigation be implemented before issuance of any building or land-use permit.

As an alternative to the easement requirement, the Policy should condition Commission approval on jurisdictions' arrangement for payment of in-lieu fees. In such cases, jurisdictions must demonstrate, or require local project developers to demonstrate, that (1) no qualified entity exists to manage an agricultural conservation easement; (2) the applicant has met with all qualified entities and all such entities have certified in writing to the applicant that they are unable or unwilling to assist with the acquisition of such easement; or (3) working with a qualified entity, the applicant has made at least one good faith offer to purchase an agricultural easement, but all such offers have been declined by the potential seller or sellers. Proposed in-lieu fees should fully fund the costs associated with acquiring and managing an agricultural conservation easement, including estimated transaction costs and costs of administering, monitoring and enforcing the easement.

Finally, the Policy should require applicants to adopt measures to protect agricultural lands adjoining land covered in an application to the Commission; both to prevent their premature conversion to non-agricultural uses and to minimize potential conflicts between proposed urban development and adjacent agricultural uses. Such measures could include the following:

- a. Establishment of an agricultural buffer on land proposed for development, whether in the form of an easement, dedication, appropriate zoning, streets, or parks.
- b. Adoption of protections, such as a Right to Farm Ordinance, to ensure that new urban residents recognize the rights of adjacent agricultural property owners.
- c. Development of educational and informational programs to promote the continued viability of surrounding agricultural land.
- d. Development of a real estate disclosure ordinance to fully inform all directly affected prospective property owners about the importance of maintaining productive agriculture in the County.

### **III. The Proposed Policy Does Not Conflict with CEQA or Cortese-Knox.**

Contrary to the assertions in the March 9 letter from BIA and April 7 letter from Manatt, the Policy neither conflicts with nor is preempted by CEQA or the Cortese-Knox-Hertzberg Act. These letters erroneously characterize the Commission's authority to require conditions on approvals.

Manatt incorrectly asserts that proposed Guideline 2 "conflicts" with CEQA because the Commission "cannot require a supplemental 'agricultural impact analysis' be completed" for projects deemed to be exempt from an agricultural impact analysis under CEQA. The Commission does not need authority under CEQA to require a supplemental impact analysis—Cortese-Knox already provides this authority. *See* Gov. Code § 56885.5; § 56652(d); *see also* § 56377(a); § 56668(d).

We are not aware of *any* appellate judicial decision holding that CEQA preempts an agency's authority to voluntarily conduct additional studies in support of its decision making. Moreover, the present version of Cortese-Knox became law in 2000, three decades after the enactment of CEQA. Had the Legislature intended to preempt the Commission's approval authority in certain situations not requiring separate CEQA analysis, the Legislature would have said so. Thus, whether a project (or particular project impact) is exempt from CEQA review does not affect the Commission's authority to require an analysis of agricultural impacts. Likewise, the Commission's potential role as a CEQA "responsible agency" for local projects does not limit its authority to impose conditions of approval on associated applications. The Commission could nonetheless clarify the intent of Guideline 2 by stating what a supplemental agriculture and impact analysis would require, and how it would differ from the Agricultural and Open Space Impact Assessment in Guideline 1.

Equally misguided is BIA's claim that Guideline 6, prohibiting annexations that conflict with an existing Williamson Act contract, is "preempted" by Government Code section 56856.5. Section 56856.5 states that the Commission shall not approve an annexation of land under Williamson Act contract unless the annexation would provide services that would benefit land uses allowed under the contract. Gov. Code § 56856.5(a). The Commission has discretion to waive this prohibition if the applicant ensures agricultural use on a long-term basis, or the annexation appropriately considers preservation of open space lands within urban development patterns. § 56856.5(c)(1)-(3). BIA misreads this discretionary authority as a mandate that the Commission must approve annexations that do not conflict with a Williamson Act contract. The Commission is not required to approve such

annexations, and it has broad authority to add additional conditions to those in section 56856.5.

Finally, BIA is incorrect that the Commission lacks authority to require applicants to submit a “land use inventory” under Guideline 4(a). The Commission may require such a land use inventory at any time, even when no application has been submitted to the Commission. § 56378. Local agencies “shall comply” with the Commission’s requests for land use information, studies, and plans. *Id.*

#### **IV. “Local Control” Is No Substitute for the Commission’s Role in Preserving Contra Costa County Farmland.**

Opponents of the Commission’s efforts to preserve agricultural land argue that agricultural preservation is best done by local jurisdictions. On the contrary, the Legislature created LAFCOs partly in response to the reality that local jurisdictions face impediments to protecting open space and farmland. If purely local initiatives were adequate to the task, LAFCOs would not have been necessary “to encourage ‘planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space [and agricultural] lands within those patterns’, and to discourage urban sprawl.” *Citizens for Responsible Open Space v. San Mateo County Local Agency Formation Com.* (2008) 159 Cal.App.4th 717, 721 (quoting *Sierra Club v. San Joaquin Local Agency Formation Com.* (1999) 21 Cal.4th 489, 495) (alteration in original). Local protection measures are often temporary, underfunded, or otherwise ineffective, as local jurisdictions have little incentive to keep agricultural land undeveloped due to their constant competition for tax revenue. As the Supreme Court has recognized,

a municipality, which has cooperated with a developer to the extent that it requests an annexation of that developer’s property for the express purpose of converting it from agricultural land into an urban subdivision, may find it difficult, if not impossible, to put regional environmental considerations above the narrow selfish interests of their city.

*Bozung*, 13 Cal.3d at 283.

\* \* \*

On behalf of Greenbelt Alliance, thank you for the opportunity to submit comments on the proposed Policy. We look forward to further collaboration on this important step toward preserving the County's agricultural values and heritage.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in black ink, appearing to read 'M. Zinn', written in a cursive style.

Matthew D. Zinn

787704.5

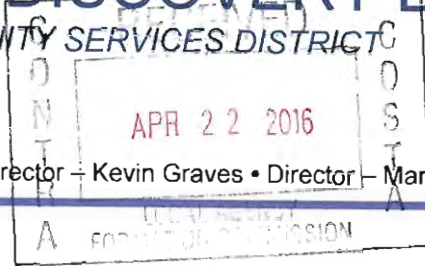


# TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



President – Bill Pease • Vice-President – Bob Leete • Director – Kevin Graves • Director – Mark Simon • Director – Chris Steele



April 18, 2016

Contra Costa County LAFCO  
Attn: Lou Ann Texiera, Executive Officer  
651 Pine St, #6  
Martinez, CA 94553

Re: Contra Costa LAFCO Draft Agricultural and Open Space Preservation Policy

Dear Lou Ann,

The Town of Discovery Bay received your letter explaining that the Contra Costa Local Agency Formation Commission (LAFCO) is considering adopting a policy regarding the preservation of agricultural and open space land and is requesting comments from local agencies on this matter.

The District understands that LAFCO is attempting to balance competing interest while developing this policy and believes that the project policies and guidelines are appropriate.

The District has no concerns with ensuring that any future application complies with these guidelines.

Thank you for requesting our input. Best wishes for the successful completion of the project.

Thank you,

Catherine Kutsuris, Interim General Manager  
Town of Discovery Bay



February [various dates], 2016

I am writing to urge the Contra Costa LAFCo to adopt strong policies in support of local agriculture.

Farming and ranching contributes so much to the Bay Area food culture, economy, and environment. But Contra Costa County is losing agricultural land at alarming rates, partly due to the incentive for farmers and ranchers to sell their land to sprawl developers.

Please consider adopting the following four policies:

1. Prohibit the annexation of actively farmed land
2. Encourage developing infill and on non-agricultural lands over agricultural lands
3. Adopt a mitigation policy to help compensate for the loss of agricultural land to urban uses
4. Use funds from a mitigation policy to purchase conservation easements that will permanently preserve agricultural land.

These conservation easements are critical for the success of agriculture in Contra Costa. They appeal to farmers who want to continue farming but struggle to succeed economically. While many farmers in Contra Costa have successfully preserved land, many more easements are needed along the urban edge to prevent further sprawl.

Adopting these policies will protect our agricultural land and help local farmers and ranchers thrive.

Sincerely,

**Received from:**

First Name	Last Name	Residence	Received
Andrew	Chao	Danville	2/23/16
Sally	Casas	Morgan Hill	2/23/16
Kathleen	Dunphy	Concord	2/23/16
Thea	Hensel	Santa Rosa	2/23/16
Iris	Stewart-Frey	San Jose	2/23/16
Robert	Kutler	Tiburon	3/3/16
Donna	Gerber	San Francisco	3/4/16

June [various dates], 2016

I am writing to urge the Contra Costa LAFCo to adopt strong policies in support of local agriculture.

Farming and ranching contributes so much to the Bay Area food culture, economy, and environment. But Contra Costa County is losing agricultural land at alarming rates, partly due to the incentive for farmers and ranchers to sell their land to sprawl developers.

Please consider adopting a policy that does the following:

1. Prohibits the annexation of actively farmed land
2. Mitigates every acre of farmland and rangeland lost to development
3. Uses mitigation funds to permanently preserve agricultural land.

These policies are critical for the success of agriculture in Contra Costa. Adopting them will protect our agricultural land and help local farmers and ranchers thrive.

Sincerely,

**Received from:**

<b>First Name</b>	<b>Last Name</b>	<b>Residence</b>	<b>Received</b>
Douglas	Bright	Hercules	6/8/16
Mark	Stevens	Danville	6/8/16
Kristen	Wick		6/10/16
Patricia	Bias	Dublin	6/16/16
Donna	Gerber	San Francisco	6/16/16
Robert	Hamner	Oakland	6/16/16
Meghan	Humlie	Kensington	6/16/16
David	Lingren	El Cerrito	6/16/16
G.L.	Nierman	Moraga	6/16/16
Robert	Oxenburgh	Alamo	6/16/16
Bob	Solotar	Richmond	6/16/16
Dorrit	Takach	Walnut Creek	6/16/16
Phyl	van Ammers	Concord	6/16/16
Norma	Wallace	Richmond	6/16/16
Robert	Wisehart	Palmdale	6/16/16
David	Azevedo	Orinda	6/17/16
Garth	Casaday	El Sobrante	6/17/16
Kate	Gebhart	Richmond	6/17/16
Jessie	Greiner	San Ramon	6/17/16

