DEPARTMENT: Planning

BY: Sarah Williams, Interim Director
PHONE: 966-0303

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt resolution finding the proposed Don Pedro Wastewater Treatment Plant on Williamson Act Contracted Lands is a compatible use in a Land Conservation Act Contract pursuant to Exhibit A of Mariposa County Resolution No. 77-157.

Item is scheduled based upon Board of Supervisors direction provided following public hearing on June 22, 2004. Although Board adopted findings for locating a public improvement in an Agricultural Preserve on this date, action must also be taken relative to the Land Conservation Act contract use restrictions.

Recommended action is based upon specific characteristics and design of the facility, as well as the size of the project site and the future use of the majority of the property for livestock grazing. Public Works has reviewed and approved the proposed action.

Recommended action includes direction to staff to process a Notice of Non-Renewal for the project parcels. Following recordation, the parcels will be removed from contract in 20 years.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

- February 17, 2004 – Board authorized application for loan from U.S. Department of Agriculture
- February 24, 2004 – Board authorized contract for facility design
- April 6, 2004 – Board authorized contract for environmental services & cultural resources survey
- June 22, 2004 - Board conducted public hearing and adopted resolution adopting negative declaration for county acquisition of property, authorized purchase of property, and authorized location of public improvement in agricultural preserve

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Revise findings supporting action, or
Cancel contract, which would result in need to pay cancellation penalties to State

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

Attachments:
1. Proposed Resolution

CLERK’S USE ONLY:
Res. No.: 04-314
Vote – Ayes: 5
Noes: 0
Absent: 0
Approved
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: ____________
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: __________________________________________________________________
Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended
( ) No Opinion
Comments:

CAO: __________

Revised Dec. 2002
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 2004-314 A Resolution Finding the Proposed Don Pedro Wastewater Treatment Plant on Williamson Act Contracted Lands is a Compatible Use in a Land Conservation Act Contract Pursuant to Exhibit A of Mariposa County Resolution No. 77-157

WHEREAS the Mariposa County Board of Supervisors adopted Resolution No. 77-157 on the 18th day of October, 1977; and

WHEREAS Resolution No. 77-157 implements the California Land Conservation Act of 1965, as amended, in the County of Mariposa; and

WHEREAS Exhibit A of Resolution No. 77-157 establishes “Agricultural Uses” and “Compatible Uses”, and these are the uses which are allowed on parcels which are governed by a Land Conservation Act Contract; and

WHEREAS the Mariposa County Board of Supervisors maintains the Don Pedro 1-M, a dependent special district providing sewer services to a golf course and clubhouse, and 341 residential parcels, including 207 single family parcels and 134 townhouse parcels within a portion of the Lake Don Pedro Subdivision in Mariposa County; and

WHEREAS based upon a Cease and Desist Order by the California Regional Water Quality Control Board, the Mariposa County Board of Supervisors has determined the need to acquire additional acreage for construction of a new wastewater treatment plant; and

WHEREAS the County of Mariposa explored the acquisition of properties adjacent to the Lake Don Pedro subdivision but outside of an agricultural preserve; and

WHEREAS there is limited area in the vicinity of the existing wastewater treatment plant which is feasible for development of a new wastewater treatment plant based upon existing development, existing development’s incompatibility with a new wastewater treatment plant, small parcel sizes within the subdivision, topography, soils, and the layout of the existing wastewater collection system; and

WHEREAS the Board of Supervisors determined that there are two approximately 40-acre parcels; commonly known as APN 001-260-015 and APN 001-260-016 which meet the engineering suitability criteria for the new wastewater treatment plant; and
WHEREAS these two parcels are governed by Mariposa County Land Conservation Act Contract No. 23, executed on the 28th day of February, 1978, by and between Mazie and Wells Woolstenhulme, or the successors thereof, and the County of Mariposa; and

WHEREAS pursuant to the Williamson Act, California Land Conservation Act of 1965, Government Code, Section 51291, the County of Mariposa advised the Director of Conservation of its intention to consider the location of public improvements within an agricultural preserve; and

WHEREAS, the County of Mariposa provided the Director of Conservation with the information he requested in order to substantiate the findings for locating public improvements within an agricultural preserve as mandated by Government Code, Section 51292; and

WHEREAS on June 21, 2004 the Department of Conservation provided written comments and stated they agreed that the County of Mariposa could make the findings necessary for locating public improvements in an Agricultural Preserve; and

WHEREAS the Board of Supervisors did hold a noticed public hearing on June 22, 2004 and considered all of the information in the public record, including staff correspondence, the initial study and proposed negative declaration, testimony presented by the public and representatives of the California and Mariposa County Farm Bureau concerning the proposal, and comments from the Department of Conservation; and

WHEREAS on June 22, 2004 the Mariposa County Board of Supervisors adopted Resolution No 04-301 with findings, adopting a Negative Declaration, authorizing the purchase of real property, and authorizing location of a public improvement in an Agricultural Preserve; and

WHEREAS because the purchase of real property was negotiated, the terms and provisions of Land Conservation Act No. 23 are still in full force and effect for the subject properties; and

WHEREAS Mariposa County Resolution No. 77-157 provides that the “Agricultural Production” and “Compatible Uses” may be amended by the Board of Supervisors; and

WHEREAS Exhibit A of Mariposa County Resolution No. 77-157 provides that those uses which in the opinion of the Board of Supervisors may be substantially similar in nature to the listed “Compatible Uses” shall be permitted; and

WHEREAS there are specific and unique characteristics of the proposed wastewater treatment plant and the subject properties, and the county’s intentions for future use of the site.

BE IT THEREFORE RESOLVED THAT the Board of Supervisors hereby determines that the Don Pedro Wastewater Treatment Plant and wastewater disposal is a “Compatible Use” pursuant to Mariposa County Resolution No. 77-157.
BE IT RESOLVED THAT this action is based on the conceptual design proposal and project information as follows:

The project site is approximately 80 acres in size. The acreage required to house permanent structures, the treatment element, is no greater than 2 acres in size. The storage pond will occupy approximately 6 acres. The acreage required for the effluent disposal is approximately 46 acres in size. The disposal area will consist of irrigation lines and spray emitters or a drip system, and the disposal area will be maintained as irrigated pasture. The remaining acreage, approximately 26 acres, will be undeveloped open space as required for protection of vernal pools and to maintain appropriate setbacks from adjacent parcels. The irrigated pasture, and portions of the open space on the project site will be maintained and used for livestock grazing. The area to be maintained and used for livestock grazing is approximately 60 acres or 75% of the project site. The county has negotiated a 10-year contract option for continued use of the approximately 60 acres of the site for livestock grazing.

BE IT RESOLVED THAT this action is based on the following findings supported by substantial evidence in the public record:

Finding No. 1: The use will not significantly compromise the long-term productive agricultural compatibility of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

The site is currently used for dry-land cattle grazing. The use will result in permanent improvements to a maximum of 2.5% of the 80-acre site (2-acres), however the use will enhance the agricultural productivity of approximately 57.5% of the site (46-acres in irrigated pasture) based upon the area to be irrigated and the county’s commitment to continue use of the site for livestock grazing. Irrigated pasture is significantly more productive for livestock grazing than non-irrigated pasture.

The use of the site as proposed will have no impact on other contracted lands in agricultural preserves.

Finding No. 2: The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

Based upon the project description, which includes continued use of the site for livestock grazing, and the county’s 10-year contract options for grazing, the use will have no impact on agricultural operations on the site or adjacent contracted lands. The project will enhance the agricultural productivity of approximately 57.5% of the project site. The project may have an indirect positive impact on agricultural land conversion, because it will ensure that there are adequate services to allow existing residential parcels in the Lake Don Pedro subdivision to be developed.

The use of the site as proposed will have no impact on agricultural operations on other contracted lands in agricultural preserves.
Finding No. 3:  The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

The use will have no impact on removal of adjacent contracted land from agricultural or open-space use, as the use of the site as proposed will be compatible with surrounding agricultural uses. The project may have an indirect positive impact on agricultural lands conversion because it will ensure that there are adequate services to allow existing residential parcels in the Lake Don Pedro subdivision to be developed.

Finding No. 4:  The proposed use has similar characteristics to those compatible uses currently listed in Exhibit A of Mariposa County Resolution No. 77-157.

The proposed use has limited areas of permanent improvements. The current list of compatible uses in Mariposa County Resolution No. 77-157 includes facilities which have permanent improvements, including utility substations, vending facilities, private airstrips and mining.

The proposed use has an approximately 6 acre pond and open space areas for protection of vernal pools. The current list of compatible uses includes uses which would necessitate pond or other water improvements and open space uses, including the raising of game birds and fish, recreation uses, and forestry uses.

Finding No. 5:  Based upon acreage, the principle use of the site will remain in an agricultural production use. Approximately 75% of the site will continue to be used for livestock grazing, and the productivity of 46% of the site will be significantly increased by this project.

BE IT FURTHER RESOLVED based upon this action and findings, the Don Pedro wastewater treatment plant and wastewater disposal as proposed and described herein is permitted within the Land Conservation Act Contract.

BE IT FURTHER RESOLVED the Board of Supervisors hereby directs staff to commence the process for recordation of Notice of Non-Renewal for the site.

BE IT FINALLY RESOLVED should project amendments be proposed which are inconsistent with the conceptual design proposal and project description and findings described herein, the determination of compatibility shall be forwarded to the Mariposa County Board of Supervisors for further review and action.

ON MOTION BY Supervisor Balmain, seconded by Supervisor Bibby; this resolution is duly passed and adopted this 6th day of July, 2004 by the following vote:

AYES: STETSON, BALMAIN, BIBBY, PARKER

NOES: NONE

EXCUSED: PICKARD

ABSTAIN: NONE
GARRY R. PARKER, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

THOMAS GUARINO
Mariposa County Counsel
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: SARAH WILLIAMS, Interim Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: RESOLUTION FINDING PROPOSED DON PEDRO WASTEWATER TREATMENT PLANT ON WILLIAMSON ACT CONTRACT LANDS IS A COMPATIBLE USE IN A LAND CONSERVATION ACT CONTRACT
Resolution No. 04-314

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 6, 2004

ACTION AND VOTE:

Approval of the Consent Agenda (See End of the Minutes)

BOARD ACTION: Supervisor Balmain pulled items 9, 11, 13, 14, 15, 16, 19, and 20. Supervisor Bibby pulled items 2 and 4. Tom Guarino, County Counsel, recommended that the request to approve a provision in items 19, 20 and 23 to allow annual renewal of the contracts by the County Administrative Officer and County Counsel not be approved – he recommended that the contracts come back to the Board each year. He also recommended that the request to approve a provision in items 13, 14, 15, and 16 to allow subsequent amendments and extensions for the contracts be approved subject to review by the County Administrative Officer and County Counsel. Chairman Parker pulled item 23 for separate action to include the recommendation by County Counsel. (M)Stetson, (S)Bibby, the balance of the items was approved/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.

Consent Agenda item 2 – Supervisor Bibby referred to the condition in the contract that the facility be available to the general public and that the equipment can be moved so that the facility is available to others. She noted that the same condition is contained in the contract for Consent Agenda item 3. Gussie Kidd, retired Director for Almost Like Home, advised that the facility is used by several other groups, and that the type of equipment that was purchased is portable. (M)Bibby, (S)Stetson, item 2 was approved/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.

Consent Agenda item 4 – Supervisor Bibby asked for clarification of the acreage of the two parcels that have been purchased for this project; and relative to the amount of land that will be available for grazing. She also noted that it was confirmed that a letter was received from the Department of Conservation. Fred Solomon, project manager, advised that one parcel is 40 acres and the other parcel is slightly less, and that the resolution needs to be corrected accordingly. He also noted that the acreage that
is not used for the project will be available for grazing, and that will be determined once everything is
finalized with the project. (M)Balmain, (S)Bibby, item 4 was approved with direction for the acreage in the
resolution to be corrected/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.
Consent Agenda item 9 – Supervisor Balmain initiated discussion relative to concerns of conditions
in the contract. Rick Peresan, Technical Services Director, responded to the concerns. (M)Balmain,
(S)Bibby, item 9 was approved/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.
Consent Agenda item 11 – Supervisor Balmain referred to terminology used in the agreement.
(M)Balmain, (S)Bibby, item 11 was approved/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.
Consent Agenda items 13, 14, 15, and 16 – (M)Balmain, (S)Stetson, items 13, 14, 15, and 16 were
approved, with the provision that amendments and extensions of the documents be subject to approval of
the County Administrative Officer and County Counsel/Ayes: Stetson, Balmain, Bibby, Parker; Excused:
Pickard.
Consent Agenda items 19 and 20 – Following discussion, (M)Balmain, (S)Bibby, items 19 and 20
were approved, with deletion of the provision for annual renewal of the contracts as recommended by
County Counsel/Ayes: Stetson, Balmain, Bibby, Parker; Excused: Pickard.
Consent Agenda item 23 – (M)Balmain, (S)Bibby, item 23 was approved, with deletion of the
provision for annual renewal of the contract as recommended by County Counsel/Ayes: Stetson, Balmain,
Bibby, Parker; Excused: Pickard.

CA-4  Adopt a Resolution Finding the Proposed Don Pedro Wastewater Treatment Plant on Williamson
Act Contracted Lands is a Compatible Use in a Land Conservation Act Contract Pursuant to Exhibit A of
Mariposa County Resolution No. 77-157 (Interim Planning Director); Res. 04-314 with corrections

cc: Jim Petropulos, Public Works Director
File