

7 COMMENT LETTERS

LETTER 1 - BOARD OF SUPERVISORS PUBLIC HEARING, NOVEMBER 1, 2005

**Mariposa County Board of Supervisors' Public Hearing
Draft Environmental Impact Report
General Plan Update**

Summary of Comments

November 1, 2005

5:00 p.m. • Board of Supervisors Chambers • Mariposa

Draft Environmental Impact Report Comment (DEIR)

Volume IV

General Plan Comment (GP)

Volumes I, II, and III

11/01/05 Board Commenter 1:

Tolley Gorham

(DEIR) Gorham is interested in the possibility of Catheys Valley not being changed, and the environmental impacts of this. Gorham reviewed the alternatives of the DEIR, but found little to help him understand the impacts of the “no change” alternative. If this is not in the

DEIR and the Board wants to modify the GP document itself, so as to not change Cathey Valley, then this might be a stumbling block to this alternative.

11/01/05 Board Commenter 2:

Kris Casto, Hunters Valley Road

(DEIR) On page 2-26, the bottom paragraph, under plans and policies that serve as mitigation, there is a sentence that refers to “all road improvements”. Road improvements should be defined, and not included under work defined as “road maintenance”. This should also include reference to preserving scenic vistas and rural character. Road improvement work and road maintenance work can significantly affect scenic values along roads.

(DEIR) On page 4-17, there is a bullet about preparing a program to implement development impact fees. Hopefully, there will be public input and discussion on the importance of impact fees.

(DEIR) General comment on handicapped access – there is no reference about Mariposa County’s recognition of the importance of handicapped access issues with new construction. This could apply to new construction, remodeling, and even such activities as restriping downtown parking lots.

11/01/05 Board Commenter 3:

Dick Kunstman, resident of Mariposa and member of MERG and Conservation Chairman of the Yosemite Audubon Society

(DEIR) (GP) There is talk about environmental protection being too aggressive; however he can’t find anything in the DEIR or the GP about these protections being too aggressive. He finds it difficult to separate comments on the DEIR and the GP, as the two documents are connected.

Residents have clearly stated that they do not want to see urban sprawl. But when looking at the GP, it is a sprawl-master’s “wish list”. There are many things which could make the plan better.

11/01/05 Board Commenter 4:

Paul Chapman

(GP) Goal 10-5 on Page 10-8 addresses agri-tourism. The Department of Conservation sent a letter to Mariposa Planning staff stating that tourism uses do not produce food or fiber, and are not technically an agricultural production use. However, the General Plan includes provisions to accommodate agri-tourism uses on agricultural lands.

11/01/05 Board Commenter 5:

Steve Fortner, Catheys Valley property owner who has been trying to master plan his property in Catheys Valley for the past 10 years, and has had nothing but trouble along the entire route.

(GP) One of the guiding principles in the General Plan is that “we are one county”. Yet the plan has multiple communities and different charges. There is no reason to expand the Catheys Valley community plan out so far. Having the community plans does not achieve this guiding principle.

(GP) The County treats the private sector like dirt. Developers are not treated with respect at all. The Board doesn’t zone any land for permitted uses. This plan creates more non-conforming zoning than it eliminates.

(DEIR) The DEIR includes alternatives, which are unacceptable. The “no project” alternative says the county could go to 80,000 population. Where did all of these people go in the proposed project? He believes they are on their properties. Instead of urban sprawl – with 5-acre parcels and barbed wire – one could have concentrated development in communities.

(DEIR) The DEIR doesn’t address wetlands and jurisdictional waters of the United States. For example, on his property, a large percentage is wetlands and not even in the jurisdiction of Mariposa County.

(GP) Fortner questions how the population figures were developed. He doesn’t understand the description in the General Plan.

(GP) The current zoning and land use designations for town planning areas are “interim” and have been all along. Fortner is interested in the differences between what exists now and what is proposed.

(GP) In the Catheys Valley area, the planning advisory committee spent years developing plan proposals, yet the Board never hears these plans. The Board should not delegate their planning authority to advisory committees. The guaranteed result will be open space.

11/01/05 Board Commenter 6:

Ken Baker, represents several property owners in Catheys Valley

(DEIR) Baker doesn't believe the alternatives are addressed as well as they could be. The alternatives should be expanded, and should include the possibility to make changes to the General Plan. Baker is interested in whether or not there is any latitude to suggest changes to the General Plan with the way the alternatives are worded. It appears that all of the decisions have been made. For example, what if the Catheys Valley TPA was left alone, and then the community plan is designated around the current TPA? Could this even be considered? Baker is here to support the General Plan moving forward as quickly as possible, however, he hopes that there is the possibility to have a good discussion regarding the policies in the General Plan and the ability to suggest changes to the General Plan, and not have the content of the DEIR affect the ability to consider these changes.

11/01/05 Board Commenter 7:

Tolley Gorham

(GP) Gorham submitted written comments to the Board of Supervisors. Gorham suggests changing language in the General Plan to reinstate language in the plan regarding the Catheys Valley Town Planning Area. There are many provisions in the General Plan which are in contradiction to what is going on now in Catheys Valley. There is demand for higher density in Catheys Valley and for a commercial core. There are people who want to live and work there. He requests that all Catheys Valley Planning Advisory Committee members resign, and that new members be appointed. There should be a better balance on the Planning Advisory Committee, including new residents.

(GP) The planning department is currently withholding approval of any project in the Catheys Valley town planning area, which complies with today's standards but which is not in compliance with the proposed standards. (???) Gorham is interested in the approval dates for certain projects, such as the Whispering Oaks subdivision which encompasses 740 acres. This could be its own town planning area.

(GP) The document identifies a goal to eliminate rural sprawl, yet 5 acre parcels along Hornitos Road is in direct conflict with this paragraph. The plan should be creating more compact growth to reduce rural road sprawl.

(GP) Section 1.10.02 on Page 1-18 – The Planning Advisory Committee for Catheys Valley has no members who are property owners, so their positions may not represent the positions of property owners in the TPA. This is in contrast to the Agricultural Advisory Committee, which is comprised solely of representatives from the Agricultural Community. This doesn't make sense to Gorham.

(GP) Section 2.3.09 on Page 2-7 – Developers are willing to follow the rules, but that is difficult when the rules are not clearly defined and made up along the way.

(GP) Section 2.3.11 on Pages 2-8 and 2-9 – The second paragraph states that growth has to occur primarily in areas of Coulterville, Mariposa, and Don Pedro. Yet, the Whispering Oaks subdivisions seem to represent what most new property owners are seeking when they move to Mariposa County. The current acreage in the Catheys Valley TPA could accommodate a similar subdivision to Whispering Oaks. There is infrastructure available for this subdivision, which will never be used for 5 acre minimum parcel sizes.

(GP) Section 2.3.14 on Page 2-10 – This section talks about property owners' right to use their property for the highest and best use, considering neighboring property owners' rights. The General Plan will downzone the acreage in the Catheys Valley TPA from 2.5 acres minimum parcel size to 5 acre minimum parcel size. This will take \$4,000,000 out of property owner's pockets.

(GP) Section 2.3.16 on Page 2-11 – This section talks about housing for UC Merced generated residents. Gorham wonders why would these possible property owners would be interested in living in Don Pedro or Coulterville or Mariposa, when Catheys Valley is so much closer.

(GP) There are many areas in the plan which talk about growth being located where adequate infrastructure exists. Gorham believes that growth should be allowed where the developer is willing to provide that infrastructure. The General Plan should give communities the opportunity to provide infrastructure for themselves.

(GP) Section 5.4 – There are conflict of interest issues with Planning Advisory Committee membership in Catheys Valley. Property owners should be able to make comments on the Catheys Valley plan. The Catheys Valley Planning Advisory Committee membership is at least 2 years old. The Karl Bauman plan was supported, but since his death, this plan has gone away.

(GP) The Interim Land Use map for Catheys Valley indicates that there is no change in land uses, however that is not the case. There is another map, which the Board doesn't have, and that map should be included now, since the planning department is restricting land uses to that particular map. (???) The problem with these maps is that staff is telling people to work with the map. (???) The maps have been handed to the Planning Advisory Committee, and the committee is told that they have to work the map. (???)

(GP) In discussion about Mariposa Pines water system, a correction should be made. The water system is not county-owned, but privately owned. The sewage system is operated by the county.

(GP) Technical Background Report – There is much in the plans about the importance of agricultural lands to Mariposa County, but the percentage of money produced by, the residents employed by, and the tax revenue generated by agricultural lands is very small. Yet the agricultural community has a particularly large voice in this plan. Yes, agriculture is important, but the Board needs to consider who pays the bills in the county. The Board should accommodate other uses in the General Plan, not just agriculture.

(GP) Technical Background Report, Section 4.2.11 Page 4-15 – There is no Whispering Pines or Whispering Pines Subdivision in Catheys Valley. Quail Ridge subdivision is not in Catheys Valley, but off of Darrah Road.

(GP) The Catheys Valley community plan will produce what the General Plan touts as being undesirable.

11/01/05 Board Commenter 8:

Betty Boykin, of MERG

(GP) Mariposa County has witnessed the impacts of rural sprawl in other neighboring rural communities. MERG supports plan provisions which will reduce rural sprawl, and notes that there are many good plan provisions in this regard.

(GP) MERG does not support large scale conversion of large parcels to small parcels or inviting new parcels on dirt roads with no services.

(GP) MERG is interested in maintaining separation between communities, such as between Mariposa and Mt. Bullion – the current land use map designation showing 14 miles of “town” from the Fairgrounds out to Mt. Bullion is an invitation to sprawl.

(GP) The County doesn't need further subdivisions, as this will generate more rural sprawl and traffic congestion.

(GP) (DEIR) The enhanced alternative in the Draft EIR could be developed into a more protective format, with appropriate mitigation measures. MERG is working with professional planners and consultants, to help further develop and define this enhanced alternative.

11/01/05 Board Commenter 9:

Paul Chapman

(GP) The Technical Background Report references the White Rock community, and there is none.

(GP) Technical Background Report Section 9.4.05 on Page 9-10 – The Williamson Act land acreages should be updated as there is a little more than 209,000 acres now.

(GP) Technical Background Report Section 10.2.3.2 Page 10-45 – The unique geological formations in Mariposa County should include Striped Rock.

(GP) Technical Background Report Section 13.4.2.1 on Page 13-4 – The listing of historic settlements in Mariposa County should include Lewis Crossing, Ben Hur, Oakvale, (need to obtain from Paul Chapman), Cottonwood and Lone Pine.

11/01/05 Board Commenter 10:

Kris Casto

(GP) Section 5.3 starting on Page 5-8 – Economic Opportunity relative to land uses. Did the General Plan leave out other types of economic opportunities on purpose? These could include such opportunities as light manufacturing and research and development. These types of uses represent economic diversity. Without references to these types of uses, the plan sends the message that applicants “need not apply”.

(GP) Section 5.4.04 on Page 5-43 – Agri-tourism uses on Agriculture/Working Landscape land use. There may be other tools than the conditional use permit process for agri-tourism

uses. Casto suggests that the Board of Supervisors task the definition of what might be appropriate to a tourism group and / or the agricultural advisory committee. There could be guidelines developed for the interests of being good neighbors. This is preferable to a laborious conditional use permit process.

(GP) Casto thanks the Board for the historic resources sections in the General Plan. She hopes the Board doesn't wait for the GP update to implement the provisions in the plan. Mariposa County needs these provisions and protections in place soon. Time is critical for historic resources. In the Mariposa Town Planning Area, she hopes that the Specific Plan is clear for what we want our town to be like in the next 20 years. It is a courtesy for those coming here to develop, as well as for residents.

(GP) General comment on handicapped access – there is no reference about Mariposa County's recognition of the importance of handicapped access issues with new construction. Please address this important issue.

(GP) On the land use map, there is a white splash of residential land use designated along Pendola Garden Road. This is the only residential land use along Highway 49 North. The majority of this residential land use area is a large parcel behind the older 10-acre residential subdivision. The General Plan talks about stewardship of land, and this parcel represents everything the General Plan talks about for stewardship, including the scenic aspects of rural character. She requests the Board consider revisiting the land use designation of this parcel. It has on it two active mines, which are not compatible with residential development. There is a fairly substantial seasonal drainage on the parcel, which is important wildlife and botanical habitat. She suggests either the Natural Resource or Agriculture/Working Landscape designation.

11/01/05 Board Commenter 11:

Steve Saunders, resident of Catheys Valley

(GP) Saunders came to Mariposa County 4 years ago. He studied the map for Catheys Valley when they came. He is at a loss for why changes are being proposed. The current zoning is adequate for the future population, although the current access is inadequate in many parts of Catheys Valley. Upscaling the density in the town area would help access issues in the rural parts of the county. Providing commercial areas in towns, such as Catheys Valley, will lessen access issues along the major highways in the county, so residents don't all need to travel to Mariposa or Merced for shopping. The existing zoning would give the ability for commercial businesses to develop in Catheys Valley. People go to Merced for shopping instead of going to Mariposa to shop, because they can save money in Merced. This is less money for Mariposa. If one looks at the French countryside, it is villages and wide open spaces and villages and wide open spaces. An upscaled town planning area will

bring in more revenue stream and more businesses, resulting in higher income earning people being attracted to the town. These higher income earning people will create jobs for local residents when they hire residents to take care of those things they don't have time to do themselves.

11/01/05 Board Commenter 12:

Kori Smith, lives and works in Catheys Valley

(GP) The higher density Catheys Valley TPA provides more housing for folks providing services. Those people are now forced to live in substandard housing. Mariposa County has had a pretty depressed economic in the past. This General Plan provides an opportunity to boost the local economy. Real estate is now a big part of the Mariposa County economy. We are tied into the rest of the country now, for real estate. We need to provide opportunities for all income levels in the county. This includes residential housing opportunities.

(GP) When tourism hits a low, everyone suffers if there is a low range of economic opportunities in the county. Having a higher range of economic opportunities provides a more stable environment when tourism does have its highs and lows.

(GP) The Board must think about the economy now and in the future. In Catheys Valley, there is a consensus that higher density should be included in the town plan.

11/01/05 Board Commenter 13:

Linda Dinnel, Catheys Valley property owner

(GP) The Dinnels have responded to every public notice regarding projects and meetings in Catheys Valley, affecting the town planning area. The town has a lovely light industrial and business area, and is growing nicely. The Dinnels support the existing Catheys Valley Town Planning Area.

11/01/05 Board Commenter 14:

Steve Fortner

(GP) Fortner asked that the Board please pass some General Plan Update, but leave the Catheys Valley town planning area alone. The Board is so far out in left field for complying with state law, that he won't submit any application for processing. The Jones and Stokes

report identified many basic inadequacies of the current General Plan. Fortner tried to use the Mariposa TPA specific plan as a guide, as Jones and Stokes said that document was good. The Board should give some way for the private sector to move forward with projects. The draft plan points growth to only three communities, and doesn't give a way to develop in Catheys Valley. Fortner has spent lots of time and money developing the infrastructure for future development of his property in Catheys Valley. He can provide the site and the infrastructure, and it won't cost the county any money. The TPA zone today encourages planned residential development. Why not keep that for the General Plan Update. 5 acres is not paradise.

11/01/05 Board Commenter 15:

Sandra Martin, represents Les Lord and other people in Catheys Valley

(GP) Would like to keep Catheys Valley TPA. She's seen the original TPA plan and likes that plan.

11/01/05 Board Commenter 16:

Tolley Gorham

(GP) Regarding the Catheys Valley map, Gorham showed the Board two proposed land use maps. The real proposed Catheys Valley land use map is an octopus with sprawl.

11/01/05 Board Commenter 17:

Tricia Oakander

(GP) Would like to keep Catheys Valley the way it is.

11/01/05 Board Commenter 18:

Theresa Castaldi, Property owner in Catheys Valley

(GP) Is in favor of existing plan.

11/01/05 Board Commenter 19:

Ken Baker

(GP) Would like the Board to consider the Catheys Valley TPA to continue on as it is now. This is for folks who can't take care of 5 acres, and who make a good income. They contribute more to a community than they take away. They hire people and create jobs. The community will continue to grow. Other counties use clustering to achieve this. These types of property owners will be a great contribution to the community. Smaller parcels use paved roads and contribute a lot to the schools with school impact fees charged through the building permit process. These people will support existing business and won't be a draw on the local sheriff forces when a cat is in a tree. This won't happen if we keep the town planning area at 5 acre minimums.

We should have the maps available if we are talking about the maps. The proposal will downzone people's property. This will hurt the economy. The property owners don't have an explanation for why this will happen. Do we have a community plan? He doesn't think there is a community plan.

People don't want condominiums or jammed residential development. They just want 2.5 acre parcels. People are here telling the Board what they want.

LETTER 2 - CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD-
CENTRAL VALLEY, OCTOBER 26, 2005



David C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
Central Valley Region

Robert Schneider, Chair

Fresno Branch Office
1688 E Street, Fresno, California 93706
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<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

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NOV 01 2005

Mariposa County Planning Dept.

26 October 2005

Kris Schenk, Planning Director
Mariposa County
5100 Bullion Street, 1st Floor
Mariposa, CA 95338

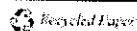
DRAFT EIR FOR MARIPOSA COUNTY GENERAL PLAN UPDATE (SCH # 2002071101)

We reviewed the draft Environmental Impact Report (EIR), dated 19 September 2005, for the Mariposa County General Plan Update. The proposed 2005 General Plan update for Mariposa County provides a basis to guide future development and decision-making via land use designations, goals, objectives, policies, and implementation measures. The draft EIR identifies and documents the environmental impacts in accordance with the California Environmental Quality Act. The 2002 census documented about 17,800 residents in Mariposa County. The build-out of the 2005 General Plan update would result in a County population between 39,000 and 51,000 persons, the former reflects a continuation of existing development trends, the latter, increased infrastructure investment or up to half of all developable lots having second residential units.

Section 2.5 summarizes the project impacts and mitigation measures. Impact BR-8 identifies the net loss of wetlands as a significant impact resulting from the build-out of the General Plan. The draft EIR recognizes that any development project that will result in a net loss of wetlands or other waters of the U.S. will be subject to the U.S. Army Corps of Engineers Section 404 permit process, pursuant to the Clean Water Act. We recommend the County add that proponents of such projects will also need to obtain a Section 401 Water Quality Certification from this office. The Section 401 certification application will be reviewed to ensure that discharges will not violate water quality standards. If the project will result in the discharge of dredged or fill material into wetlands that are determined by the Corps to be non-jurisdictional, the proponent will not be required to obtain a Section 401 Water Quality Certification, but may be required to submit a report of waste discharge if the wetlands are waters of the State. The Regional Board will either prescribe waste discharge requirements that will incorporate measures to mitigate potentially significant impacts to water quality and potential public nuisances or issue a waiver of waste discharge requirements.

Impact HW-1 concerns the potential for the project to increase off-site runoff and Impact HW-2 concerns the degradation of surface water runoff from additional paved surfaces, landscaping fertilization and irrigation, and grading, construction, and inadequate revegetation. Policies and implementation measures include Policy 11-5a, which involves a review and update of the provisions of the County Grading Ordinance as needed, and Mitigation Measure HW-2, which require that comprehensive site development standards include storm water pollution control best management practices. We recommend the County reference in Policy 11-5a and Mitigation Measure HW-2 the requirement for construction projects to also comply with federal requirements pertaining to storm water construction discharges described below.

California Environmental Protection Agency



Kris Schenk

- 2 -


26 October 2005

If the construction associated with a project subject to County approval will disturb one acre or more, compliance with the NPDES General Permit No. CAS000002 for Discharges of Storm Water Associated With Construction Activity will be required for potential discharges to surface waters, including ephemeral and intermittent drainages. Before construction begins, a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee must be submitted to the State Water Resources Control Board and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared. The SWPPP must contain at a minimum all items listed in Section A of the General Permit including descriptions of measures taken to prevent or eliminate unauthorized non-storm water discharges, and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, riparian buffers, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into waters of the U.S.

Impact HW-4 concerns the potential degradation of groundwater from development that relies on on-site sewage disposal rather than central systems. Policy 5-4a and its implementation measures address this potential and provide for clustering commercial and service development to facilitate the use of community disposal system. New parcels not served by community sewer must have approved areas for on-site sewage disposal systems, which require approval by the County Health Department. The Draft EIR recognizes that the less than 10 percent of the County's lands have soil with minimal depth or permeability constraints for on-site sewage disposal systems, and indicates that Policy 5-4a and its implementation measures will minimize the potential impact to less than significant levels. We encourage the County maintains sufficient professional staff to review proposals for engineered systems for parcels with site-constraints to ensure that the proposed systems are protective of groundwater quality and do not pose a threat to public health. The Draft EIR does not appear to identify how the County intends to comply with pending new State regulations concerning on-site sewage disposal systems (AB 885) (e.g., once the regulations are finalized, the County will apply for formal approval as the *Authorized Local Agency* pursuant to Title 27, California Code of Regulations, Sections 22900-22955). Also, the Draft EIR should indicate that community on-site sewage systems that exceed 5,000 gallons per day, or community systems that rely on advanced sewage treatment (e.g., via wastewater package plant), are potentially subject to Regional Board regulation.

The Draft EIR does not appear to address discharges of waste from wineries, gravel or mining operations, or other non-domestic sources. In implementing the General Plan update, the County may approve projects that discharge waste to land that may degrade waters of the state for, at a minimum, salt constituents and potentially for pathogens, oxygen-demanding substances, nutrient waste constituents, metals, and other waste constituents. Projects that propose to discharge waste must submit to the Regional Board pursuant to Section 13260 of the California Water Code, a *complete* Report of Waste Discharge at least 140 days prior to initiating discharge to land.

We appreciate the opportunity to comment on the Draft EIR and request to receive a copy of the final, adopted EIR and General Plan update.


JO ANNE KIPPS
Senior Engineer
RCE No. 49278

Cc: State Clearinghouse, Sacramento

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LETTER 3 - CALIFORNIA DEPARTMENT OF CONSERVATION, OCTOBER 31,
2005

Oct-31-2005 15:34 From: DIVISION OF LAND RESOURCE PROTECTION 18165279430 T-000 P.001/003 F-592
STATE OF CALIFORNIA, RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 F STREET • MS 15-01 • SACRAMENTO, CALIFORNIA 95834
PHONE 916 / 324-2552 • FAX 916 / 327-3437 • TDD 916 / 374-2554 • WEB SITE conservation.ca.gov

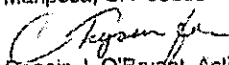
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OCT 31 2005

Mariposa County Planning Dept.

TO: Project Coordinator
Resources Agency

Kris Schenk, Director
Mariposa County Planning Department
5100 Bullion Street, 1st Floor
Mariposa, CA 95338

FROM: 
Dennis J. O'Bryant, Acting Assistant Director
Department of Conservation, Division of Land Resource Protection

DATE: October 31, 2005

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE
MARIPOSA COUNTY GENERAL PLAN (GP) UPDATE 2005
SCH# 2002071101

The Department of Conservation's Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Division has reviewed the above DEIR addressing impacts from a comprehensive update of the existing Mariposa County General Plan and offers the following comments specific to provisions related to the Williamson Act.

1. The DEIR and GP (Goal 10-6) refer to prohibition of residential development on historic vs. non-historic Williamson Act parcels. The DEIR and GP should provide clarification on the meaning of "historic" and its relationship to Williamson Act contractual requirements.
2. The DEIR notes that 5,200 acres of Williamson Act land would be located in the Residential classification of the GP and the discontinuance of contracts on the land would be significant. It should also be noted that the California Environmental Quality Act (CEQA) Guidelines state that a project is deemed to be of statewide, regional or area-wide significance if it will result in cancellation of a Williamson Act contract for a parcel

*The Department of Conservation's mission is to protect Californians and their environment by
protecting lives and property from earthquakes and tsunamis; ensuring safe drinking water and open spaces; setting
conserving California's farmland; and saving energy and resources through recycling.*

COUNTY OF MARIPOSA GENERAL PLAN—VOLUME IV
ENVIRONMENTAL IMPACT REPORT

Oct-31-2006 15:34

From-DIVISION OF LAND RESOURCE PROTECTION

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Project Coordinator and Kris Schenk, Director
October 31, 2005
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of 100 or more acres [California Code of Regulations Section 15206(b)(3)]. This provision would mostly likely apply to the current project.

3. The DEIR, Mitigation LU-4 to protect Williamson Act land, notes that the GP be amended to include an implementation measure to amend Mariposa County policy implementing the Williamson Act to specifically address residential development on contracted lands.

Land uses on areas subject to Williamson Act contracts are governed by principles of compatibility with agricultural and open space land use. These principles and requirements are detailed in Government Code Section 51238.1. The Division recommends that the Williamson Act's land use compatibility provisions be referenced when amending policies for local Williamson Act implementation. Division staff are also available to assist with interpretation of the Williamson Act and to review draft policy text.

4. The DEIR, Land Use Goal 5-11, Policy 5-11a, permits legal existing nonconformities to continue use and operation. This policy is intended to "grandfather" in existing uses and structures and prevent Mariposa County from enacting amortization provisions.

It should be noted that recent legislation, Assembly Bill 1492 (Chapter 694/Statutes of 2003), requires a local government to make a determination if a breach of a Williamson Act contract exists. If a breach exists, it requires the landowner either to eliminate the breach or pay a penalty which is 25% of the unrestricted fair market value of the land rendered incompatible by the breach, plus 25% of the value of the incompatible building and any related improvements on the contracted land. Upon elimination of the breach or payment of the assessed penalty, a termination by breach of contract is recorded for the affected property.

"Material breach" is defined as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act or contract, local uniform rules or ordinances. AB 1492 only applies to structure(s) that have been permitted and constructed after January 1, 2004.

Land Use Policy 5-11a may need clarification to avoid misinterpretation related to existing nonconforming structures permitted or constructed after January 1, 2004, and adoption of the 2005 GP. In addition, prior to and after January 1, 2004, the compatible use provisions of the Williamson Act apply and supersede contradictory local policy.

5. Land Use Goal 5-7, Policy 5-7a, notes that public facilities and services may be sited in all GP land use classifications with due consideration for area-specific issues. The

COUNTY OF MARIPOSA GENERAL PLAN—VOLUME IV
ENVIRONMENTAL IMPACT REPORT

Oct-31-2005 15:34

From-DIVISION OF LAND RESOURCE PROTECTION

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Kris Schenk, Director
October 31, 2005
Page 3 of 3

GP should also provide reference to avoiding location of public facilities in agricultural preserves, especially on lands under Williamson Act contract, whenever feasible (Government Code Section 51290).

Thank you for the opportunity to comment on the DEIR. If you require technical assistance on interpretation of the Williamson Act please contact Bob Blanford at (916) 327-4145. If you need further information on the Division's other agricultural conservation programs, please contact us at (916) 324-0850 or 801 K Street, MS 18-01, Sacramento, CA 95814.

cc: Mariposa County RCD
P.O. Box 746
Mariposa, CA 95338

COUNTY OF MARIPOSA GENERAL PLAN – VOLUME IV
ENVIRONMENTAL IMPACT REPORT

**LETTER 4 - CALIFORNIA DEPARTMENT OF TRANSPORTATION, OCTOBER 31,
2005**

Oct 31, 2005 4:47PM CA DEPARTMENT OF TRANSPORTATION

Vol. 11(2) P. 1

Transportation Planning 1978 E. Charter Way, Stockton, CA 95206
(209) 948-7647

Caltrans District 10

Fax

To: Mr. Kris Schenk **From:** Dee Maddox
Fax: 209-742-5024 **Pages:** 2
Phone: 209-742-1215 **Date:** 10/31/2005
Re: NOC GP Update DEIR - Mariposa County 2005CC:
 Urgent For Review Please Comment Please Reply Please Recycle

• **Comments:**

Comments on: GP Update DEIR for Mariposa County 2005

Dee Maddox
IGR & Intermodal Planning
(209) 942-6022

COUNTY OF MARIPOSA GENERAL PLAN – VOLUME IV
ENVIRONMENTAL IMPACT REPORT

Oct 31, 2005 4:47PM CA DEPARTMENT OF TRANSPORTATION
STATE OF CALIFORNIA – BUSINESS, TRANSPORTATION AND HOUSING AGENCY

No. 4425 P. 2

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10-MPA-PM VAR
NOC GP Update DEIR
Mariposa County 2005
SCH #2002071101

Mr. Kris Schenk
County of Mariposa
Planning Department
5100 Bullion Street
Mariposa, CA 95338

Dear Mr. Schenk:

The California Department of Transportation (Department) appreciates the opportunity to review and comment on the Notice of Completion General Plan Update for the Draft Environmental Impact Report (DEIR). The County of Mariposa proposes to adopt the Mariposa County General Plan Update 2005. This General Plan Update would replace the County's current General Plan, which was prepared in 1981 and has been periodically amended from 1981 through 2005. The Department has the following comments:

- The Department will need to review future plans for any proposed projects which generate traffic that affect the State Highway System. A traffic impact study is necessary to determine any proposed project's near-term and long-term impacts to the State facilities – existing and proposed – and to propose appropriate mitigation measures. The study should be prepared in accordance with the *Caltrans Guide for the Preparation of Traffic Impact Studies*, dated December 2002 (TIS guide). The TIS guide is available online at the following web address: http://www.dot.ca.gov/hq/tpp/planning_tools/tools.htm. Minimum contents of the traffic impact study are listed in Appendix "A" of the TIS guide.
- The Department's Traffic Operations Unit will need to review the technical analysis report for the Level of Service (LOS) values stated in this DEIR. Additional information will be provided after review of this document.
- An Encroachment Permit will be required for work (if any) done within the Department's right of way. This work is subject to the California Environmental Quality Act. Therefore, additional biological, archaeological, or other environmental studies may be required as part of the encroachment permits application. A qualified professional must conduct any such studies undertaken to satisfy the Department's environmental review responsibilities. Ground disturbing activities to the site prior to completion and/or approval of required environmental documents may affect the Department's ability to issue a permit for the project.

"Caltrans improves mobility across California"

COUNTY OF MARIPOSA GENERAL PLAN – VOLUME IV
ENVIRONMENTAL IMPACT REPORT

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No. 4426 P. 3

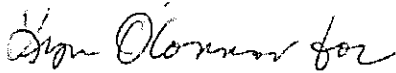
Mr. Kris Schenk
October 31, 2005
Page 2

Furthermore, if engineering plans or drawings will be part of your permit application, they should be prepared in standard units.

- The Department supports the concept of "Fair Share Contributions" for future highway projects that may be required to maintain the existing level of service along State Routes in Mariposa County.

If you have any questions, please contact Dee Maddox at (209) 942-6022 (email: dee_maddox@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,



TOM DUMAS, Chief
Office of Intermodal Planning

cc: Scott Morgan
State Clearinghouse

"Caltrans improves mobility across California"

LETTER 5 - STEVENS PLANNING GROUP (ON BEHALF OF EUGENE AND
DOLORES FORTNER TRUST), OCTOBER 31, 2005

11/01/2005 15:19 6192239836

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PAGE 01



STEVENS PLANNING GROUP, INC.
Land Use Consultants

October 31, 2005

Mariposa County Planning Department
5100 Bouillion Street • P.O. Box 2039
Mariposa, CA 95338-5024

SUBJECT: Comments to Recirculated Draft EIR and County General Plan Update

The following comments are submitted on behalf of the Eugene and Dolores Fortner Trust pursuant to an apparent County decision to disallow and disregard all previously submitted written and verbal comments concerning the proposed General Plan Update. These comments are submitted in regard to my client's 350-acre ownership at Catheys Valley; however, several comments pertain to the county-wide general plan update as well. For the record, this firm previously submitted written comments pertaining to the GPU on four or five separate dates during the months of September through December of 2002. Prior comment letters were submitted together with technical support documents prepared by this and other professional consulting firms. This letter is being submitted by facsimile with the understanding that the technical support documents will be added by a follow-up copy to be mailed or delivered together with technical support documents.

We have reviewed all four volumes of General Plan program and respectfully suggest that each of the volumes should be labeled as "Draft" or "Preliminary" until and if they are adopted. For example: Draft General Plan, Draft Area Plans and Draft EIR would clarify that these documents are proposed and it would distinguish between them and the existing General Plan which remains in force and effect until superseded. It is not explained until Volume IV, page 5-3 that the *No Project* alternative "would result in the continued implementation of the Existing County's General Plan to build-out." A discussion should also be included somewhere explaining that certain measures were identified and recommended in a report by Jones & Stokes to remedy perceived shortcomings with the existing General Plan and its companion EIR. With respect to my client's property, the "Project" should be identified as a proposal to change the general plan land use designation or classification from "Town Planning Area" to "Interim Community Center". Because the Interim Community Center classification "may be appropriate for limited business and commerce" (Vol. I, p. 5-29), it is essential that the GPU and Technical Background report reexamines the "Final Report of the Countywide Community/Economic Development Committee" (1993) and Mariposa's "Strategic Economic Development Plan" (1996). My client was not involved in these studies which concluded:

"Catheys Valley's unique location within Mariposa County could act to substantially increase the local demand for commercial services. It is the County's only TPA with close connection to the Central Valley, the first foothill community east from Merced along a major Yosemite access route."

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COUNTY OF MARIPOSA GENERAL PLAN – VOLUME IV
ENVIRONMENTAL IMPACT REPORT

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The intervening 10 to 16 years have seen the completion and opening of the University of California – Merced. This major event alone makes it timely and especially important to reevaluate and update economic studies to determine the appropriate role that Cathey's Valley and Mariposa County can play in capturing the opportunities for high-tech and other employment that will inevitably follow in a synergistic relationship with the university campus. The study should examine the curriculum at UC-Merced and identify unique opportunities that may exist in Mariposa County to supplement research and field classroom work, especially in the earth-sciences, such as geology, hydrology, engineering, archaeology, botany and zoology to name a few.

In reliance upon the long-standing Town Planning Area designation, my client obtained discretionary approval of and has since recorded a subdivision map on a portion of his TPA ownership. This map appropriately included commercial standard roadways and the map was recorded with cash security deposit of over \$300,000 guaranteeing the completion of commercial street improvements. My client also installed a 286,000 gallon, water reservoir that is capable of supplying ample flows and pressure for daily use plus fire suppression needs of a limited amount of commercial development on his land.

Turning Community Plan preparation over to a local Planning Advisory Committee has predictably resulted in statement that "The community preference is to preclude any special districts and rely on individual wells, onsite sewage disposal and agricultural preservation as the anchors maintaining rural character." (Vol. I, p. 5-24). This is inconsistent with my client's reliance on the existing General Plan, with past economic policy and technical reports and with sound planning for Mariposa's future.

My client has also cooperated with Sierra Telephone and Pacific Gas & Electric Co. in the installation of a fiber optic telephone / high speed internet equipment building plus electric transformer equipment along his Highway 140 property frontage. These improvements are well-suited to position this area for pollution-free high tech employment development.

Environmental resource studies were prepared by my client with respect to his property. When your former planning director became an obstacle to processing my client's Vallecito Specific Plan, I became involved in hiring local scientists to reformat biology data into a protocol wetland delineation report. This report was submitted to and approved by the US Fish and Wildlife Service, US Army Corps of Engineers and California Department of Fish and Game. The wetland delineation demonstrates that only a limited portion of my client's TPA-zoned property is suitable for development and much of it must be preserved as permanent open space. This information is submitted again herewith to demonstrate how natural resources under the jurisdiction of State and federal agencies regulates and significantly limits the amount of development that can occur on my client's property. In my opinion, it illustrates that this part of Cathey's Valley is not suitable simply for agriculture preservation. More importantly, it demonstrates how sustainable, environmentally sensitive development can occur on this land guided by resource conservation and protection that naturally limits the intensity of development and buffers the community from visual impacts.

COUNTY OF MARIPOSA GENERAL PLAN –VOLUME IV
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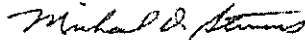
Jones and Stokes and earlier project traffic studies found no potential traffic problems associated with Highway 140 in the Catheys Valley area. This main arterial into Mariposa County enjoys the highest "level of service" rating and it is eminently capable of handling additional traffic from limited further development.

My client has provided (and again includes herewith) all necessary information, studies and technical support data to fully remedy the deficiencies identified by Jones and Stokes with designation of Catheys Valley as a Town Planning Area in the current General Plan. A limited Interim Community Center designation should include my client's reasonable desires for economic development of his land. I remind you that the project before Mariposa County decision-makers is a "plan to plan" change or general plan amendment. As such, it does not have to meet the same standard or nearly as high a standard as do the technical documents that are resubmitted herewith. These are project level environmental assessment documents that will hold the County in good stead for any project description.

My client is satisfied that current Title 17 zoning code provisions can work for his property, whether development that occurs is commercial, residential or a combination. We would like to call your attention to importance of keeping the provisions that allow planned or cluster residential development and preservation of open space. In the event my client's property is not allowed to develop with commercial uses, residential lot sizes both within and outside the Town Planning Area would appropriately be clustered in some areas down to one-acre net in order to satisfy environmental resource laws and create an environmentally defensible strategy for any pattern of development.

Thank you for considering this response to the County General Plan Update program.

STEVENS PLANNING GROUP, INC.



Michael D. Stevens, President

Enclosures as stated by delivery or US mail

CC: Eugene and Dolores Fortner Trust