RECOMMENDED ACTION AND JUSTIFICATION:
Resolution approving Land Conservation Act Application No. 2010-104 with findings and conditions, approving the creation of a new Agricultural Preserve and execution of a new Land Conservation (Williamson) Act contract with Charles Michael and Mary Katherine Copeland for a 240 acre parcel located at 3456 Brooks Road (formerly 3388 Woodland Drive) in Mariposa; APN 014-380-021.

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 Thursday, December 30, 2010 in order for tax advantages to be effective for the 2011 tax year.
Resolution No. 2010-555

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was received on August 3, 2010 from Charles Michael and Mary Kathrine Copeland for a property located at 3456 Brooks Road (formerly 3388 Woodland Drive) in Mariposa, also known as Assessor Parcel Number 014-380-021; 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 30, 2010; 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 based on the requirements of Resolution 10-150 the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors establish a new Agricultural Preserve on the subject property and enter into a new Land Conservation Act Contract with the applicant; and

WHEREAS a duly noticed Planning Commission public hearing for the project was scheduled for the 22nd day of October 2010; 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 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 from 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. 2010-104; 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 October 22nd, 2010; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 7th, 2010; 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 from the provisions of the California Environmental Quality Act.


BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and conditions 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.

ON MOTION BY Supervisor Bibby, seconded by Supervisor Allen, this resolution is duly passed and adopted this 7th day of December 2010 by the following vote:

AYES: Aborn, Allen, Cann, Turpin, and Bibby

NOES: None

EXCUSED: None

ABSTAIN: None
Attest:

MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:

STEVEN W. DAHLEM
County Counsel
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR    DISTRICT IV
JIM ALLEN, VICE-CHAIR  DISTRICT V
BRAD ABORN            DISTRICT I
LYLE TURPIN           DISTRICT II
JANET BIBBY           DISTRICT III

MARIPOSA COUNTY BOARD OF SUPERVISORS
MINUTE ORDER

TO:        KRIS SCHENK, Planning Director
FROM:      MARGIE WILLIAMS, Clerk of the Board

SUBJECT:   PUBLIC HEARING to Adopt a Resolution Approving Land Conservation Act
Application No. 2010-104 with Findings and Conditions, Approving the Creation of a
New Agricultural Preserve and Approving Execution of a New Land Conservation
(Williamson) Act Contract with Charles Michael and Mary Kathrine Copeland for a 240
Acre Parcel Located at 3456 Brooks Road (Formerly 3388 Woodland Drive) in
Mariposa; APN 014-380-021

RES. 10-555

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 7, 2010

ACTION AND VOTE:

Planning
PUBLIC HEARING to Adopt a Resolution Approving Land Conservation Act
Application No. 2010-104 with Findings and Conditions, Approving the Creation of a
New Agricultural Preserve and Approving Execution of a New Land Conservation
(Williamson) Act Contract with Charles Michael and Mary Kathrine Copeland for a
240 Acre Parcel Located at 3456 Brooks Road (Formerly 3388 Woodland Drive) in
Mariposa; APN 014-380-021
BOARD ACTION: Kris Schenk introduced the item, and he advised that the
Department has been receiving Notices of Non-renewals of Land Conservation Act
contracts. Alvaro Arias, Associate Planner, presented the staff report, and he advised of
correspondence that was received. Staff responded to questions from the Board as
to whether any response was received from the Department of Conservation; relative
to the applicant meeting the Contract requirements; relative to property tax impacts;
and relative to the information the Board members received on the Notices of Non-
renewals in September. Becky Crafts, Assessor, responded to questions from the
Board relative to the property tax revenue impacts for this application and for the non-
renewals that have been submitted.

The public portion of the hearing was opened and input was provided by the
following:

Ruth Catalan stated she feels there should be a moratorium on issuing any
new Contracts until the State provides full subvention funding for the program; and
she expressed concern with enforcement of the Contract provisions. She does not
have a problem with the Contracts for people who make their living from the land, but
is concerned with people that enter into a contract to get a reduction in property taxes; and is concerned when people change their land use designation to agriculture.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to this application being in compliance with current policy and advised that it is; that if the program is offered to one, it is available to all to meet the requirements; clarification that today's action includes a Notice of Exemption; the length of time the current property owners have owned this property; relative to the status of the questionnaire the County sent to all Contract holders and the evaluation process and timeframes; relative to the status of the code compliance staffing – Kris Schenk advised that the position was not budgeted, but Planning will work with the Assessor's staff to review the returned questionnaires and come back to the Board if necessary when the workload is determined; and whether fees are being increased for processing Contract applications – Kris Schenk said he will review. Supervisor Bibby asked that if anyone is aware of a violation of a Contract to please report it so that an investigation can be conducted; and requested that if Contract holders refuse to return the questionnaire, that a Notice of Non-renewal be filed, if necessary. Supervisor Allen requested that the Board receive a report on the number of questionnaires that are sent out and returned. Supervisor Cann requested that if the questionnaires are not returned that they be resent by certified, return-receipt mail. Becky Crafts noted that the questionnaire the Agricultural Commissioner sends out is different than what they sent; and she noted that this process will result in cancellation of some of the Contracts and she feels that the property tax adjustments for those situations will offset new Contracts. She further advised that they sent out about 167 questionnaires.

(M)Bibby, (S)Allen, Res. 10-555 was adopted approving LCA No. 2010-104 with findings and condition as recommended; and finding that this is CEQA exempt/Ayes: Unanimous. The hearing was closed.

Co: File
NOTICE OF PUBLIC HEARING (corrects notice dated November 8, 2010)

Project name and number: Land Conservation Act Contract Application No. 2010-104

Applicant’s name: Charles Michael & Mary Katherine Copeland

Property address: 3388 Woodland Drive, Mariposa

Assessor’s Parcel Number: 014-380-021

The Mariposa County Planning Department has received an application for an Agricultural Preserve and Land Conservation Act Contract from Charles and Mary Copeland, applicants. The proposed LCA contract is for 240 acres of grazing land that is currently zoned Mountain Home and Mountain General. The applicants recently purchased the property (in June, 2010) and use/will use the property for cattle grazing. Prior to their purchase, the property was used by the previous property caretaker, Janice Lee Cross, who used the land for grazing 2 cows and about 100 goats and sheep. Written statements from the previous property owner and a neighbor have confirmed the agricultural use of the property for the previous three years. Pursuant to county policy, the property would need to be rezoned to the Agriculture Exclusive Zone (AEZ), should this application for contract be successfully processed. The property is currently in the Mountain Home (MH) and Mountain General (MG) Zones. The property is located at 3388 Woodland Drive and is known as APN 014-380-021.

This matter requires a public hearing, and on Tuesday, December 7, 2010, the Mariposa County Board of Supervisors will consider Land Conservation Act Contract Application No. 2010-104, Charles Michael & Mary Katherine Copeland, applicants.

Hearing Date: Tuesday, December 7, 2010
Hearing Time: 2:00 p.m. or soon thereafter as possible
Hearing Location: Mariposa County Government Center (upper level)

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.
5100 Bullion Street, Mariposa, California

Action: Notice of Exemption: The Board of Supervisors will consider the recommendation of the Agricultural Advisory Committee and Planning Commission to adopt a resolution adopting a Notice of Exemption (for the environmental review) and approving the project. This is the final action on this project.

Written comments may be submitted now, and at any time during the public review period up to, and including, the public portion of the public hearing time. Comments received prior to completion of the staff report will be included and directly addressed in the Staff Report. Comments received prior to the Board of Supervisors hearing will be copied to be given to the Board.

The action of the Board of Supervisors is the final county action on the project. There will be no further notice regarding the action of the Board of Supervisors on this project. The Board of Supervisors is the final action authority for these projects.

Please contact Alvaro Arias at Mariposa Planning, (209) 742-1218, to discuss your concerns, or for more information on the project or the Board of Supervisor’s meeting. E-mail may be sent to arias@mariposacounty.org. This notice is being provided pursuant to Section 17.132.020 of the Mariposa County Code.

Please be advised that any concerns or issues relating to the projects must be raised during the public review process described in this notice, if those issues are to be used for the basis of a future court challenge.

Posting Locations: Mariposa County Clerk’s Office
Mariposa County Courthouse
Mariposa County Planning Department
Mariposa Post Office
Woodland Gas, Food, & Liquor
www.mariposacounty.org/planning

Posting Date: November 9, 2010  Leave Posted Until: 5:00 p.m. December 7, 2010
PROJECT VICINITY MAP

PROJECT TYPE: LCA Application No. 2010-104
APPLICANT: Charles and Mary Copeland
APN: 014-380-021
SITE ADDRESS: 3388 Woodland Drive
Mariposa, CA 95338

MAP CREATED ON: AUGUST 20, 2010
DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP:
AUGUST 2010 UPDATE
MAP CREATED BY: EE MERIAM, GIS TECHNICIAN
MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2039
209.966.5151 FAX 209.742.5024
MARIPOSAPLANNING@MARIPOSACOUNTY.ORG
HTTP://WWW.MARIPOSACOUNTY.ORG/PLANNING

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.
EXHIBIT 1

PROJECT FINDINGS AND CONDITIONS
FOR
Land Conservation Act Contract Application No. 2010-104

FINDINGS

In accordance with Mariposa County Resolution No. 10-150 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. FINDING: The agricultural preserve will contain 240 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, goat grazing, sheep grazing and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be for producing an agricultural commodity for commercial purposes. The project, upon compliance with the required condition, 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 commodity has been for commercial purposes. Written verification has been received from the previous property owner and a neighbor stating that the previous caretaker of the property grazed on average 80 head of sheep and goat, which were later sold to dairies or for meat.

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

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 014-380-021 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

2. Certificate of compliance applications shall not be processed during the term of this contract unless accompanied by a Parcel Merger Application for parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and the Mariposa County Rules of Procedure to Implement the California Land Conservation Act of 1965.
EXHIBIT 2

LEGAL DESCRIPTION

All that certain real property situated in the county of Mariposa, State of California, more particularly described as follows:

THE NORTHWEST QUARTER OF SECTION 36 AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 35, ALL IN TOWNSHIP 5 SOUTH, RANGE 19 EAST, M.D.B. & M., ACCORDING TO OFFICIAL GOVERNMENT PLATS THEREOF.

TOGETHER WITH RIGHT OF WAY OVER AND ACROSS SOUTHEAST QUARTER AND SOUTH HALF OF NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 19 EAST, TO A POINT ON THE COUNTY ROAD, AS PER DEED RECORDED IN VOLUME 3 OF OFFICIAL RECORDS, PAGE 169, MARIPOSA COUNTY RECORDS.
BOARD OF SUPERVISORS’ MEETING
OF DECEMBER 7, 2010

SUMMARY

Application: Land Conservation Act Contract No. 2010-104

Location: The contract area is located at 3456 Brooks Road (formerly 3388 Woodland Drive); APN 014-380-021

Applicants/Property Owners: Charles Michael & Mary Kathrine Copeland

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

a) Adopt a Resolution approving Land Conservation Act Application No. 2010-104 with findings and conditions, approving the creation of a new Agricultural Preserve and approving execution of a new Land Conservation (Williamson) Act contract with Charles Michael and Mary Kathrine Copeland for a 240 acre parcel located at 3456 Brooks Road (formerly 3388 Woodland Drive) in Mariposa; APN 014-380-021.

Prepared by,

Alvaro Arias
Associate Planner
Summary Description of Request


The contract would encumber one Assessors parcel, APN 014-380-021. The applicants have recently purchased the property and use/will use the property for cattle grazing. The application form states the previous property caretaker used the land for grazing two cows and about 100 goats and sheep. After being unable to obtain a written statement from the previous caretaker of the property regarding its past agricultural use, a neighbor and the previous property owner have submitted written statements acknowledging that the previous caretaker ran about 80 head of goats and sheep on the property since 2006.

The project site is in the Mountain Home and Mountain General Zone and the Residential Land Use.

Agricultural Preserve Size and Use:

Staff provides review comments pursuant to Mariposa County Resolution No. 10-150 (new policies).

Preserve Policies--The proposed agricultural preserve is 240 acres, which is larger than 160 acres and thus consistent with the minimum size requirement of the Agricultural Preserve Policy for rangeland and pasture for livestock production and forage.

Agricultural Use -- In order to qualify for inclusion in an agricultural preserve, the Agricultural Preserve Policy requires that evidence be submitted that shows that the parcel has been used for agricultural purposes for three years and the agricultural use is and has been used for the purpose of producing an agricultural commodity for commercial uses. The subject property has been mainly used for goat and sheep grazing for the past three years. The applicants recently purchased the property and have been unable to obtain a written statement from the previous caretaker that verifies that the property has been used for agricultural purposes during the last three years. A neighbor and the previous property owner have submitted written statements (Attachment 8) which verify that since late 2006 the property was used to graze an average of 80 goats and sheep, which were later sold to dairies or for meat.

Multiple Parcels/Merging of Parcels -- The Agricultural Preserve Policy states that an application for multiple legal parcels that are less than the minimum size necessary, and only if contiguous, before a LCA contract is executed shall be merged, or the LCA contract shall include an express provision that prohibits the sale of the parcels individually during the term of the LCA contract. This application is proposing to place only one parcel under LCA contract.

Per the “Rules of Procedure to Implement the California Land Conservation Act of 1965” Section III.D. Certificate of compliance applications will not be processed on LCA contracted lands,
California Land Conservation (Williamson) Act

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) and Agricultural Policy

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.

Additionally, a rezoning to the Agricultural Exclusive zone (AE), which has a 160-acre minimum parcel size would be necessary per Resolution No. 10-150, which implemented the County wide Williamson Act Amendments. "All parcels that are a part of a LCA contract shall, within one (1) year of the effective date of the LCA contract, be restricted by zoning of said parcel to agricultural use. A completed rezoning application shall be submitted to the Planning Department for such parcel(s) following submittal of a LCA contract application, but prior to recordation of the LCA contract for these parcels. Processing of the rezoning application in accordance with County procedures may occur following recordation of the LCA contract. Staff recommends that as required the Rules of Procedure to Implement the California Land Conservation Act of 1965, a condition be required that would require the applicant to submit a complete Zoning Amendment application, prior to the recordation of the contract.

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 applicant has only submitted the application to enter into a contract for consideration at this time), the lead agency is the Board of Supervisors.

The Planning Commission recommends to the Board of Supervisors that the project be found to be 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 30, 2010. The Agricultural Advisory Committee voted unanimously to recommend approval of this application. A copy of the Agricultural Advisory Committee's draft minutes are attached to this staff report.
The item was heard by the Planning Commission at a noticed hearing on Friday, October 22, 2010. 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 No. 2010-104 from the Department of Conservation had not been received as of the writing of this staff report.

**Recommended Findings:**

In accordance with Mariposa County Resolution No. 10-150 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve will contain 240 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, goat grazing, sheep grazing and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be for producing an agricultural commodity for commercial purposes. The project, upon compliance with the required condition, 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 commodity has been for commercial purposes. Written verification has been received from the previous property owner and a neighbor stating that the previous caretaker of the property grazed on average 80 head of sheep and goat, which were later sold to dairies or for meat.

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

Recommended Conditions:

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 014-380-021 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

2. Certificate of compliance applications shall not be processed during the term of this contract unless accompanied by a Parcel Merger Application for parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and the Mariposa County Rules of Procedure to Implement the California Land Conservation Act of 1965.

Attachments:

1. Vicinity Map
3. Minutes from Planning Commission meeting of October 22, 2010
4. Draft Resolution
5. Draft Notice of Exemption
7. Letters from previous property owner and a neighbor
8. Photos provided by applicant
9. Draft Contract
Attachment 1
Vicinity Map
PROJECT VICINITY MAP

014-380-021
+/- 240 Acres

PROJECT TYPE: LCA Application No. 2010-104
APPLICANT: Charles and Mary Copeland
APN: 014-380-021
SITE ADDRESS: 3388 Woodland Drive
Mariposa, CA 95338

MAP CREATED ON: AUGUST 20, 2010
DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP;
AUGUST 2010 UPDATE
MAP CREATED BY: EE MERIAM, GIS TECHNICIAN
MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2039
209.966.5151 FAX 209.742.5024
MARIPOSAPLANNING@MARIPOSACOUNTY.ORG
HTTP://WWW.MARIPOSACOUNTY.ORG/PLANNING

MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.
Attachment 2
AAC Minutes from September 30, 2010
Arias clarified that prior to his report that two letters were received on the project. One from a prior property owner and the other letter was from a neighbor. In his report he had stated in error that letters were received from two neighbors.

Arias then presented the staff report on Agricultural Preserve/Land Conservation Act No. 2010-104. Property is located at 3388 Woodland Drive, Mariposa, APN 014-380-021. Property is 240 acre parcel which is zoned Mountain Home and Mountain General. He stated that prior livestock history of the property was primarily the raising of goats, sheep and a few cows. Applicant would like to use the property for cattle grazing. It was noted that if approved, applicant would have a condition to change the property to Agriculture Exclusive zoning and that no certificates of compliances are to be issued while the property is under contract.

Discussion:

Between Bunning and Copeland regarding some of the restrictions that the property would have under contract, such as no renting to outside parties that are not involved in the ag production.

Turpin questioned the access to the property and referred to circle page 8.

Copeland responded that the access is off Brooks Road with a legal easement through the Brown’s property.

Bunning mentioned that this request is to lower the density and remarked that this is a good thing and neighbors should not have an issue with it.

Williams reminded the committee that there has not been a public notice yet but that will happen when it goes to the Planning Commission, as property owners within 600 feet will be noticed.

On motion of Meyer, seconded by Progner, the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors approve Agricultural Preserve/Land Conservation Act Application No. 2010-104, with the conditions as outlined in the staff report. Motion passed.

Vote:

Ayes: 3 (Bunning, Meyer, Progner)
Noes: 0
Excused: 2 (Hubert, Toso)

After the motion passed, Copeland passed out photos of goats that the prior owners had on the property and stated that we could keep them for the file.
Attachment 3
Planning Commission Minutes from October 22, 2010
2. **PUBLIC HEARINGS:**

Commissioner Rudzik explained the Planning Commission's public hearing procedures.


Alvaro Arias presented Land Conservation Act Contract No. 2010-104 explaining that the project proposes to place a 240 acre parcel into a Land Conservation (Williamson Act) Act Contract. Arias stated that the contract would encumber one APN (014-380-021) and is in the Mountain Home and Mountain General Zones and Residential Land Use. Arias went on to say that the applicants have recently purchased the property and are using the property for cattle grazing. The previous property caretaker used the land for grazing two cows and about 100 goats and sheep. After being unable to obtain a written statement from the previous caretaker of the property regarding its past agricultural use, a neighbor and the previous property owner have submitted written statements acknowledging that the previous caretaker ran about 80 head of goats and sheep on the property since 2006. The property is located at 3388 Woodland Drive.

Arias concluded that it was the Agricultural Advisory Committee's recommendation that the Planning Commission adopt a Resolution recommending that the Board of Supervisors adopt a Resolution approving Land Conservation Act Contract Application No. 2010-104 with findings and conditions.

**Clarifications:** None.

**Public Portion of the Hearing:** Opened.

Mary Copeland, applicant, informed the Commissioners that she and her husband want to have the property placed in a Williamson Act Contract because it is a beautiful piece of ground they want preserved in its natural beauty and don't want to ever have it broken up into smaller parcels.

**Public Portion of the Hearing:** Closed.

**Deliberations:**

Rudzik asked why the address of the property is Woodland Drive and yet the access is off of Brooks Road.

Copeland said that an easement runs from Brooks Road to the property and that is how it has been forever.

Francisco said that he applauds the applicant for keeping the property in its natural beauty, but he is concerned about the requirement of commercial agricultural production on Williamson Act property.

Copeland said that they will be running a cow/calf operation, with as many cattle as possible without damaging the property.
On motion of Commissioner Marsden, seconded by Commissioner Francisco, the Planning Commission adopted a Resolution recommending that the Board of Supervisors adopt a Resolution approving Land Conservation Act Contract Application No. 2010-104 with Findings and Conditions.

Motion carried by the following vote:

AYES: 4 (Marsden, Francisco, Rudzik, Tucker)
NOES: 0
EXCUSED: 1 (Ross)
Attachment 4
Draft Resolution
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 2010-__

A resolution approving Land Conservation Act Contract
Application No. 2010-104, APN 014-380-021, Charles Michael and
Mary Kathrine Copeland, applicants.

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was
received on August 3, 2010 from Charles Michael and Mary Kathrine Copeland for a
property located at 3456 Brooks Road (formerly 3388 Woodland Drive) in Mariposa,
also known as Assessor Parcel Number 014-380-021; 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 30, 2010; 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 based on the requirements of Resolution 10-150 the Agricultural Advisory
Committee recommended that the Planning Commission recommend that the Board
of Supervisors establish a new Agricultural Preserve on the subject property and enter
into a new Land Conservation Act Contract with the applicant; and

WHEREAS a duly noticed Planning Commission public hearing for the project was
scheduled for the 22nd day of October 2010; 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 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 from 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. 2010-104; 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 October 22nd, 2010; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 7th, 2010; 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 from the provisions of the California Environmental Quality Act.


BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and conditions 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 7th day of December, 2010 by the following vote:

AYES: 

NOES: 

EXCUSED: 

ABSTAIN: 16

December 7, 2009

KEVIN CANN, Chairman
Mariposa County Board of Supervisors

Attest:

MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:

STEVEN W. DAHLEM
County Counsel
EXHIBIT 1
PROJECT FINDINGS AND CONDITIONS
FOR
Land Conservation Act Contract Application No. 2010-104

FINDINGS

In accordance with Mariposa County Resolution No. 10-150 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. FINDING: The agricultural preserve will contain 240 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, goat grazing, sheep grazing and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be for producing an agricultural commodity for commercial purposes. The project, upon compliance with the required condition, 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 commodity has been for commercial purposes. Written verification has been received from the previous property owner and a neighbor stating that the previous caretaker of the property grazed on average 80 head of sheep and goat, which were later sold to dairies or for meat.

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

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 014-380-021 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

2. Certificate of compliance applications shall not be processed during the term of this contract unless accompanied by a Parcel Merger Application for parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and the Mariposa County Rules of Procedure to Implement the California Land Conservation Act of 1965.
EXHIBIT 2

LEGAL DESCRIPTION

All that certain real property situated in the county of Mariposa, State of California, more particularly described as follows:

THE NORTHWEST QUARTER OF SECTION 36 AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 35, ALL IN TOWNSHIP 5 SOUTH, RANGE 19 EAST, M.D.B. & M., ACCORDING TO OFFICIAL GOVERNMENT PLATS THEREOF.

TOGETHER WITH RIGHT OF WAY OVER AND ACROSS SOUTHEAST QUARTER AND SOUTH HALF OF NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 19 EAST, TO A POINT ON THE COUNTY ROAD, AS PER DEED RECORDED IN VOLUME 3 OF OFFICIAL RECORDS, PAGE 169, MARIPOSA COUNTY RECORDS.
Attachment 5
Draft Notice of Exemption
MARIPOSA COUNTY
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. 2010-104.

Project Address: 3388 Woodland Drive, Mariposa, CA

Project Parcels: APN 014-380-021


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

Name of Person (Applicant) Carrying Out Project: Charles Michael & Mary Kathrine Copeland

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
Attachment 6
Resolution No. 10-150
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 10-150 A resolution approving County Policy Amendment No. 2005-230, County-wide Williamson Act (Land Conservation Act) Amendments; County of Mariposa, proponent.

WHEREAS, in 2003, following processing of the Williamson Act Applications for the calendar year, the Mariposa County Board of Supervisors directed staff to commence an amendment to the Mariposa County policies implementing the California Land Conservation Act of 1965; and

WHEREAS, the Mariposa County Agricultural Advisory Committee discussed the issue at fourteen (14) different noticed public meetings during 2003, 2004 and 2005 and developed a recommendation for amendments to the policy; and

WHEREAS, the Department of Conservation reviewed the recommendations of the Mariposa County Agricultural Advisory Committee and supported the recommendations with minor amendments; and

WHEREAS, on the 15th day of November 2005 the Board of Supervisors considered the Agricultural Advisory Committee's recommendations for amendments to the county policies and adopted Resolution No. 2005-546, a Resolution of Intention to Initiate an Amendment to the Mariposa County Policies Implementing the California Land Conservation Act of 1965; and

WHEREAS, the amendment was assigned a project number of County Policy Amendment No. 2005-230; and

WHEREAS, County Policy Amendment No. 2005-230 is an amendment to county-wide policies, which will affect all new Land Conservation Act (Williamson Act) contracts in the county and all Land Conservation Act (Williamson Act) contracts which are not in non-renewal; and

WHEREAS, processing of the amendment was delayed due to staffing issues and other advanced planning priorities including adoption of the General Plan Update, which includes a number of policies related to the amendment; and

WHEREAS, processing of the amendment was re-activated in the fall of 2008; and
WHEREAS, the Agricultural Advisory Committee reviewed its recommendations at an additional four (4) noticed public meetings in late 2008 and early 2009 to develop its final recommendations for the amendments; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 22nd day of October, 2009; notice of the hearing and a copy of the draft amendments were directly mailed to all contract holders; and

WHEREAS, a Staff Report packet was prepared, including proposed environmental findings, pursuant to the California Government Code, Mariposa County Code, the California Environmental Quality Act (CEQA) and local administrative procedures; 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 Report packet and testimony presented by the public and representatives of the Agricultural Advisory Committee concerning the amendments; and

WHEREAS, the Planning Commission continued the public hearing to January 22nd, 2010; and

WHEREAS, a supplemental Staff Report packet was prepared for the Planning Commission and public for the public hearing in order to address specific issues and questions raised during the hearing conducted on the 22nd day of October, 2009; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 22nd day of January 2010 and this hearing was conducted in a workshop format. The Planning Commission considered and discussed the various identified issues of concern with staff and the public; and

WHEREAS, as a result of the meeting, direction was given to staff by the Planning Commission; and

WHEREAS, the Planning Commission continued the public hearing to February 5th, 2010; and

WHEREAS, a supplemental Staff Report packet was prepared for the Planning Commission and public, for the public hearing, based on direction given; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 5th day of February, 2010 and considered the supplemental Staff Report packet and testimony presented by the public and representatives of the Agricultural Advisory Committee; and

WHEREAS, on the 5th day of February, 2010 the Planning Commission adopted Resolution No. 2010-01 recommending that the Board of Supervisors adopt findings that the project is exempt from environmental review and direct staff to file a Notice of Exemption; recommending that the Board of Supervisors approve County Policy Amendment No. 2005-230; recommending that the Board of Supervisors repeal Board
of Supervisors Resolution No. 77-157, Board of Supervisors Resolution No. 78-8 and Board of Supervisors Resolution No. 95-350 as these are replaced by the amended policies; and

WHEREAS, the Planning Commission's recommendations included findings for project approval; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 23rd day of March 2010; notice of the hearing was directly mailed to all contract holders; and

WHEREAS, a Staff Report packet was prepared for the public hearing, including proposed environmental findings, pursuant to the California Government Code, Mariposa County Code, the California Environmental Quality Act (CEQA) 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 packet and testimony presented by the public and representatives of the Agricultural Advisory Committee concerning the amendments; and

WHEREAS, on the 23rd day of March 2010, the Board of Supervisors closed the public hearing.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa hereby finds that the project is exempt from environmental review, directs staff to file a Notice of Exemption and approves County Policy Amendment No. 2005-230, County of Mariposa, proponent, with revisions directed by the Board during the public hearing.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby repeals Board of Supervisors Resolution No. 77-157, Board of Supervisors Resolution No. 78-8 and Board of Supervisors Resolution No. 95-350 as these are replaced by the amended policies.

BE IT FURTHER RESOLVED THAT this action to approve County Policy Amendment No. 2005-230 is based upon the findings set forth in Exhibit 1.

BE IT FURTHER RESOLVED THAT the approved Rules of Procedure to Implement the California Land Conservation Act of 1965 are set forth in Exhibit 2.

BE IT FURTHER RESOLVED THAT the approved Rules of Procedure to Implement the California Land Conservation Act of 1965 as set forth in Exhibit 2 shall apply to all Land Conservation Act Contracts in Mariposa County which are automatically renewed as of 12:01 a.m. on January 1, 2011 and thereafter.

BE IT FINALLY RESOLVED THAT the Board of Supervisors hereby directs staff to make the revisions to the Draft Rules of Procedure as directed by the Board during the
public hearing and to bring the revised policy amendment back in final format as Consent Agenda item.

ON MOTION BY Supervisor Aborn, seconded by Supervisor Turpin, this resolution is duly passed and adopted this 23rd day of March, 2010 by the following vote:

AYES: Aborn, Turpin, Bibby, Cann, and Allen

NOES: None

EXCUSED: None

ABSTAIN: None

Kevin Cann, Chairman

ATTEST:

Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:

Steven W. Dahlem
County Counsel
EXHIBIT 1 - FINDINGS OF APPROVAL

1. These amendments support commercial agricultural operations in the county to ensure that agricultural production is and will remain a principle use of land in Mariposa County.

2. These amendments address one of the Guiding Principles in the 2006 Mariposa County General Plan which is "The Protection of Agriculture is Critical for the County's Future". These amendments, as the first and only comprehensive update to the Williamson Act Program since 1977, address several procedural issues with the program to ensure that the program will remain viable for commercial agricultural operations in the county in the foreseeable future.

3. These amendments support maintaining commercial agricultural production on lands within Mariposa County, as they constitute an important physical, social, aesthetic and economic asset to the county.

4. These amendments support commercial agricultural production and agricultural working landscapes, which contribute to the rural character of Mariposa County, a value described in the General Plan.

5. The Land Conservation Act of 1965 provides an important tool for Mariposa County to ensure that viable commercial agricultural operations within the county remain economically viable.

6. The Mariposa County Board of Supervisors provides strong support to the Land Conservation Act Program in Mariposa County, acknowledging the many values derived from agriculture, even if Subvention Funding for 2009 was not received from the State of California.

7. Properties which are not in compliance with the Land Conservation Act of 1965 and local contract provisions threaten the viability of the program within Mariposa County.

8. This amendment is in the interest of the health and safety of Mariposa County and its residents. These amendments address many procedural questions which have arisen during processing of projects involving Land Conservation Act contracted lands, which are not addressed by the current policies.

9. These amendments substantially meet the four objectives established for the program by the Board of Supervisors in Resolution No. 2005-546, which were as follows:

   i) All parcels under contract shall be subject to the same standards.
   ii) Implement Objective 1 immediately.
   iii) Preserve as many viable parcels under contract as possible.
iv) Ensure that process is legally defensible.

Objective i) above is important to have a meaningful LCA program in Mariposa County. Contracts are not perpetual, but are rolling contracts that are automatically renewed annually unless a landowner files a notice of non-renewal.

10. The Lien Date changed from March 1st to January 1st starting in January 1st 1997. Any Land Conservation Act Contract, for which a non-renewal has not been recorded as of December 31st of any given year, automatically renews as of January 1st.

11. These amendments are consistent with the Mariposa County General Plan as they address an issue identified by the Mariposa County General Plan, Chapter 10 Agriculture Elements, which is to ensure that substandard agricultural parcels are not recognized through the Certificate of Compliance process during the tenure of the contract and that the sale of substandard contracted parcels does not create premature expectations of residential development.

12. These amendments are consistent with the Mariposa County General Plan as they implement Implementation Measure 10-2a(3) of the General Plan, which reads, "Standards shall be developed for issuance of development permits for substandard sized parcels under Williamson Act contract."

13. The approval of County Policy Amendment No. 2005-230, a comprehensive County-wide Williamson Act (Land Conservation Act) Amendments is exempt from the California Environmental Quality Act (CEQA) under a General Rule Exemption; Section 15061, CEQA Guidelines. The Land Conservation Act is a program enacted to "conserve agricultural lands and the related open space values in California". The program is implemented by a voluntary agreement between the local government (the county) and the landowner, where the landowner chooses, on an annual basis, to accept certain limits on his or her use of the land in return for an explicit tax reduction. The "project" being considered through County Policy Amendment No. 2005-230, is a set of amendments to an existing County policy, originally adopted in 1977, containing "limits on the use of land" to "conserve agricultural lands in California." The amendments are being processed to address changes in state law, to establish review procedures for all parcels under contract for the purpose of ensuring parcels are in compliance with the policies and state law, to ensure that there are written enforcement provisions and procedures in the policy, to specify provisions and procedures in the policy for adjusted boundaries, and to update the list of agricultural production and compatible uses based upon current state law and county code. There is no potential for substantial adverse changes in the physical conditions of the environment which will result from implementation of these amendments to an existing county policy to implement a program enacted to conserve agricultural lands. The amendments will protect the viability of the Land Conservation Act program in Mariposa County and limit development activities and uses on contracted lands. The amended policies will maintain and protect agricultural resources and agricultural uses on contracted lands.
EXHIBIT 2 - RULES OF PROCEDURE TO IMPLEMENT THE CALIFORNIA LAND CONSERVATION ACT OF 1965

Mariposa County
Rules of Procedure to Implement the California Land Conservation Act of 1965
Approved by the Board of Supervisors on March 23, 2010

I. INTRODUCTION

Agricultural lands and their attendant values are an important part of the economy and the rural pastoral fabric in Mariposa County. The County in its General Plan has designated “Agriculture/Working Landscape” to recognize that “lands for the production, extraction, or harvesting of food, fiber, timber and minerals” and “their historically and economically important activities are a major contributing factor to the County’s character.”

With respect to agricultural lands, the Board of Supervisors on October 18, 1977 adopted Resolution 77-157 to implement the California Land Conservation Act of 1965 (LCA), sometimes referred to as the Williamson Act,\(^1\) by providing a program (hereafter “program”) for landowners to receive tax benefits under the California Constitution in return for their land “being used for the purpose of producing an agricultural commodity for commercial purposes” during the term of contract. The California Legislature has determined that this program and the expenditure of public funds are in the public interest and necessary for the promotion of the general welfare. The orderly planning and use of land is in the public interest of all Mariposa County citizens.

The “Rules of Procedure to Implement the California Land Conservation Act of 1965” (hereafter “rules”) are adopted pursuant to Government Code section 51231 and are intended to provide clear and detailed guidance for Mariposa County (“County”) to administer the program and for landowners, farmers and ranchers, and the general public to understand and participate in this important program. More specifically, the rules provide basic criteria and procedures to determine eligibility in the program and they describe the land use restrictions for the agricultural lands enrolled in the program.

These rules, and future amendments to the rules, replace the previous provisions in Resolutions 77-157, 78-8 and 95-350 for all LCA contracts that are executed or automatically renewed after the effective date of these rules. As the LCA, the rules and other related provisions affecting this program are amended, those amendments are incorporated herein. In cases where there is conflict between the terms and provisions of the county policy for LCA contracts, the terms and

\(^1\) The California Land Conservation Act of 1965, also known as the Williamson Act, is codified at Government Code section 51200 et seq. The Act provides for local governments to adopt rules governing the establishment and administration of agricultural preserves and to execute contracts with landowners to preserve the agricultural uses during the term of the contract. (Government Code section 51231.)
provisions of the contract, and the applicable zoning ordinance provisions and requirements, the more restrictive provision shall apply.

II. AGRICULTURAL PRESERVES

A. Designation of Agricultural Preserves

Agricultural preserves shall be established by the County for those areas devoted to agricultural uses as defined in the Land Conservation Act of 1965 (LCA). The establishment of an agricultural preserve is a prerequisite for landowners to enter into a contract pursuant to the LCA (hereinafter “LCA contract” or “contract”) with the County.

Requests to establish a new agricultural preserve shall be filed with the Mariposa County Planning Department (Department) on an application form provided by the Department.

At the time of establishing an agricultural preserve, the Board of Supervisors shall authorize the Chairman of the Board to sign a LCA contract, on a standard form to be hereafter specified by the Board, with any owner of land within the preserve who qualifies for the contract and has requested to enter into such contract with the County and has followed the procedures in IIIA, below.

B. Minimum Size

The minimum size of an agricultural preserve in Mariposa County shall be one hundred and sixty (160) acres or a legal quarter section consistent with the Mariposa County General Plan “Agriculture/Working Landscape” land use classification and the “Agricultural Exclusive Zone (AEZ)” described in the Mariposa County Zoning Ordinance. These acres shall all be contiguous.

III. LAND CONSERVATION ACT (LCA) CONTRACTS

A. Processing and Approval

1. Any landowner within an agricultural preserve meeting the qualification standards may enter into a LCA contract with the County.

2. Requests to execute a LCA contract shall be filed with the Mariposa County Planning Department on an application form provided by the Department.

3. Application information shall include, but not be limited to, the landowner(s) of record, the location of the property, the legal description of the property, the Assessor's Parcel Number (APN), the size of the property, and evidence and verification that the property for the past three (3) years has been used for the purpose of producing an agricultural commodity for commercial uses. The application information shall indicate the landowners' understanding of the LCA, the ensuing contract requirements for a commercial agricultural operation and his or her intention to enter into a LCA contract that will qualify as an enforceable use restriction as specified in Sections 422(a) and (b) of the Revenue & Taxation Code of the State of California. The County may require as part of the application an indemnification agreement and/or a waiver of any and all claims against the County and/or other lead agency for any permit or project involving
the LCA contract, including but not limited to, a building permit application. Any indemnification agreement would only relate to the landowner's legal obligations under the LCA.

4. It is the intent of the County for its staff, the Agricultural Advisory Committee and the Planning Commission to closely scrutinize all applications for a LCA contract to help ensure that the land has been used for commercial agricultural operations for the past three years and will support commercial agricultural operations for the term of the contract.

5. The fees for processing applications shall be periodically established by the Board.

6. The Mariposa County Agricultural Advisory Committee shall review all applications for new or amended LCA contracts and shall forward such applications, along with a Committee recommendation, to the Mariposa County Planning Commission.

7. The Mariposa County Planning Commission shall hold a noticed public hearing on all applications for new or amended LCA contracts and shall forward such applications, along with a Commission recommendation, to the Board of Supervisors.

8. The Board of Supervisors shall hold a public hearing on all applications for new or amended LCA contracts, singularly or jointly. The purpose of the hearing is to provide a venue for all interested parties to inform themselves and present testimony if desired. The Board shall take action on all applications by resolution, upon finding that the application complies with all requirements established by state law and applicable county policies.

B. Term of Contracts.

The minimum term of LCA contracts shall be twenty years with automatic annual renewals as described in the LCA and the ensuing contracts.

C. Parcel Requirements

1. Minimum Size. To be eligible for a LCA contract or to qualify for continuing participation in the program, a parcel must be of adequate size to sustain a "commercial agricultural operation."

To assure that a parcel is being used for a commercial agricultural operation, landowners with LCA contracts shall file a biennial report with the County Assessor by January 30 of years ending in an odd number on a form provided by the Assessor. The report shall provide a full description of the "agricultural production uses" on the parcel for the past two years, how the agricultural commodities were used for commercial purposes, and contain a signed verification by the landowner, under penalty of perjury, that "the land is being used for the purpose of producing an agricultural commodity for commercial purposes." For purposes of this section, agricultural production uses are listed in IIIE and "agricultural use" and "agricultural commodity" are defined in the LCA.²

² See Government Code sections 51201(e) and (b).
Landowners with LCA contracts shall be responsible for completing the report in a timely manner and coordinating with their lessees to assure the information is accurate.

No parcel of less than 160 acres or a legal quarter section in size may be considered for a LCA contract if the agricultural production use is rangeland and pasture for livestock production or forage. Parcels used for rangeland and pasture for livestock production or forage must be used according to customary grazing capacity for commercial agricultural production.

Parcels that are used for intensive farming will only be considered a commercial agricultural operation if the parcel is at least 40 acres or a legal quarter-quarter section in size and the landowner and/or lessee can show that "the land is being used for the purpose of producing an agricultural commodity for commercial purposes" and income from sales of agricultural commodities produced on-site or income from the lease of land used for commercial production of agricultural commodities shall be at least three thousand dollars ($3000.00) per year. These shall be the only sources of income used to calculate whether the land is being used for commercial purposes. If a portion of a contracted parcel is managed for production of an agricultural commodity and a portion of the same contracted parcel is leased, then income from both uses may be counted; however, revenue from other compatible uses or ancillary uses of the land shall not be counted in determining whether there is a commercial agricultural operation. For permanent, non-bearing agricultural crops, such as orchards and vineyards, the plants shall be planted, properly cared for and maintained to produce a commercial crop within the customary period for agricultural production in Mariposa County.

To be considered a commercial agricultural operation, the parcel must be used for "commercial purposes" as defined by Mariposa County Code, Section 17.148.010.

For purposes of these rules, ten LCA contracts in which the County previously executed LCA contracts with landowners for parcels less than 160 acres are considered to meet the minimum parcel size to remain under LCA contract, unless there is a proposal to change the boundaries of the land under section III.D after the effective date of these rules; in which case, the parcels will be subject to the minimum size requirements described herein or unless the parcels otherwise become conforming because they are:

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3 The County acknowledges that the LCA establishes a broad, statewide, presumption that a parcel is large enough to sustain an agricultural use if it is at least 10 acres in size in the case of prime land, or at least 40 acres in size in the case of land which is not prime agricultural land. (Government Code section 51222.) Based on the special and unique characteristics of Mariposa County and its agricultural land, the County, in accordance with Government Code sections 51240 and 51243(a), has determined that larger minimum parcel sizes are necessary to sustain commercial agricultural uses in the County.

4 Intensive farming may include the agricultural production uses described in E.1., except it does not include rangeland and pasture for livestock production.

5 The Agricultural Advisory Committee will review this value annually and it may recommend any adjustments to the Board of Supervisors.

6 This applies to LCA contracts 13, 19, 46, 74, 84-3, 85-4 and Amendment 88-1, 86-4, 86-8, 2000-1, and 2001-2.
managed jointly with adjacent parcels. These contracts and the parcels are otherwise subject to all other applicable requirements.

If the biennial report described above is not submitted to the County by January 30, or if the County deems the report incomplete, the County will send a notice by March 31 to the landowner that will indicate the report has not been received or is not complete. The landowner will have 30 days from the receipt of the notice to submit the completed report to the County. If a completed report is not received at that time, the County will file a notice of nonrenewal for all parcels for which a completed report has not been submitted. As part of the compliance monitoring described in F.1, the County may request additional information and inspect the property, after proper notice, to verify the property is being used for a commercial agricultural operation.

2. **Zoning Restrictions.** All parcels that are part of a LCA contract shall, within one (1) year of the effective date of the LCA contract, be restricted by zoning of said parcel to agricultural use. A completed rezoning application shall be submitted to the Planning Department for such parcel(s) following submittal of a LCA contract application, but prior to recordation of the LCA contract for these parcels. Processing of the rezoning application in accordance with County procedures may occur following recordation of the LCA contract. No applications for change in the agricultural use zoning shall be processed for contracted parcels, unless a notice of non-renewal has been filed and there are two or less years remaining in the contract.

3. **Multiple Parcels.** The following shall apply to multiple parcels:

a) **New Applications.** A new application for a LCA contract may be submitted for multiple legal parcels that are less than the minimum size necessary to sustain a commercial agricultural operation, as described above, but only if the parcels are contiguous and, at the option of the landowner, either: (i) merged prior to executing a LCA contract into a parcel or parcels that complies with the minimum size criteria for a commercial agricultural operation or (ii) the LCA contract shall include an express provision that prohibits the sale of the parcels individually during the term of the LCA contract.\(^7\) Parcels which are not contiguous, even if under one ownership, shall not be eligible for a single contract but will require individual contracts that separately meet the criteria established in these rules.

Parcels are contiguous if they are located adjacent to each other or share an edge or boundary, even if separated by roads, streets, utility easements, or similar rights of way.

b) **Existing Parcels.** For existing parcels under contract on March 23, 2010, a parcel that is less than the minimum size requirements described above is eligible to remain under the existing contract and participate in the program if the landowner can show

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\(^7\) A Parcel Merger Application, which is completed by a 1) Certificate of Compliance and 2) Declaration of Waiver and Merger, shall be recorded prior to or concurrently with the LCA contract.

\(^8\) This section does not preclude the sale of the combined parcels together to one person or entity pursuant to a single conveyance instrument.
that the multiple parcels, even if not contiguous, are jointly operated for commercial agricultural production. For these purposes, the County will consider joint operations on parcels located in adjoining counties if the parcel or parcels are contiguous to a parcel in Mariposa County under LCA contract. If the landowner cannot meet these requirements, the County shall non-renew the contract(s) for any parcel that does not meet the minimum size requirements.

4. **Appraisal.** For appraisal purposes only, existing and future home sites on parcels under LCA contract shall be allocated parcel sizes of no less than 2.5 acres.

**D. Divisions and Changes to Parcel Configurations**

All proposals to change boundaries of land under LCA contract shall comply with the California Subdivision Map Act (Government Code section 66473 et seq.) and the minimum parcel size requirements for commercial agricultural productivity described herein. The boundaries of land within an agricultural preserve and under LCA contract shall not be changed where any one (1) of the parcels so modified will be less than the minimum parcel sizes described in C, above. Additionally, "no parcel of real property in the AEZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance where any one (1) of the parcels so created will be less than one hundred sixty (160) acres or a legal quarter section in gross area." (Section 17.40.A.2, Mariposa County Code.) Proposals to change boundaries of land under contract include: lot line adjustments, parcel mergers, land divisions, and certificate of compliance applications.

Applications on LCA contracted lands, which propose to adjust or amend parcel configurations, shall be reviewed pursuant to state law, county policy and contract requirements. Applications for land divisions shall be conditioned to require that new contracts be recorded for each parcel modified by the division; except that transfers of ownership to immediate family members will remain subject to the existing contract as described in Government Code section 51230.1 and III.C.3(b), herein. Applications for lot line adjustments shall be conditioned to require that contracts be amended to reflect amended parcel configurations, prior to completion of the lot line adjustment. State law provisions regulating divisions and adjustments of contracted lands must be met.

Certificate of compliance applications shall not be processed on LCA contracted lands, unless accompanied by a Parcel Merger Application for parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and these rules. For example, the County could process applications for certificates of compliance, if they were accompanied by merger applications so that all resulting parcels could sustain a commercial agricultural operation and meet the minimum size described herein. If an applicant meets these and any other applicable requirements for processing of a certificate of compliance, a contract amendment shall also be required, so that new LCA contracts are executed for each resulting parcel.

These rules are not intended to affect the underlying historic parcels in Mariposa County, although a landowner who executes a LCA contract and desires to receive the tax benefits of this program will be subject to these rules for land under contract during the term of the contract.

**E. Agricultural Production and Compatible Uses**
For landowners to receive the tax benefits under the California Constitution and the Revenue and Tax Code, the LCA provides that the land must be "devoted to agricultural use" and every LCA contract shall "provide for the exclusion of uses other than agricultural, and other than those compatible with agricultural uses, for the duration of the contract." (Government Code sections 51242(a); 51243(a).) As such, the primary use of contracted land shall be for commercial agricultural production uses including production of agricultural commodities for sale in wholesale or direct marketing channels. Agricultural commodity means "any and all plant and animal products produced in this state for commercial purposes." (Government Code section 51201(a).)

Agricultural production and compatible uses shall be defined as follows:

1. **Agricultural Production Uses**: The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production uses and thus allowed within an agriculture preserve on LCA contracted lands:
   
i. Rangeland and pasture for livestock production and forage.
   
   ii. Intensive farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, other ornamental crops, and confined animal facility operations.
   
   iii. Livestock production for food and/or fiber.
   
   iv. Dairies.
   
   v. Keeping of honey bees.
   
   vi. Commercial breeding and training of horses, including training for racing as well as stock horses. A finding must be made, based upon evidence, that the primary function of the operation is commercial horse breeding or training for sale and this is the source of revenue or income to cover the cost(s) of the operation.
   
   vii. Fiber for basket-making and related commercial purposes.
   
   viii. Plant products used for producing biofuels.
   
   ix. Accessory uses and structures appurtenant and necessary to the commercial agricultural operation, including one-family dwellings located on the land and occupied by persons directly engaged in the commercial agricultural operation (including both lessors and lessees).

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9 The Agriculture/Working Landscape Land Use Classification "identifies lands where the primary use is the production of agriculture...for economic benefit, which incidentally have scenic value and appear as open space areas." (General Plan 5.3.04A.)
2. **Compatible Uses:** The following land uses shall be deemed compatible with agricultural production uses and the related scenic and open space values and thus allowed within agricultural preserves, provided that these land uses are not the principal use and the land uses overlay and do not displace the agricultural production use, described above.

i. Forestry, but not including any processing facilities.

ii. Utility lines and substations.

iii. Processing and vending facilities that are related to the agricultural production uses on the LCA contract parcel.

iv. Recreation that does not displace agricultural production use, but not including permanent structures.

v. Private airstrips and heliports if used as a part of an agricultural production use on-site.

vi. Production of game animals and fish.

vii. Mining if conducted in accordance with all requirements of county ordinance, state and federal law, including the Surface Mining and Reclamation Act of 1975. Reclamation shall be to agricultural production and compatible uses pursuant to Government Code 51238.2. A finding shall be made that the proposal is of limited extent and duration, so as to meet compatibility principles of state law.

viii. Horses raised or maintained primarily for ranching work.

ix. Growing and harvesting of hardwoods.

x. Home enterprises conducted entirely within existing conventional single family residential structures as determined by the Planning Director, and operated by permanent residents. Home enterprises on contracted lands shall not create any significant traffic impacts that affect contracted parcels and there shall be no external evidence of the existence of the business.

Agricultural production and compatible uses are also subject to all applicable Zoning Ordinance provisions and requirements.

3. **Residential Uses.** Any residential structure on LCA contract land must be occupied by persons directly engaged in the commercial agricultural operation. Landowners who lease their land for commercial agricultural uses may reside on a permanent or temporary basis on contracted land to monitor the lease arrangements and provisions pursuant to this restriction.

For residential development on contracted parcels that meet the minimum parcel requirements, there is no discretionary review for any proposed single family residential home; although the structures must be a single family dwelling as determined by the Planning Director. Any proposed residential development which creates more than one residence per property owner is subject to review by the Planning Director, and if
necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan land use designation. All residential building permits on parcels under LCA contract shall be conditioned upon the applicant executing a new LCA contract; but only if the LCA contract covers multiple parcels that are under different property ownership.

No new residential dwelling permits may be issued to a contracted parcel, unless the parcel is in full compliance with state law, county policy, and contract requirements. Employee and agricultural laborer housing, such as duplexes or dormitories, shall comply with the provisions in Government Code section 51230.2 and are subject to review by the Planning Director, and if necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan land use designation.

Any other proposed residential development is subject to review by the Planning Director, and if necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan designation. As described below, the County shall seek enforcement pursuant to Government Code section 51250 et seq. against landowners who have materially breached their contracts by constructing any commercial, industrial or residential building not allowed by the LCA contract.

F. Enforcement and Monitoring

1. Compliance Monitoring

The Planning Department and Assessor’s Office shall actively monitor this program by periodically reviewing the biennial reports in III.C.1 to determine whether landowners are complying with the program by using their property for commercial agricultural operations and to assure the intent of the program to encourage commercial agricultural production is being carried out in Mariposa County. When it appears to the Planning Department or the Assessor’s Office that a landowner is not complying with state law, these rules, other County policies or the terms in the LCA contract, the County will formally notify the landowner about the potential violations. The County will provide one year for the landowner to rectify any violations before beginning the enforcement proceedings described below.

2. Enforcement

The County shall actively enforce the terms of the program and ensuing contracts and shall take any action legally available to enforce state law, these rules, other County policies, and the terms set forth in a LCA contract. Any conveyance, contract or authorization (whether oral or written) by the landowner or his or her successors in interest that would cause use of the property contrary to state law, these rules, and the terms of the contract shall be enforced by the County by an action filed in Superior Court of the County for the purpose of compelling compliance or restraining breach thereof. This includes the following non-exclusive remedies:

i. County shall seek a breach of contract claim under the provisions of the LCA contract. If owner materially breaches the contract, owner shall pay County one half
(1/2%) percent of the restricted assessed value of the land subject to the LCA contract for each day owner is in breach as liquidated damages;

ii. Utilize the procedures in Government Code section 51250 (AB 1492) for material breaches;

iii. The County shall also seek non-renewal of the contract pursuant to the contract in accordance with Government Code section 51245.

G. Termination of Contracts

Methods for terminating a contract include non-renewal, cancellation, and public acquisition.

1. Processing and Approval for Rescissions and Cancellations

Requests to rescind or cancel a contract shall be filed with the County Planning Department on an application form provided by the Department.

The County Agricultural Advisory Committee shall review all applications for contract rescissions and cancellations and shall forward such applications, along with a Committee recommendation, to the Planning Commission.

The County Planning Commission shall hold a noticed public hearing on all applications for rescission and cancellations and shall forward such applications, along with a Commission recommendation, to the Board of Supervisors.

The Board of Supervisors shall hold a public hearing on all applications for contract rescissions and cancellations. The purpose of such hearing is to permit all interested parties to inform themselves and present testimony if desired. The Board shall take action on all applications by resolution, upon finding that the application complies with all requirements established by state law and county policy.

2. Non-renewal

Non-renewal of a LCA contract is the preferred method for a landowner or the County to terminate a contract. To begin the process to terminate a LCA contract, a landowner shall serve a notice of non-renewal as described in Government Code sections 51245, 51254 and 51255 and the LCA contract by August 31 in any given year (to become recorded prior to December 31 to be effective on January 1 the following year) and pay the applicable processing fee and meet other applicable processing requirements. When the County initiates the non-renewal, it shall serve the notice of non-renewal by August 31.

When a landowner seeks nonrenewal for a portion of land under a contract or a portion of a parcel, the County shall review the remaining portions of the parcel(s) or contract(s) to determine if the remaining portion meets the LCA requirements and these rules. If the remaining portion does not meet these requirements, the landowner or County will file for nonrenewal of the remaining portion of the parcel(s) or contract(s).

3. Cancellation
A landowner may request cancellation to terminate a LCA contract, but the cancellation will only be approved by the County under extraordinary circumstances as provided in the Government Code section 51280 et seq.

The County shall assess a cancellation penalty of twenty five percent (25%) of the unrestricted fair market value of the property after the LCA contract is no longer imposed on the property.

4. Public Acquisitions

LCA contracts may become void for land that is acquired by the federal, state or local governmental agency. The LCA in Government Code section 51290 contains policies and restrictions to avoid public acquisition of lands within agricultural preserves. State and local governmental agencies are required to refer proposals to acquire land within an agricultural preserve to the State Department of Conservation for its review and response prior to acquisition.
Attachment 7
Letters from previous property owner and neighbor
Glenn and Nancy White  
3386 Woodland Drive  
Mariposa, Ca 95338  
209-966-2438

To Who It May Concern,

This letter is in regards to the property located at 3388 Woodland Drive in Mariposa, CA, currently owned by Mike and Kathy Copeland who purchased it on June 18, 2010. It was purchased from Jeanne Koploy and Bruce Burton.

Janice Cross lived on the property as a caretaker for Koploy and Burton.

My property is adjacent to the Copeland property and we would like to verify that Janice Cross ran around 80 or more head of goats and sheep on the property since the fall of 2006.

Feel free to contact us if you have any further questions.

Glenn White  
Date  

Nancy White  
Date
To: Kathy Copeland  
Re: 3388 Woodland Dr.  
Mariposa, CA 95338

Bruce Burton and I owned this property for nine years, beginning in 2001. At the time of purchase, we used the property to provide some spring and summer pasture for our herd of about 90 head of dairy goats. This went on until summer of 2006.

From August 19, 2006 through June of 2010, Janice Lee Cross lived at the property and ran a small livestock operation consisting of primarily sheep, dairy and meat goats as well as a few cattle and some poultry. The numbers of sheep and goats at any one time would range from about 120 at the high end and never below 50. Average was probably about 80.

These animals were marketed for meat and for dairy goat production. She both raised lambs and kids as well as did resale of purchased stock. The meat animals were usually sold to private buyers or taken to valley livestock auction yards. The dairy animals were sold to goat dairies primarily in the adjacent valley. Mr. John Vaz, who has a dairy cow and dairy goat operation in Merced was a frequent buyer of her stock.

Best regards,

Jeanne Koploy
Elkhorn Ranch
Royal Oaks, CA 95076
Attachment 8
Photos provided by applicant
Gail Copeland's Photos - At Lisa's in San Fran.

Photo 57 of 376 - Back to album - Gail's Photos - Gail's Profile

From the album:
At Lisa's in San Fran by Gail Copeland

http://www.facebook.com/
Attachment 9
Draft LCA Contract
MARIPOSA COUNTY
LAND CONSERVATION ACT CONTRACT

CALIFORNIA LAND CONSERVATION ACT CONTRACT NO. 2010-104, made
and executed this ___ day of ____, 20___, by and between Charles Michael Copeland
and Mary Kathrine Copeland, or the successors thereof, hereinafter referred to as
"OWNER", and the COUNTY OF MARIPOSA, a political subdivision of the State of
California, hereinafter referred to as "COUNTY".

WITNESSETH:

WHEREAS, OWNER is the legal owner of and possesses certain real property
herein referred to as the subject property and located within Mariposa County, which
property is presently devoted to commercial agricultural production uses and
compatible uses; and

WHEREAS, the subject property is described in Exhibit "A" which is made a part
of this Contract; and

WHEREAS, said property is located in an Agricultural Preserve heretofore
established by Resolution _____, a map of which preserve is recorded with the
Recorder of the County of Mariposa in Book _ of Agricultural Preserve Maps, Page _;
and

WHEREAS, both OWNER and COUNTY desire to limit the use of said property
to commercial agricultural production uses and compatible uses in order to discourage
premature and unnecessary conversion of such land from agricultural uses, recognizing

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that such land has definite public value as open space and that the preservation of such land in agricultural production constitutes an important physical, social, aesthetic, and economic asset to COUNTY to maintain the agricultural economy of COUNTY and the State of California; and

WHEREAS, the common interest is served by encouraging and making feasible the orderly expansion of development of the urban and commercial sectors of COUNTY to avoid the disproportionate expense involved in providing municipal services to scattered development; and

WHEREAS, both OWNER and COUNTY intend that the terms, conditions, and restrictions of this Contract conform to the California Land Conservation Act of 1965, as amended, so as to be enforceable restriction under the provisions of California Revenue and Taxation Code Section 422, and that said Contract shall continue to be, through its initial term and any extension thereof, an enforceable restriction within the meaning and for the purposes of Article XXVIII of the California Constitution.

NOW, THEREFORE, the parties, in consideration of the mutual covenants and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. The within Contract is made and executed pursuant to the California Land Conservation Act of 1965, as amended, and is subject to all provisions of said Act as are specifically made applicable to this Contract, including recordation by COUNTY.

2. During the term of this Contract or any renewals thereof, the above-described land shall not be used for any purpose, other than the production of agricultural commodities for commercial purposes and compatible uses as listed and defined in Resolution No. 10-150 dated March 23, 2010, and all amendments thereto, implementing the California Land Conservation Act of 1965 in the County of Mariposa; said Resolution No. 10-150 is attached hereto as Exhibit "B" and made a part hereof as though set out in full.

3. The Board of Supervisors of COUNTY may, from time to time and during the term of this Contract or any extensions thereof, by resolution, add to those uses listed in the Resolution establishing the Preserve within which the land is located;
provided, however, said Board shall not eliminate, without the written consent of OWNER, a compatible use during the term of this Contract or any renewals thereof.

4. Upon the filing of any action in eminent domain for the condemnation of the fee title of any land described herein or of less than a fee interest which will prevent the land being used for any authorized use, or upon the acquisition in lieu of condemnation of the fee title of any land described herein or of less than a fee interest which will prevent the land being used for any authorized use, this Contract is null and void upon such filing or acquisition as to the land described herein, and the condemning agency shall proceed as if the Contract never existed.

5. This Contract shall be effective commencing on the 1st day of January, 20__, and shall remain in effect for a period of twenty (20) years therefrom and during such renewals of this Contract. This Contract shall be automatically renewed for a period of one year at 12:01 AM on the 1st day of each January, unless notice of non-renewal is given as provided by Section 51245 of the Government Code. Such notice of non-renewal shall be in written form and filed no later than September 30, to become effective on the following January 1, and shall be recorded by COUNTY irrespective of which party gives notice. Under no circumstances shall a notice of renewal be required of either party to effectuate the automatic renewal option of this paragraph.

6. OWNER shall not receive any payment from COUNTY in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of the within Contract is the substantial public benefit to be derived therefrom and the advantage which will accrue to OWNER as a result of the effect on the method of determining the assessed value of the land described herein due to the imposition of the limitations on its use contained herein.

7. The Contract shall run with the land described herein and, upon division, to all parcels created therefrom, and shall be binding upon the heirs, successors, and assigns of OWNER. The Contract shall be transferred from COUNTY to a succeeding city or a county acquiring jurisdiction over all or any portion of subject property. If a city acquires jurisdiction over all or a portion of the subject property by annexation proceedings, the city shall succeed to all rights, duties, and powers of COUNTY under the Contract; provided, however, that if the subject property or a portion thereof was
within one mile of the city at the time the Contract was initially executed and the city protested the exclusion of the Contract pursuant to Section 51243.5 of the Government Code, the city may state its intent not to succeed to the rights, duties, and powers in the resolution of intention to annex. If the city states its intent not to succeed to the rights, duties, and powers of COUNTY under the Contract, the Contract becomes null and void as to the subject property actually annexed on the date of annexation. If only part of the land under Contract was within one mile of the city, the Contract shall become null and void only to the extent of that part.

8. Except as provided in Section 9, this Contract may be cancelled as to any or all of the land described in the first WHEREAS clause by mutual agreement of COUNTY and OWNER after public hearing has been held in accordance with the provisions of Section 51284 of the Government Code. The Assessor of the County of Mariposa shall revalue the land to which the cancellation applies as soon as possible after the cancellation, use the cancellation date as the valuation date, and apply the County’s latest announced ratio to the full cash value to determine the assessed value. The assessed value shall be subject to equalization pursuant to Section 1604 of the Revenue & Taxation Code. When the assessed valuation becomes final, the OWNER shall pay COUNTY, as deferred taxes, an amount equal to twenty-five percent (25%) of the new assessed valuation of the property. If, after the effective date of the Contract, the announced County ratio of assessed to full cash value is changed, the percentage payment to the COUNTY shall be changed so that no greater percentage of full cash value will be paid. If, at the date of cancellation, the Contract has previously been subject to a notice of non-renewal, the amount due shall be reduced by the proportion that the whole number of years the Contract remained in effect measured from the date the notice of non-renewal was given bears to twenty years.

9. This Contract may be cancelled by mutual agreement of COUNTY and OWNER without payments or public hearing if it is replaced by an enforceable restriction authorized by Article XXVIII of the California Constitution or whenever there is no operative legislation implementing said Article at the time cancellation is requested by OWNER or whenever the implementing legislation is not as favorable to OWNER as existing on the renewal date next preceding the cancellation request.
10. The notice of cancellation shall be recorded with the County Recorder, and the regularity of procedures as required by this Contract shall operate as provided in Section 51286.

11. In the event the land under this Contract is divided by the filing of a Parcel Map or Final Map, a Contract identical to the Contract then covering the original parcel shall be executed by OWNER on each parcel created by the division at the time of the division. Any applications for lot line adjustments, parcel mergers, and/or Certificates of Compliance for land under this Contract, require the Contract to be amended to reflect the amended parcel configurations. Certificate of compliance applications shall not be processed for land under this contract if resultant parcels will not meet the minimum parcel size and agricultural production requirements of state law and Resolution No. 10-150. If all requirements can be met to process a Certificate of Compliance application for land under this Contract, a Contract identical to the Contract then covering the original parcel shall be executed by OWNER on each resultant parcel. Any agency making an order of division or the county which has jurisdiction shall require, as a condition of the approval of the division, the execution of the contracts provided for in this paragraph. Transfers of ownership to immediate family members will remain subject to the existing contract as described in Government Code Section 51230.1.

12. Upon receipt of deferred taxes payable pursuant to Paragraph 8, said taxes shall be distributed as provided in Section 51283(d) of said Act.

13. Section 51283.3 of said Act shall be applicable to the deferred tax payments payable pursuant to Paragraph 8.

14. OWNER, upon request of COUNTY, shall provide information relating to OWNER’S obligation under this Contract.

15. Removal of any land under this Contract from an Agricultural Preserve, either by change of boundaries of the Preserve, disestablishment of the Preserve, or nulling and voiding of the Preserve pursuant to Sections 51201.1 and 51243 (b) of the Government Code, shall be the equivalent of a notice of non-renewal by COUNTY for purposes of Section 422 of the Revenue & Taxation Code.

16. The provisions, conditions, and restrictions of Resolution No. 10-150, attached hereto as Exhibit “B” entitled “Mariposa County Resolution No. 10-150 County
Wide Williamson Act (Land Conservation Act) Amendments, As Amended, in the County of Mariposa, are hereby incorporated herein as though set out in full and shall be a part of this Contract on adoption by reference.

17. Any conveyance, contract, or authorization (whether written or oral) by OWNER or his successors in interest which would permit use of the subject property contrary to the terms of the Contract or failure to use the property consistent with the provisions herein will be deemed a breach of the Contract. Such breach may be enforced by COUNTY by an action filed in the Superior Court of the COUNTY for the purpose of compelling compliance or restraining breach thereof. It is understood and agreed by the parties hereto that the enforcement proceedings provided in the Contract are not exclusive, and both OWNER and COUNTY may pursue their legal and equitable remedies. OWNER agrees to pay to COUNTY reasonable attorneys fees and costs of suit together with any other costs necessary for enforcement of the provisions of the Contract.

18. If OWNER materially breaches this Contract, OWNER shall pay COUNTY one-half percent (1/2 ‰) of the restricted assessed value of the land subject to this Contract per day for each day OWNER is in breach as liquidated damages. It is understood and agreed that damages for material breach of this Contract by OWNER are, and will continue to be, impracticable and extremely difficult to ascertain and determine. Execution of this Contract shall constitute agreement by COUNTY and OWNER that one-half percent (1/2 ‰) of the restricted assessed value of the land is the actual damage to COUNTY and the general public caused by a material breach of this Contract by OWNER, and that such sum is liquidated damages and shall not be construed as a penalty. No damages shall be recoverable if the OWNER remedies or has commenced and thereafter diligently pursues such action required to remedy any material breach within sixty (60) days after the date written notice of said material breach is sent to OWNER by COUNTY. Each term and condition of this Contract shall be deemed to be both a covenant and a condition.

19. The provisions of this Contract may be enforced by COUNTY in an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining breach thereof. It is understood that nothing herein contained shall
constitute a waiver of any right which the COUNTY may now or in the future have to seek specific performance of this Contract or other injunctive relief. It is further understood and agreed that these remedies are not exclusive, and both OWNER and COUNTY may pursue their legal and equitable remedies.

20. It is further agreed that in the event OWNER violates any term or condition of this Contract resulting in a material breach thereof, OWNER shall become obligated to pay such sum as the court shall fix as reasonable attorney fees in any action taken to enforce said terms and conditions.

21. OWNER declares, under penalty of perjury, that the persons signing below are the only persons with legal and security interests in the subject property and agrees to indemnify, defend, and save harmless the COUNTY from any and all claims, suits, or losses caused by prior claims of other owners or security holders. This declaration and hold harmless clause are binding only upon OWNER. Signatures of holders of security interests shall only be evidence of notice of the Contract and acceptance by the holders of security interest of the binding restrictions herein.

22. OWNER and holders of security interests designate the following person as the Agent For Notice to receive any and all notices and communication from COUNTY during the life of the Contract. OWNER will notify COUNTY in writing of any change of designated person or change of address for him:

DESIGNATED AGENT:

MAILING ADDRESS:
IN WITNESS WHEREOF, the parties hereto have executed the within Contract the day and year first above written.

"OWNER"

Charles Michael Copeland

Signature

Mary Kathrine Copeland

Signature

COUNTY OF MARIPOSA

KEVIN CANN
Chair, Board of Supervisors

APPROVED AS TO FORM:  ATTEST:

STEVEN W. DAHLEM  MARGIE WILLIAMS
County Counsel  Clerk of the Board

Land Conservation Act Contract No. 2010-104

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Exhibit “B”
(Insert Copy of Resolution No. 10-150 here)
Exhibit "A"

All that real property situate in the County of Mariposa, State of California, described as follows:
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of ______________________________

On __________________________ before me, __________________________

(personal name and title of the officer)

personally appeared __________________________

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph
is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public __________________________

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

>Title or description of attached document

>Title or description of attached document continued

Number of Pages ______ Document Date ____________

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

☐ Individual(s)
☐ Corporate Officer __________________________
☐ Partner(s)
☐ Attorney-in-Fact __________________________
☐ Trustee(s)
☐ Other

(Date)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be
properly completed and attached to that document. The only exception is if a
document is to be recorded outside of California. In such instances, any alternative
acknowledgment verbiage as may be printed on such a document so long as the
verbiage does not require the notary to do something that is illegal for a notary in
California (i.e. certifying the unauthorized capacity of the signer). Please check the
document carefully for proper notarial wording and attach this form if required.

☐ State and County information must be the State and County where the document
is to be recorded.
☐ Date of notarization must be the date the signer(s) personally appeared which
must also be the same date the acknowledgment is completed.
☐ The notary public must print his or her name as it appears within his or her
commission followed by a comma and then your title (notary public).
☐ Print the name(s) of document signer(s) who personally appeared at the time of
notarization.
☐ Indicate the correct singular or plural form by crossing off incorrect forms (i.e.
beings/there is one) or circling the correct forms. Failure to correctly indicate this
information may lead to rejection of documents recorded.
☐ The notary seal impression must be clear and photographically reproducible,
impression must not cover text or lines. If seal impression is unclear, revise if
a sufficient area permits, otherwise complete a different acknowledgment form.
☐ Signature of the notary public must match the signature on file with the office of
the county clerk.
☐ Additional information is not required but could help to ensure this
acknowledgment is not misused or attached to a different document.
☐ Indicate title or type of attached document, number of pages and date.
☐ Indicate the capacity claimed by the signer. If the claimed capacity is a
corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
☐ Securely attach this document to the signed document.
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of __________________________

On __________________________ before me, __________________________ (Here insert name and title of the officer)

personally appeared __________________________

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

__________________________ (Signature of Notary Public)

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages ______ Document Date ______

(Additional Information)

CAPACITY CLAIMED BY THE SIGNER

☐ Individual(s)
☐ Corporate Officer

☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the money section of a separate acknowledgment form must be properly completed and attached to this document. The only exception is if a document is to be recorded outside of California. In such instances, an alternative acknowledgment verbage may be printed on such a document so long as the verbage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper wording and attach this form if required.

- State and County information must be the State and County where the document is to be recorded.
- The date of acknowledgment must be the date the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of acknowledgment.
- Indicate the correct singular or plural form by checking off the correct form(s) (i.e. individual/individuals is one or two) or circling the correct form. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and legible and reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- Additional information is not required but could help to ensure this acknowledgment is not assumed or attached to a different document.
- Indicate title or type of attached document, number of pages and date.
- Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.