RECOMMENDED ACTION AND JUSTIFICATION:
Resolution approving the creation of a new Agricultural Preserve and approving execution of a new Land Conservation (Williamson) Act contract with Lou Ellen Rauch for property located on Silver Bar Road in Mariposa; APNs 017-100-043 (169.69 acres), 017-100-033 (200 acres), and 017-100-030 (160 acres) for a total of 529.9 acres.

Justification is provided in the Staff Report, Attachment A.

Action is based upon the recommendations of the Planning Commission and the Agricultural Advisory Committee.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
No actions have been taken by the Board on the subject property.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Deny creation of the Agricultural Preserve; modify conditions of the Agricultural Preserve.

Contract must be executed and recorded prior to 5:00 p.m. on Friday December 30, 2008 in order for tax advantages to be effective for the 2008 tax year.

Financial Impact? ( ) Yes ( ) No  Current FY Cost: $ Annual Recurring Cost: $  
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded  
Amount in Budget: $  
Additional Funding Needed: $  
Source:  
Internal Transfer  
Unanticipated Revenue  4/5's vote  
Transfer Between Funds  4/5's vote  
Contingency  4/5's vote  
( ) General ( ) Other  

Attachments:  
A. Staff Report to Board of Supervisors  
B. Notice of Exemption  
C. Draft Resolution for Project Approval  
D. Minutes from Planning Commission Hearing  
E. Draft Contract  

CLERK'S USE ONLY:
Vote - Ayes:  Noes:  
Absent:  
Approved  
Minute Order Attached ( ) No Action Necessary  

The foregoing instrument is a correct copy of the original on file in this office.

Attest:  MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  

By:  Deputy  

COUNTY ADMINISTRATIVE OFFICER:  
Requested Action Recommended  
No Opinion  
Comments:  

CAO: [Signature]  

Revised Dec. 2002
TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING on the Following Land Conservation Act Contracts:
A) Adopt a Resolution Approving Land Conservation Act (LCA) Contract Application No. 2008-149, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Lou Ellen Rauch for Property Located on Silver Bar Road in Mariposa; APNs 017-100-043 (169.69 Acres), 017-100-033 (200 Acres), and 017-100-030 (160 Acres) for a Total of 529.9 Acres

RESOLUTION 08-558

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on December 2, 2008

ACTION AND VOTE:

PUBLIC HEARING on the Following Land Conservation Act Contracts:
A) Adopt a Resolution Approving Land Conservation Act (LCA) Contract Application No. 2008-149, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Lou Ellen Rauch for Property Located on Silver Bar Road in Mariposa; APNs 017-100-043 (169.69 Acres), 017-100-033 (200 Acres), and 017-100-030 (160 Acres) for a Total of 529.9 Acres

BOARD ACTION: Alvaro Arias, Associate Planner, presented the staff report; and he responded to questions from the Board relative to clarifying that the title on the formal resolution should reflect the Board of Supervisors versus the Planning Commission, and relative to the existing uses and continued operation. The public portion of the hearing was opened and there was no input. The public portion was closed and the Board commenced with deliberations. Jeff Green, Interim County Counsel, responded to a question from the Board relative to the status of the contracts if the State cancels the subvention funding. (M)Bibby, (S)Aborn, Res. 08-558 was adopted approving LCA No. 2008-149, with the recommended findings and conditions and finding that this project is exempt from CEQA; and with the correction on the formal resolution to reflect the Board of Supervisors in the title/Ayes: Aborn, Bibby, Fritz, Pickard; Excused: Turpin. The hearing was closed.

Cc: File
STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS  

Resolution  
No. 2008-558  

A resolution approving Land Conservation Act Contract  
Application No. 2008-149, APNs 017-100-030, 017-100-033,  
and 017-100-043, Lou Ellen Rauch, applicant  

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was  
received on August 15, 2008 from Lou Ellen Rauch for a property located at an  
unassigned address on Silver Bar Road in Mariposa, also known as of Assessor  
Parcel Numbers 017-100-030, 017-100-033, 017-100-043, 017-100-035, 017-100-040,  
and 017-100-041; and  

WHEREAS the property has been used for agricultural purposes for a minimum of  
three years; and  

WHEREAS the Planning Department circulated the application among trustee and  
responsible agencies, interested public organizations, and others as appropriate;  
and  

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory  
Committee meeting of September 25, 2008; and  

WHEREAS a Staff Report was prepared pursuant to the California Government Code,  
Mariposa County Code, and local administrative procedures; and  

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed  
date and considered all of the information in the public record, including the  
Staff Report, testimony presented by the public concerning the application, and  
their own knowledge of county-wide agricultural operations; and  

WHEREAS following discussion regarding non-conforming parcels the applicant  
modified their application during the Agricultural Advisory Committee meeting  
and removed Assessor Parcel Numbers 017-100-035, 017-100-040, and 017-100-  
041 from the application for a Land Conservation Act Contract; and  

WHEREAS only Assessor Parcel Numbers 017-100-030, 017-100-033, 017-100-043  
were now part of the application for a Land Conservation Act Contract; and  

WHEREAS the Agricultural Advisory Committee recommended that the Planning  
Commission recommend that the Board of Supervisors establish a new  
Agricultural Preserve on the subject property as amended by the applicant and  
enter into a new Land Conservation Act Contract with the applicant, covering the  
subject property as amended; and  

WHEREAS a duly noticed Planning Commission public hearing for the project was  
scheduled for the 7th day of November 2008; and  

WHEREAS the Planning Commission did hold a public hearing on the noticed date  
and considered all of the information in the public record, including the Staff

December 2, 2008

Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they find this project exempt for the provisions of the California Environmental Quality Act; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they approve Land Conservation Act Contract Application No. 2008-149; and

WHEREAS the Planning Commission recommendation for project approval was based upon the findings set forth in the Staff Report as presented to the Planning Commission at the public hearing of November 7, 2008; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 2, 2008; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt for the provisions of the California Environmental Quality Act.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves Land Conservation Act Contract Application No. 2008-149.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and condition set forth in Exhibit 1 of this resolution.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project for the property as set forth in the legal description contained within Exhibit 2 of this resolution.

BE IT FINALLY RESOLVED THAT the Mariposa County Board of Supervisors hereby directs the Chairman of the Board to execute the Land Conservation Act Contract for this property.

THIS RESOLUTION is duly passed and adopted this December 2, 2008 by the following vote:

December 2, 2008

AYES: ABORN, BIBBY, FRITZ, PICKARD

NOES: NONE

EXCUSED: TURPIN

ABSTAIN: NONE

LYLE TURPIN, Chairman
By: DIANNE FRITZ, Vice-Chair
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:

JEFFREY G. GREEN
Interim County Counsel
EXHIBIT 1

PROJECT FINDINGS AND CONDITIONS

FOR


FINDINGS

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan’s purpose.

   The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the county. This project will result in the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve or preserves will contain a total of 529.9 acres. The parcels will meet the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). The project complies with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The parcel has been used for agricultural purposes for at least three years, and the agricultural uses have been profitable.

3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines

December 2, 2008

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**EXHIBIT 2**

**LEGAL DESCRIPTION**
The east one-half (E. 1/2) of the southeast quarter (S. E. 1/4) of Section 25, and the east one-half (E. 1/2) of the northeast quarter (N. E. 1/4) of Section 36, T. 6S. R. 18E. M. D. B. & M.

Reserving from the above described parcel all easements of record or otherwise acquired.

160 acres more or less

Acreage is based on the United States Government Land Office Official Township Plats and The United States Department of Interior Geological Survey Maps and not on a field survey which may show a difference in acreage.
The northwest quarter (N. W. 1/4) of Section 36, and that portion of the south one-half (S. 1/2) of the south one-half (S 1/2) of the south west quarter (S. W. 1/4) of Section 25, which lies southerly of Silver Bar Road and westerly and existing road as said roads are mapped on the United States Department Of Interior Geological Survey Map.

Subject land is situated in T. 6 S., R. 18 E., M.D.B.& M.

Containing 171 acres more or less

Acreage is based on the United States Government Land Office Official Township Plats and The United States Department of Interior Geological Survey Maps and not on a field survey which may show a difference in acreage.
The southeast quarter (S.E. 1/4) and the southwest quarter (S.W. 1/4) of the northeast quarter (N.E. 1/4) of Section 36, T.6S., R.19E., M.D.B.& M.

Reserving from the above described parcel all easements of record or otherwise acquired.

200 acres more or less

Acreage is based on the United States Government Land Office Official Township Plats and United States Department of Interior Geological Survey Maps and not on a field survey which may show a difference in acreage.
Attachment A
Staff Report
BOARD OF SUPERVISORS MEETING
OF December 2, 2008

SUMMARY

Application: Land Conservation Act Contract No. 2008-149 (Rauch)

Location: The contract area is located on Silver Bar Road; APNs 017-100-030 (160 acres), 017-100-033 (200 acres), and 017-100-043 (169.69 acres)

Applicant/Property Owner: Lou Ellen Rauch

Agent: Mike Rauch

Recommended Action: The Agricultural Advisory Committee and Planning Commission recommend that the Board of Supervisors adopt a Resolution:


Prepared by,

Alvaro Arias
Associate Planner
Summary Description of Request

Land Conservation Act (Williamson Act) Contract Application No. 2008-149 proposes to place three separate parcels into a Land Conservation Act Contract. The three parcels range in size from 160 acres to 200 acres for a total acreage of 529.9 acres. The applicant owns 22 other contiguous parcels which total 3204.39 acres, which are not being submitted for a Williamson Act Contract at this time.

The contract encumbers three different Assessors parcels. The site has been used and is leased for cattle grazing.

The project site is in the Agriculture Exclusive Zone and the Agriculture/Working Landscape land use (General Plan).

Originally the application that was submitted was for six parcel ranging in size from 43 acres to 200 acres. During the Agricultural Advisory Committee meeting, the applicant modified their application, and removed the three smaller parcels from consideration.

Agricultural Preserve Size and Use:

Preserve Policies--The proposed agricultural preserve consists of three parcels that total 529.9 acres, which is larger than 100 acres and thus consistent with the minimum size requirement of the Agricultural Preserve Policy.

Agricultural Use -- In order to qualify for inclusion in an agricultural preserve, the Agricultural Preserve Policy states “the parcel must have been used for agricultural purposes for three years” and “the agricultural uses must be profitable except under uncontrollable circumstances.” The subject property has been leased and used for cattle grazing. Cattle grazing would be considered an acceptable agricultural use.

Multiple Parcels/Merging of Parcels -- The Agricultural Preserve Policy states contiguous parcels under the same ownership should be merged to create a single unit. The proposed contract contains three parcels; 017-100-030 (160 acres), 017-100-033 (200 acres), and 017-100-043 (169.69 acres), for a total of 529.9 acres. All three parcels meet the minimum parcel size for the program.

Multiple Parcels/Merging of Parcels—All three parcels meet the minimum 100 acre parcel size

Historic parcels have already been recognized for the subject property.

California Land Conservation (Williamson) Act

3
The California Land Conservation Act or Williamson Act was passed to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. Private landowners voluntarily restrict their land to agricultural uses under a 20-year rolling term contract with Mariposa County. In return, restricted parcels are assessed for property tax purposes at a significantly reduced rate (approximately 75% less) rather than at their potential market value. Because the contracts are "rolling terms", there are always 20 years remaining in a contract (unless the contract is non-renewed).

The purposes and intents of the Williamson Act (what the law is intended to achieve):

- Preservation of the maximum amount of the limited supply of agricultural land is necessary.
- Discouragement of premature and unnecessary conversion of agricultural land to urban uses is in the public interest and is a benefit to the state.
- Agricultural lands have important and valuable open space aspects in an urbanizing society, and should be kept in production.

Procedural Requirements

County Code (County Law)

A procedural requirement established by County Code relative to this petition is Section 17.08.080:

17.08.080 Burden of proof.
   It shall be the burden of an applicant to provide all necessary information in support of any matter heard and decided by the planning commission or board of supervisors. Failure to provide such necessary information in support of a matter as described above shall be deemed grounds for denial of application.

In other words, the applicant's justification for entering into a contract is that which is being reviewed and considered through the review process.

California Environmental Quality Act (CEQA):

In order to approve a project, including this project, a CEQA or environmental determination would need to be made by the lead agency (the government agency which has action authority over the permit). For this application, the lead agency is the Board of Supervisors.
The Planning Commission recommends to the Board of Supervisors find that the project is exempt from environmental review (CEQA) based on Categorical Exemption, Class 17; Section 15317, CEQA Guidelines.

Agricultural Advisory Committee

Pursuant to Section 2.110.060.C, County Code, the Agricultural Advisory Committee:

"shall provide comment, recommendation, and advice to the Planning Commission, Board of Supervisors and its personnel on the following matters: ...C. Review and provide recommendations on applications for new Williamson Act (Land Conservation Act) contracts, applications for cancellation of Williamson Act (Land Conservation Act) contracts, and non-renewal of Williamson Act (Land Conservation Act) contracts...

The Agricultural Advisory Committee met and discussed this project on Thursday, September 25, 2008. The Agricultural Advisory Committee voted unanimously to recommend approval of this application, as modified by the applicant.

Relative to policies for merging, the AAC stated that parcels larger than 100 acres including the subject parcels, under current policy, are large enough to support agricultural operations. Therefore, no provision requiring that parcels be merged or managed together for the life of the contract is required.

Planning Commission

The item was heard by the Planning Commission at a noticed hearing on Friday, November 7, 2008. The Planning Commission voted unanimously to recommend that the project be found to be exempt from environmental review (CEQA and recommended approval of the application. A copy of the Planning Commission draft minutes is attached.

Department of Conservation

The Department of Conservation is a State Agency which performs primarily educational and resource functions to the local agencies which are empowered to interpret and implement the California Land Conservation Act in their jurisdictions.

The Department of Conservation has been sent a copy of this petition to enter into a contract pursuant to state law, together with the information provided by the applicant. Comments regarding this Land Conservation Act Contract Application from the Department of Conservation had not been received as of the writing of this staff report.

5

Recommended Findings:
In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan’s purpose.

   The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the county. This project will result in the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve or preserves will contain a total of 529.9 acres. The parcels will meet the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). The project complies with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The parcel has been used for agricultural purposes for at least three years, and the agricultural uses have been profitable.

3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines
Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.

LEGEND

- Project Location
- Assessor Parcel Map
- Roads

TOTAL ACRES UNDER LCA APPLICATION: 529.69

Map created on: October 29, 2008
Data Source: Parcel map from Mariposa County Assessor's Map; Updated August 2008

COORDINATE SYSTEM: NAD 1983 STATE PLANE III CALIFORNIA

Map created by: Emily Ebbin Merriam GIS Technician Mariposa County Planning Department
Attachment B
Draft Notice of Exemption
TO: County Clerk, County of Mariposa  
P.O. Box 247  
Mariposa, CA  95338  
FROM: Mariposa County Planning Department  
P.O. Box 2039  
Mariposa, CA  95338  

Project Title: Land Conservation Act (LCA) Contract No. 2008-149.

Project Address: 3398 Ben Hur Road, Mariposa, CA

Project Parcels: APNs 017-100-030, 017-100-033, and 017-100-043


Name of Public Agency Approving Project: Mariposa County Board of Supervisors

Name of Person (Applicant) Carrying Out Project: Lou Ellen Rauch

Exempt Status: Categorical Exemption, Class 17; Section 15317, CEQA Guidelines


Lead Agency Contact Person: Alvaro Arias, Associate Planner

Phone Number: (209) 742-1218

Mariposa County Planning Department by:

Kris Schenk  
Planning Director  

Date

Revision date: April 7, 2004