



VENTURA LOCAL AGENCY FORMATION COMMISSION
AGRICULTURAL MITIGATION WORKSHOP

Thursday, September 10, 2015

9:00 a.m. – 12:00 p.m.

Camarillo Public Library Community Room
4101 E. Las Posas Rd., Camarillo, CA 93010

AGENDA

1. Introductions
Lou Cunningham, Chair, Ventura LAFCo
2. Purpose of the Workshop – Why are we here?
LAFCo Chair/staff
3. Overview of LAFCo’s responsibilities pertaining to preservation of agricultural land
Kai Luoma, Executive Officer, Ventura LAFCo
4. Overview of CEQA requirements with respect to feasible mitigation for loss or conversion of agricultural land
Michael Walker, Ventura LAFCo Legal Counsel/Chief Assistant County Counsel
5. Agricultural land conversion in Ventura County in recent years
Henry Gonzales, Ventura County Agricultural Commissioner
6. Mitigation options
 - a. *John Lowrie, Assistant Director, California Department of Conservation*
 - b. *E.J. Remson, Senior Program Manager, The Nature Conservancy*
7. Case Studies: How agricultural mitigation policies have worked for other LAFCOs
 - a. *Marjorie Blom, Executive Officer (ret.), Stanislaus LAFCo*
 - b. *Kai Luoma, Executive Officer, Ventura LAFCo*
8. Solicitation of input from stakeholders
9. Commission direction to LAFCo staff

COMMISSIONERS AND STAFF

COUNTY: Linda Parks John Zaragoza <i>Alternate:</i> Steve Bennett	CITY: Carl Morehouse, Vice Chair Janice Parvin <i>Alternate:</i> Carmen Ramirez	DISTRICT: Bruce Dandy Elaine Freeman <i>Alternate:</i> Mary Anne Rooney	PUBLIC: Lou Cunningham, Chair <i>Alternate:</i> David J. Ross
Executive Officer: Kai Luoma, AICP	Analyst Andrea Ozdy	Office Manager/Clerk Richelle Beltran	Legal Counsel Michael Walker



**VENTURA LOCAL AGENCY
FORMATION COMMISSION**

**Overview of LAFCo's
Responsibilities Pertaining to
Preservation of
Agricultural Land**



VENTURA LOCAL AGENCY FORMATION COMMISSION

What does LAFCo law say
about preserving agricultural lands?

Govt. Code 56301

Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

Govt. Code 56377

In reviewing and approving or disapproving proposals...development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands...

Govt. Code 56668

Factors to be considered in the review of a proposal shall include...The effect of the proposal on maintaining the physical and economic integrity of agricultural lands



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What is
“prime agricultural land”?

Govt. Code 56064

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

- a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- b) Land that qualifies for rating 80 through 100 Storie Index Rating.

Govt. Code 56064 (cont.)

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

Govt. Code 56064 (cont.)

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

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



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Where is the
prime agricultural land in
Ventura County?

It could be anywhere...

Any undeveloped area can be Prime Agricultural Land:

- Can be of any size. There is no minimum parcel size.
- Can have any general plan land use designation and zoning.
- Can be in a city or unincorporated area.
- Can be vacant land not being used for agriculture.



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How does Ventura LAFCo
evaluate proposals that
involve the conversion of
prime agricultural land?

Govt. Code 56300 (a)

It is the intent of the Legislature that each commission...shall establish written policies and procedures and exercise its powers...in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.

Ventura LAFCo Commissioner's Handbook

Division 4 – Spheres of Influence

- Section 4.3.2 Agricultural and Open Space Preservation

Division 3 – Changes of Organization and Reorganization

- Section 3.3.5 Agricultural and Open Space Preservation

Findings for Ventura LAFCo

Sphere of Influence Amendments and Updates

LAFCo will approve sphere of influence amendments...only if the Commission finds that the amendment or update will lead to **planned, orderly, and efficient development.**”

- likely to be developed within 5 years and designated for nonagricultural or open space use by applicable general and specific plans
- Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency
- no significant adverse effects on the physical and economic integrity of other prime agricultural or existing open space lands
- not within an area subject to a Greenbelt Agreement adopted by a city and the County of Ventura
- consistent with local plan and policies

Findings for Ventura LAFCo Proposals

LAFCo will approve a proposal “which is likely to result in the conversion of prime agricultural or existing open space land use to other uses only if the Commission finds that the proposal will lead to **planned, orderly, and efficient development.**”

- contiguous to either lands developed with an urban use or lands which have received all discretionary approvals for urban development
- likely to be developed within 5 years and has been pre-zoned for nonagricultural or open space use
- insufficient non-prime agricultural or vacant land exists within the existing boundaries of the agency
- not subject to voter approval for the extension of services or for changing general plan land use designations
- no significant adverse effects on the physical and economic integrity of other prime agricultural or existing open space lands



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Questions?

Ventura Local Agency Formation Commission

Overview of CEQA requirements with
respect to feasible mitigation for conversion
of agricultural land

Presentation by Michael G. Walker
Ventura LAFCo Legal Counsel
September 10, 2015



“[[I]t is the policy of the state that public agencies should not approve projects as proposed if there are . . . *feasible mitigation measures* available which would *substantially lessen* the significant environmental effects of such projects . . .” (CEQA, § 21002, italics added.)

“An EIR *shall* describe feasible measures which could *minimize* significant adverse impacts . . .” (CEQA Guidelines, § 15126.4, subd. (a)(1), italics added.)

“‘Mitigation’ includes . . . [c]ompensating for the impact by replacing or providing substitute resources or environments.” (CEQA Guidelines, § 15370, subd. (e).)

“‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines, § 15364.)

Types of Feasible Mitigation for Conversion of Farmland

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- No project
- Agricultural conservation easements (ACEs)
- In-lieu fees

Agricultural Conservation Easements (ACEs) under the Civil Code

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“The Legislature finds and declares that the preservation of land in its natural, scenic, *agricultural*, historical, forested, or open-space condition is *among the most important environmental assets of California*. The Legislature further finds and declares it to be the public policy and in the public interest of this state to *encourage the voluntary conveyance of conservation easements* to qualified nonprofit organizations.” (Civ. Code, § 815, italics added.)

Agricultural Conservation Easements (ACEs) under the Civil Code

“For the purposes of this chapter, ‘conservation easement’ means any limitation [perpetual in duration] in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and *the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.*” (Civ. Code, §§ 815.1, italics added, 815.2, subd. (b).)

Agricultural Conservation Easements (ACEs) under the Public Resources Code

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“Agricultural conservation easement” “means an interest in land . . . *which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any purpose other than agricultural production. . . .* It shall be granted in perpetuity” (Pub. Resources Code, § 10211, italics added.)

In-Lieu Fees

In lieu of acquiring an ACE, a project proponent, as a mitigation measure, pays a fee to an organization that “has as its primary purpose the preservation . . . of land in its . . . agricultural . . . use” (Civ. Code, § 815.3, subd. (a)) or “has among its purposes the conservation of agricultural lands” (Pub. Resources Code, § 10221).

Issues

- In the CEQA process, to what extent should – or must – a public agency *consider* an agricultural conservation easement or in-lieu fee to mitigate conversion of farmland?
- In the CEQA process, to what extent should – or must – a public agency *adopt* an agricultural conservation easement or in-lieu fee as a mitigation measure in approving a project that converts farmland?

Cherry Valley Pass Acres & Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316

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Specific plan to build 560 residential units on a 200-acre site “long used for agricultural purposes.” EIR challenged under CEQA.

Cherry Valley Pass Acres & Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316

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- Challengers contended that there was no evidence to support the EIR determination that the specific plan's adverse impacts on agricultural land uses "could not be feasibly mitigated because such land uses were no longer economically feasible."
- The court of appeal disagreed.

Cherry Valley Pass Acres & Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316

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- The court held that substantial evidence supported the EIR's rejection of agricultural conservation easements and similar mitigation measures as economically infeasible because the pace of urban development in the area made long-term farming no longer financially viable.
- "Given these circumstances, the EIR properly treated any offsite land purchases, agricultural easements, Williamson Act contracts, and similar mitigation measures as *facially* infeasible and properly declined to analyze them in any detail."

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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- Project for proposed Wal-Mart shopping center involving conversion of approximately 40 acres of prime farmland. EIR challenged under CEQA.

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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The EIR stated:

- “[N]o mitigation is available which would reduce [the farmland loss] *to a less-than-significant level* except an outright prohibition of all development on prime agricultural lands.” (Italics added.)
- “[I]t is not feasible to *fully* mitigate for the loss of prime farmland, short of denying all proposed development projects.” (Italics added.)
- It is not feasible to fully mitigate for the loss of prime farmland because “the land ‘once converted, loses its character as agricultural land and is removed from the stock of agricultural land.’”

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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- The city adopted a statement of overriding considerations as to the loss of farmland but
- In the statement of overriding considerations, the city explained that while there were “no feasible mitigation measures available that would avoid the significant loss of agricultural land if the project wa[s] implemented, . . . [t]he acquisition of an off-site agricultural conservation easement would provide **partial mitigation.**” (Italics and boldface added.)

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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- The city thus required the applicant to obtain an ACE over 40 acres of prime farmland, amounting to a 1:1 ratio.
- The challenger urged the city to require a 2:1 ratio, arguing that the city's rejection of the 2:1 ratio was not supported by substantial evidence.

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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- The court of appeal rejected both the challenger's argument and its framing of the issue: “[T]he question is not whether there was ‘substantial evidence’ to support the rejection of a ‘heightened [2:1] mitigation ratio,’ but rather, whether the finding there were no feasible mitigation measures was supported by substantial evidence.”

Citizens for Open Government v. City of Lodi (2012) 205 Cal.App.4th 296

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- The court of appeal found that “substantial evidence supported the finding there were no feasible mitigation measures.”
- “Since the *Lodi* court expressly recognized that the ACE requirement would mitigate a significant impact, it is clear the court intended the phrase ‘there were no feasible mitigation measures’ to mean there were no feasible mitigation measures that would reduce the project’s impact to a level of insignificance.” (*Friends of the Kings River v. County of Fresno* (2014) 232 Cal.App.4th 105.)
- Indeed, the court of appeal recognized that the ACE “would minimize and substantially lessen the significant effects of the proposed project.”

Masonite Corp. v. County of Mendocino (2013) 218 Cal.App.4th 230

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- Project for sand and gravel quarry on land zoned industrial but involving conversion of 45 acres of prime farmland. EIR challenged under CEQA. The court opinion addressed both ACEs and in-lieu fees.

Masonite Corp. v. County of Mendocino (2013) 218 Cal.App.4th 230 – ACEs

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- The EIR – unlike the EIR in *City of Lodi* – did not analyze ACEs as mitigation for the loss of farmland because it concluded that ACEs could not mitigate for the loss because they would “not replace the on-site resources.”
- . . . because, “while ACEs can be used to mitigate a project’s indirect and cumulative effects on agricultural resources, they do not mitigate its direct effect on those resources.”
- The court of appeal disagreed.

Masonite Corp. v. County of Mendocino (2013) 218 Cal.App.4th 230 – **ACEs**

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- “We conclude that ACEs may appropriately mitigate the direct loss of farmland when a project converts agricultural land to a nonagricultural use, even though an ACE does not replace the onsite resources.”
- “To categorically exclude ACEs as a means to mitigate the conversion of farmland would be contrary to one of CEQA’s important purposes [“the preservation of agricultural lands”]. . . . ACEs should not ‘be removed from agencies’ toolboxes as available mitigation’ for this environmental impact.”
- “The economic feasibility of offsite ACEs to mitigate [a project’s] impact on the loss of . . . prime farmland must be explored.”

Masonite Corp. v. County of Mendocino
(2013) 218 Cal.App.4th 230 – *In-Lieu Fees*

- The EIR did not consider in-lieu fees – payable to an organization whose purposes include the acquisition and stewardship of ACEs – as a mitigation measure because the County believed “it was legally precluded from accepting in-lieu fees because it does not have a comprehensive farmland mitigation program.”
- Again, the court of appeal disagreed.

Masonite Corp. v. County of Mendocino
(2013) 218 Cal.App.4th 230 – *In-Lieu Fees*

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- “Whether the County lacks a comprehensive farmland mitigation program is immaterial [to the feasibility of in-lieu fees to be paid to a third party involved in acquiring and overseeing ACEs], and does not explain why in-lieu fees are not feasible mitigation. . . . This issue requires further analysis in the EIR.”

Friends of the Kings River v. County of Fresno (2014) 232 Cal.App.4th 105

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- Project for aggregate mine and related processing plants involving permanent conversion of 600 acres of farmland. EIR challenged under CEQA.

Friends of the Kings River v. County of Fresno (2014) 232 Cal.App.4th 105

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- The EIR considered ACEs as mitigation for the loss of farmland, but the County ultimately selected other mitigation measures:
 - The current agricultural use of the project site was required to continue until the land was prepared for mining activities.
 - The applicant was required to ensure that 602 acres within the project site were maintained as an agricultural buffer zone for the life of the CUP, estimated at 100 years.
 - The applicant was required to reclaim mine cells to farmland as adequate materials were generated to fill the empty mine cells.

Friends of the Kings River v. County of Fresno (2014) 232 Cal.App.4th 105

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- The challenger argued that these were not mitigation measures and that the “failure to require compensatory mitigation [i.e., ACEs] is a violation of law.”
- The court of appeal disagreed.

Friends of the Kings River v. County of Fresno (2014) 232 Cal.App.4th 105

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- While the *Masonite* court held that “ACEs may mitigate the direct loss of farmland” and that a lead agency errs by failing to consider ACEs as a potential mitigation measure for such a direct loss . . .
- “We do not read *Masonite*, however, to stand for the proposition that CEQA requires the use of ACEs as a mitigation measure in every case where ACEs are economically feasible and the project causes the loss of farmland.”
- “We decline to hold that County was required to adopt ACEs as a mitigation measure instead of the mitigation measures it did adopt.”

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- Project to expand an Orange County jail facility, formerly an “honor farm,” resulting in the conversion of 65 acres of farmland (previously farmed by inmates but no longer farmed because it is cost-prohibitive). EIR challenged under CEQA.

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- The EIR discussed seven possible mitigation measures for the loss of the agricultural land, including ACEs. None of the proffered measures were found feasible.
- The challenger argued that the EIR “inadequately demonstrated that the loss of agricultural land as part of the project could not be mitigated,” including by the purchase of ACEs.
- The court of appeal disagreed.

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- “Preliminarily,” the court noted that “the cost of raw land in Orange County is exorbitant, so finding 65 acres . . . to replace farmland that, up to 2009, was farmed by inmates trying to work off jail time, is cost-prohibitive.”
- The EIR “more than adequately documented that the cost of land near the project site was \$2 million per acre in 2012, and that was prior to the recovery from the Great Recession. (And the County average exceeds \$308,000 per acre.) But agriculture is not competitive if the cost of land exceeds \$60,000. Replacing what used to be farmed at the Musick Facility can’t be done at anything near a reasonable price.”
- “*The proposed mitigation measures must necessarily be viewed in the light of that overarching fact.*” (Italics added.)

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- “Even in the Central Valley, there are times when agricultural conservation easements or ‘ACEs’ are not feasible, as recently shown in *Friends of Kings River v. County of Fresno*. . . . And if . . . ACEs do not replace lost farmland in the Central Valley, they certainly are not going to do so in Orange County.”

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- “In Orange County, the sheer astronomical expense of land supports the finding of [the EIR] that *the purchase of ACEs is a non-starter.*” (Italics added.)
- “Owners of what little agricultural land is left know the value of that land if developed. The reasonable inference is that the purchase of a conservation easement means paying a large percentage of the market value of the land, so much so that this mitigation measure would be the functional equivalent of trying to buy land not already in agricultural use and convert it to agricultural use.”

City of Irvine v. County of Orange (June 12, 2015) 238 Cal.App.4th 526

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- “[C]onservation easements have historically only worked in counties where the general plan and zoning laws already set aside land for exclusive agricultural use, and Orange County has no land use designations requiring land to be devoted exclusively to agricultural purposes.”

So where are we?

- Under CEQA, a lead agency must consider ACEs and in-lieu fees as potential mitigation measures for a project involving the direct loss of farmland.
- Under CEQA, a lead agency's lack of a comprehensive farmland mitigation program is immaterial to the feasibility of in-lieu fees as a potential mitigation measure.
- But, under CEQA, a lead agency is not necessarily required to adopt ACEs or in-lieu fees as mitigation measures for a project involving the direct loss of farmland. Economic feasibility will be a key consideration.
- At best, ACEs or in-lieu fees will only partially mitigate the conversion of farmland.

Questions and Discussion

Henry S. Gonzales

Henry S. Gonzales was born in Fresno, California, the son of migrant farm workers. As a child, he followed the crops around California, along with his family. The family finally settled in Salinas. At age 13, he started working on his own as a farm worker in the fields around the area during summer vacations from school and on weekends.

Henry graduated from California State University, Fresno, with a Bachelor of Science Degree in Agricultural Science. He was hired by the Monterey County Agricultural Commissioner's Office as a quarantine-insect trapper, and later promoted to Agricultural Inspector/Biologist, Deputy Agricultural Commissioner, and eventually to Chief Deputy Agricultural Commissioner.

While working for Monterey County, he obtained his Master's Degree in Public Administration from Golden Gate University.

For the past seven years as Ventura County's Agricultural Commissioner, Henry and his staff of 50, have overseen the County's \$2 billion agricultural industry. In his role as Agricultural Commissioner, he is both a promoter and a regulator of agriculture.

Henry is an ex-officio member of the Ventura County Agricultural Policy Advisory Committee, and he is also a member of the [California Agricultural Commissioners and Sealers Association \(CACASA\)](#). As a member of CACASA, he sits on the Pesticide Regulatory Affairs, Finance, and Nursery Committees. Henry also represents CACASA on the California Department of Pesticide Regulation's Worker Safety Regulation Work Group. Additionally, he is a member of the California Department of Food and Agriculture's Ad Hoc Advisory Committee to the Office of Pesticide Consultation and Analysis, and the Polyphagous Shot Hole Borer Working Group. He is also a member of the University of California Statewide Integrated Pest Management Program Advisory Committee.

AGRICULTURAL LAND CONVERSION IN VENTURA COUNTY IN RECENT YEARS

Henry S. Gonzales
Ventura County
Agricultural Commissioner



Outline

- Ventura County
- Existing Mitigations
- Impacts on Agriculture
- Rate of Ag Land Conversion
- Recap

Ventura County

- Mediterranean type climate
- “...absolute most desirable place to live...”
- Deep, rich soils
- Variable climate
- Independent water supply



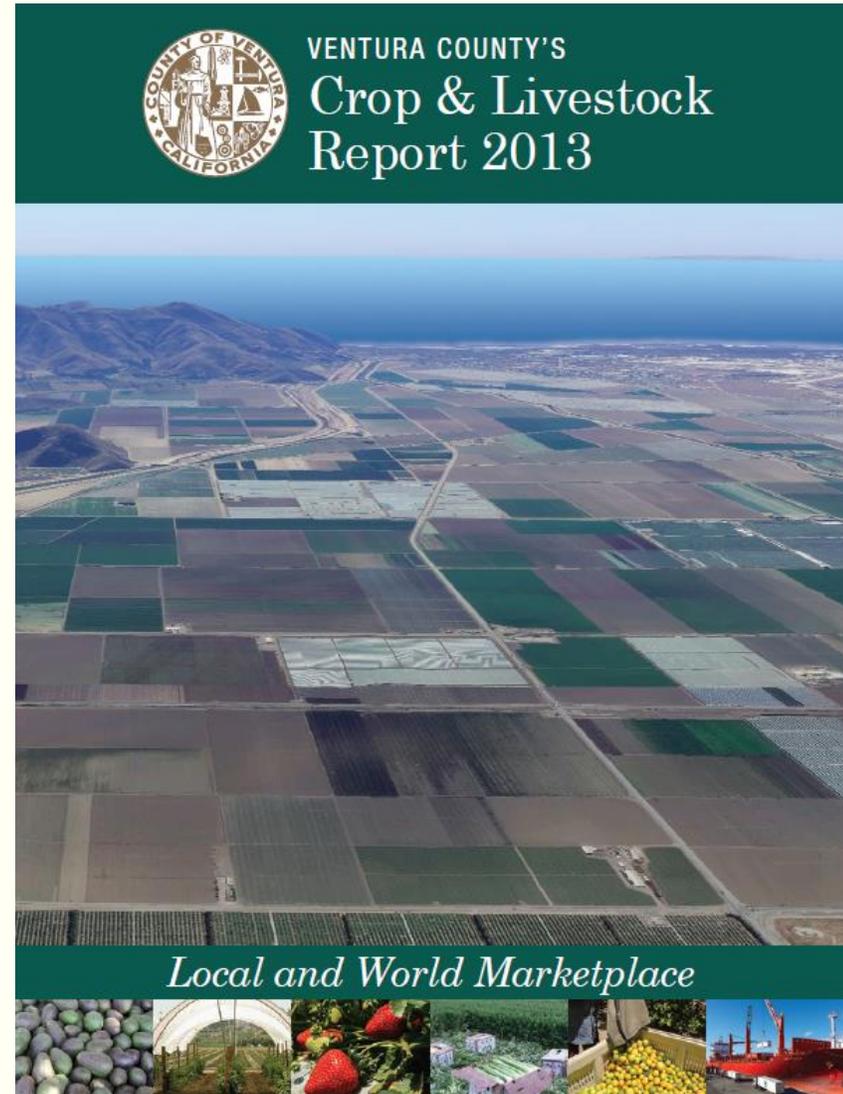
Existing Mitigations

- Ventura County General Plan
- LAFCO Policies
- Right-to-Farm ordinance
- S.O.A.R.
- Guidelines for Orderly Development
- CA Land Conservancy Act
- Mitigated Negative Declaration
- Greenbelts
- 40 acre Ag Exclusive minimum lot size
- 5% maximum lot coverage

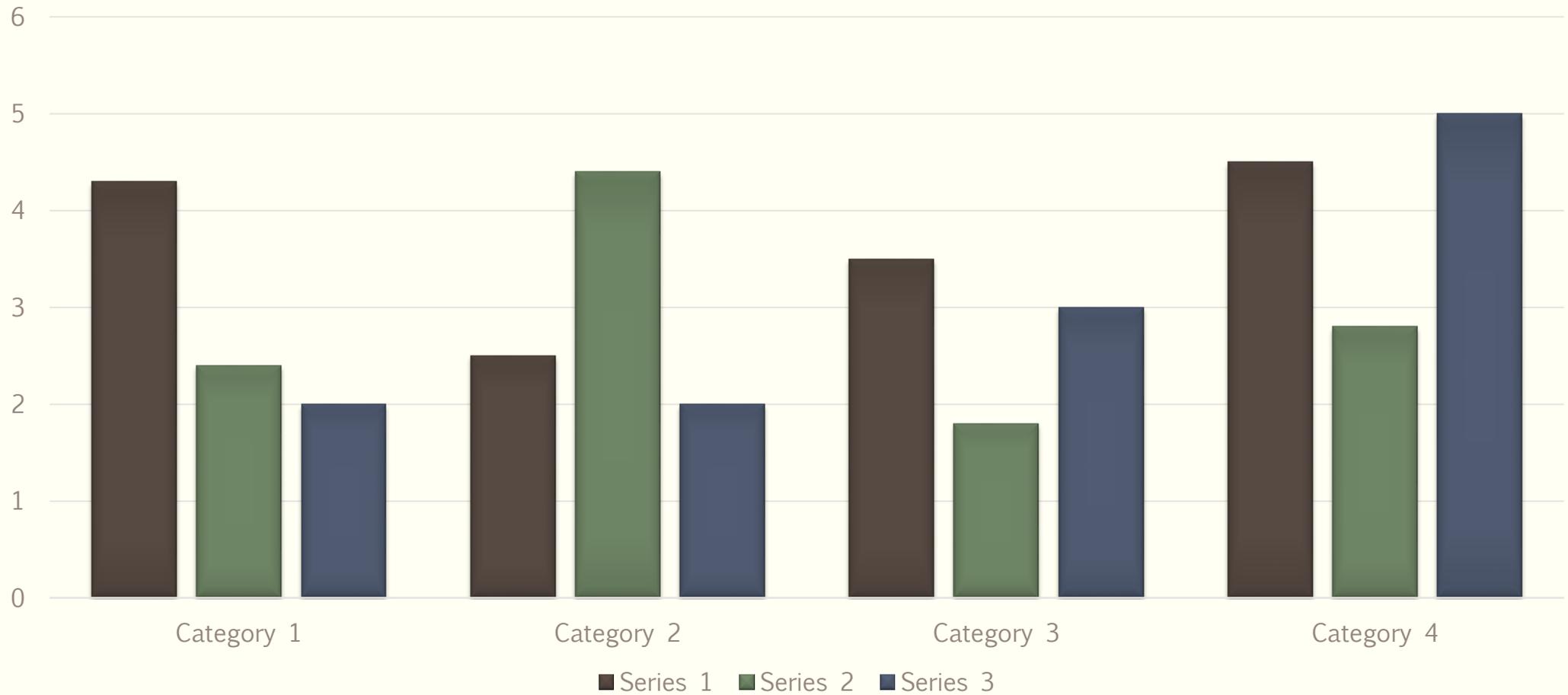


Impacts on Agriculture

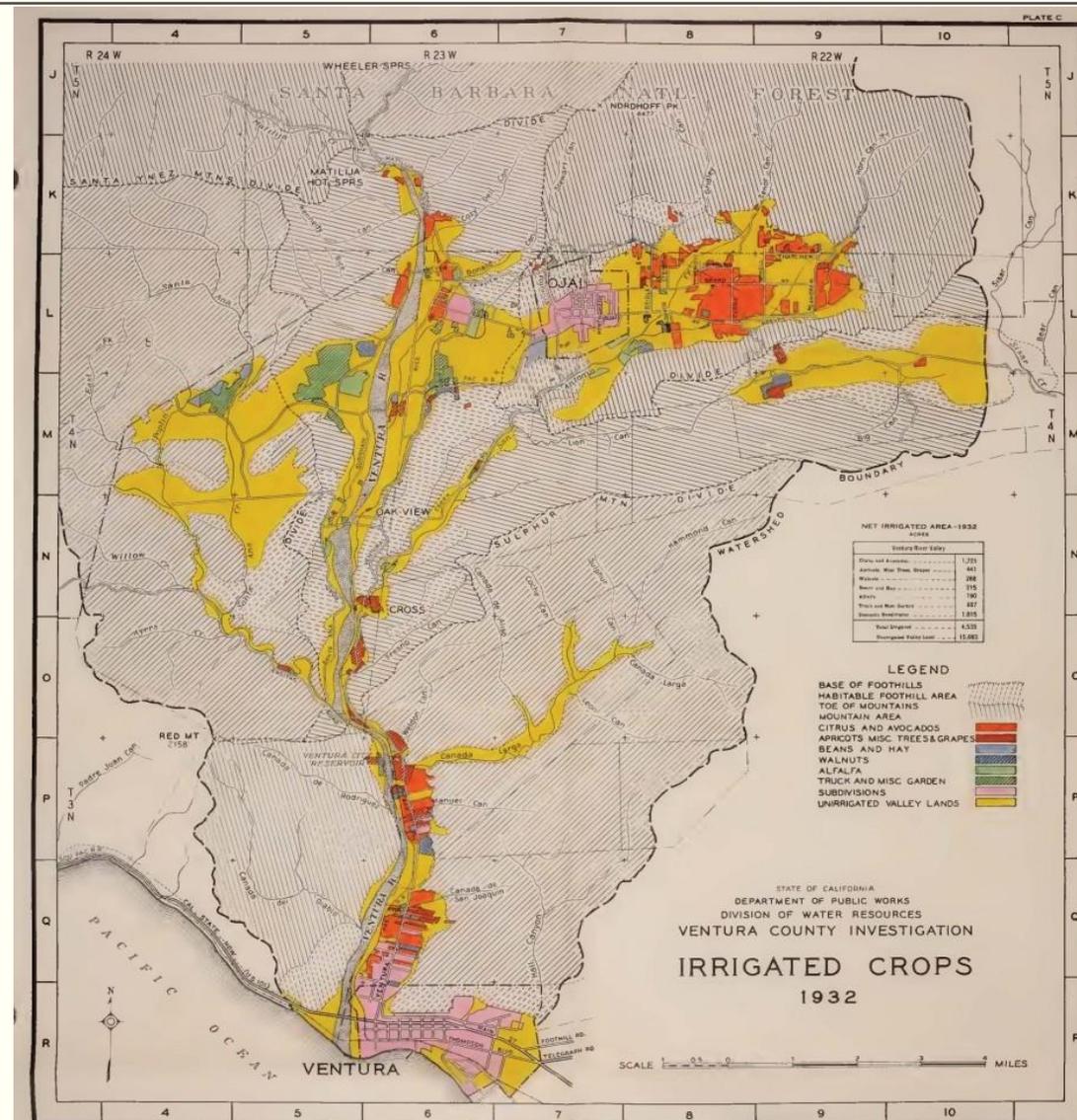
- \$2,094,915,000 in 2013
- 190,434 acres of cropland
- >50 crops generate over million
- Top Ten County
- Future



Rate of Ag Land Conversion



Irrigated Crops 1932



Recap



John M. Lowrie

A native Californian, John is currently serving as Assistant Director for the Department of Conservation's Division of Land Resource Protection. His responsibilities include Land Conservation (Williamson) Act implementation, farmland conservation, farmland mapping, support for Resource Conservation Districts, a statewide watershed program and community planning and incentive grants implementation.

Prior to joining the Department John worked with the USDA Natural Resources Conservation Service, (29 years) with a wide variety of project and program management experience on the central coast, northcoast, northeastern, and Central Valley regions of California. John served for 10 years with the CALFED Bay Delta Program, serving as manager of their watershed program efforts. John has a B.S. in Agriculture from California State University – Chico.

Agricultural Mitigation Tools and Effective Measures

Guiding legislation:

Senate Bill 436 and 1094 (Kehoe)*

- ❖ Any non-profit holding the mitigation land must be qualified under 501 (c)(3) and have its primary purpose be protection or stewardship of natural resources.**
- ❖ Allows selected entities to hold the endowment and title to the mitigation land (e.g., special district)**
- ❖ Authorizes state and local agencies to require endowments to manage mitigation lands.**
- ❖ Requires a state or local agency to exercise due diligence in reviewing the qualifications of a special district or non profit organization to effectively manage and steward land, water, or natural resources, as well as accompanying funds (endowment funds to steward the lands used as mitigation).**

*Government Code Sections 65965 et al

Effective Farmland Mitigation Measures include:

- ❖ Reasoning for the mitigation using enforceable language
- ❖ Mitigation ratios and required number of acres to be preserved.
 - 1:1 ratio at a minimum
- ❖ Specific farmland type to be preserved according to the most current California Farmland Mapping and Monitoring Program Important Farmland Maps (e.g., Prime, Farmland of Statewide Importance, Unique Farmland)
 - if multiple types of farmland are to be mitigated for, the required mitigation acreage for each type of farmland needs to be identified
- ❖ Identification of related resources such as water necessary for agriculture to be protected.

Effective Farmland Mitigation Measures include:

❖ Identification of the mitigation method to be used:

- **Agricultural Conservation Easement**
 - **Requires perpetuity(Government Code 65966, Civil Code Section 815,)**
- **Agricultural Land Mitigation Bank and Credits**
 - **Results in conservation easement or fee-title protected land.**
- **In Lieu Fees**
 - **Requires formal local government program- policies and ordinance**
- **Fee Title**
 - **Requires legal mechanism to document intent for conservation of agricultural lands**
- **Fee Payment or Agreement (MOU) towards a future conservation easement or fee-title conserved in perpetuity.**

Effective Farmland Mitigation Measures include:

- ❖ Identification of the geographic area where mitigation is to be located.
 - Consider use of general locations (e.g., county) instead of distinct boundaries (e.g., adjacent to a subdivision) to avoid escalating market value of mitigation lands.
 - Consider nexus connection requirements (Dolan/Nollan rules)

- ❖ Identify roles and responsibilities of county/city/agency, project proponent and mitigation holder for implementing and completing the mitigation.

- ❖ Identify related costs that need to be included in order to complete the final mitigation method (e.g., stewardship endowments, associated costs to complete conservation easement- appraisals, title policy, closing costs).

- ❖ Sufficient information to verify that the measure is feasible.

E.J. Remson

E. J. Remson, Senior Program Manager for The Nature Conservancy in California, supervises both the L.A.–Ventura Project and the Tehachapi Project. He joined The Nature Conservancy in 2000 as director of the L.A.–Ventura Project after working in the fields of urban planning and commercial real estate development for 24 years. Mr. Remson's planning career spanned 12 years, much of it as planning administrator for the City of Pasadena.

He began his career in commercial real estate development, working on retail, industrial, office, and hotel projects throughout southern California. His interest in the preservation of natural lands led him to specialize in planning for growing communities without contributing to urban sprawl. With The Nature Conservancy he has acquired 33 properties for conservation totaling over 47,000 acres and has worked with local government agencies to protect open space.

He has a bachelor's degree in urban planning from California State Polytechnic University, and a master's degree in real estate development from the University of Southern California. He holds a California Broker's License and has served on the boards of nonprofit organizations.

Agricultural Conservation Easements

Governed by Civil Code Sections 815-816

Have been used in Ventura and many other counties. TNC, AFT, etc.

How do they work?

- Mitigation requirement is determined by lead agency.
- Developer seeks willing landowners to purchase development rights from.
- Price is negotiated between parties.
- Landowner sells development rights but retains fee ownership other rights.
- Development rights are retired.
- Landowner can farm, sell, borrow against the land as they did before.
- An Ag Conservation Easement is recorded on the property.
- 100% voluntary participation by seller.

Benefits to Landowner:

- It is a new market for landowners.
- Cash without debt.
- Solves some estate issues
- Continue to benefit from rising land values.

Easement Holders:

- Ventura land trusts. Ag conservation organization?
- Will require funds to monitor easement, insurance, etc. from developer.

Marjorie Olsson-Blom

Marjorie Olsson-Blom recently retired from the Stanislaus Local Agency Formation Commission (LAFCO) where she had served for 14 years, with the past nine years as the Executive Officer. Ms. Olsson-Blom also served for four years on the California Association of Local Agency Formation Commissions (CALAFCO) as a volunteer staff person. On September 3, 2015, Marjorie was awarded the "Outstanding CALAFCO Member" at the 2015 CALAFCO Conference in Sacramento.

In 2013, Stanislaus LAFCO received the CALAFCO "Project of the Year Award" for its Agricultural Preservation Policy. The Policy adopted in September 26, 2012, contains a requirement for applicants seeking boundary changes to prepare a "Plan for Agricultural Preservation" (Plan). The Plan shall specify the method or strategy proposed to minimize the loss of agricultural lands.

Marjorie previously worked in the community development field for over 12 years, where she worked for the Cities of Modesto, Newman, and Oakdale. In the mid-90s she was selected following a nationwide recruitment to fill a new planning position with the City of Fort Worth, Texas. Upon her return to California, she served as the former Executive Director of the Stanislaus County Affordable Housing Corporation (STANCO).

Marjorie is a 50-year plus Stanislaus County native, born and raised on a small ranch in Turlock, where her father and uncle owned and operated Olsson Brothers Trucking. Growing up in the country afforded Marjorie with the experience of learning how important agricultural is to our region.

Marjorie is a proud graduate of Stanislaus State (Cal State, Stanislaus). During her spare time she loves spending time with her family and traveling the world.

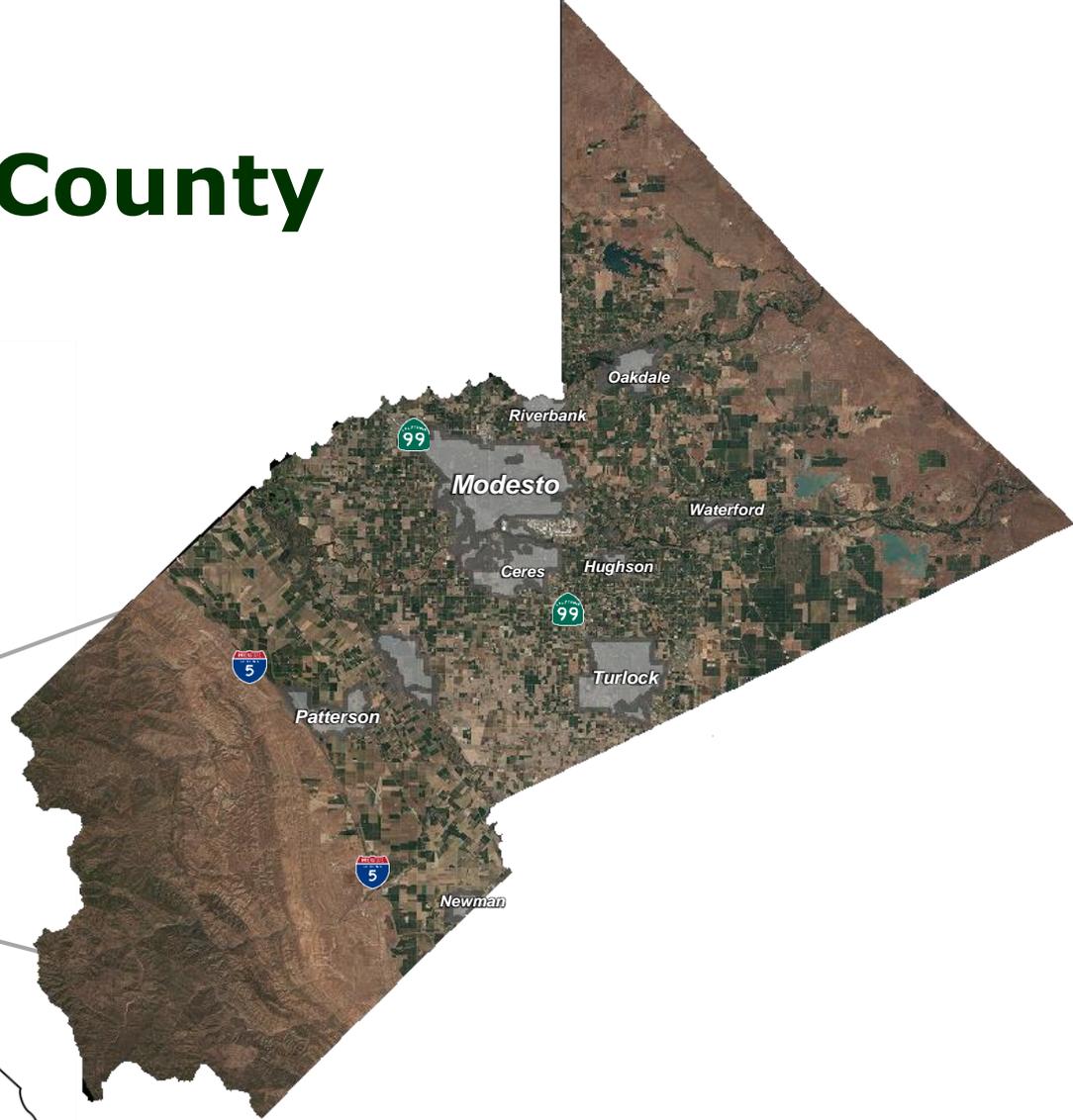


Stanislaus LAFCO's Agricultural Preservation Policy



September 10, 2015

Stanislaus County



Setting

- Unincorporated Areas:
 - Measure E: requires vote of the people for change from agricultural to residential zoning
 - County Ag Element requires 1:1 mitigation for conversion of ag to residential designations
- Cities (via the Mayors' Group):
 - Attempted to adopt urban growth boundaries

Policy Development

- Commission was in agreement regarding the following:
 - Applicants needed to better address the loss of agricultural lands in their proposals (beyond a “Statement of Overriding Considerations”)
 - A written policy should be adopted to communicate these expectations

Policy Development

- Seeking inspiration: Commission looked at its existing policies, other LAFCOs, & legislative authority
- Commission could not agree on a single method or strategy for ag preservation
- Early interest in a “Plan for Services” concept

Final Product

- Policy requires applicants to prepare a “Plan for Agricultural Preservation”
 - Plan shall include:
 - Detailed analysis of direct/indirect impacts to ag lands
 - Vacant land inventory & absorption study
 - Method or strategy proposed to minimize the loss of ag lands.

*(See Section A of the Policy
for entire list.)*



Menu of Ag Pres. Strategies

- The Commission encourages the use of one or more of the following strategies:
 - For SOIs: removal of ag lands in ex. SOI order to offset an SOI expansion
 - 1:1 mitigation (may select to do 1:1 for residential only)
 - Voter-approved urban growth boundary

Commission's Determinations

- Insufficient alternative land is available & growth has been directed away from prime lands where possible
- For SOIs--additional territory will not exceed the 10 & 20-year timeframes
- For Annexations--that development is imminent

Commission's Determinations

- Loss of ag lands has been minimized based on the selected ag preservation strategy
- Proposal will result in planned, orderly, and efficient use of land & services
- For proposals using ag mitigation lands--minimum criteria must be met

In Practice

Modesto Example:

- 84-acre residential development
- Within City's SOI
- Majority considered prime farmland
- Item continued for revised Plan for Ag Preservation

- Approved w/ revised Plan including 1:1 mitigation

Patterson Example:

- 1,119-acre SOI expansion & annexation proposal
- For 13.47 million sf of industrial / commercial uses
- Majority considered prime farmland

- Approved (*without* one of the preferred strategies)



Latest Ag Pres. Efforts

- *City of Hughson* - 2:1 mitigation req. for conversion of ag to residential use
- *City of Newman* - Urban Growth Boundary will go to voters in Nov. 2014
- *City of Modesto* - Group collecting signatures for "Stamp Out Sprawl" initiative (urban limit & residential limit)
- *City of Oakdale* - Two specific plans using 1:1 mitigation for residential
- *Ag pres. policies being incorporated into General Plan Updates*

Policy Development Tips

- Create “defensible space” with the policy language
 - Identify sources (e.g. CKH, existing policies, other “tested” language)
 - Maintain internal consistency

(See “Staff’s Notes” handout)

Policy Development Tips

- Include determinations that directly tie to State law & LAFCO's purpose
- Tell the complete "story" in the Commission's actions and resolution

Policy Development Tips

- Stanislaus Policy as a Model
 - Info required in the Plan for Ag Preservation assists Commission with making determinations
 - Policy language can be strengthened (“encourages” vs. “requires”)
 - Menu can be altered to meet an individual LAFCO’s preferred method(s) of ag preservation

Contact Stanislaus LAFCO:



www.stanislauslafco.org



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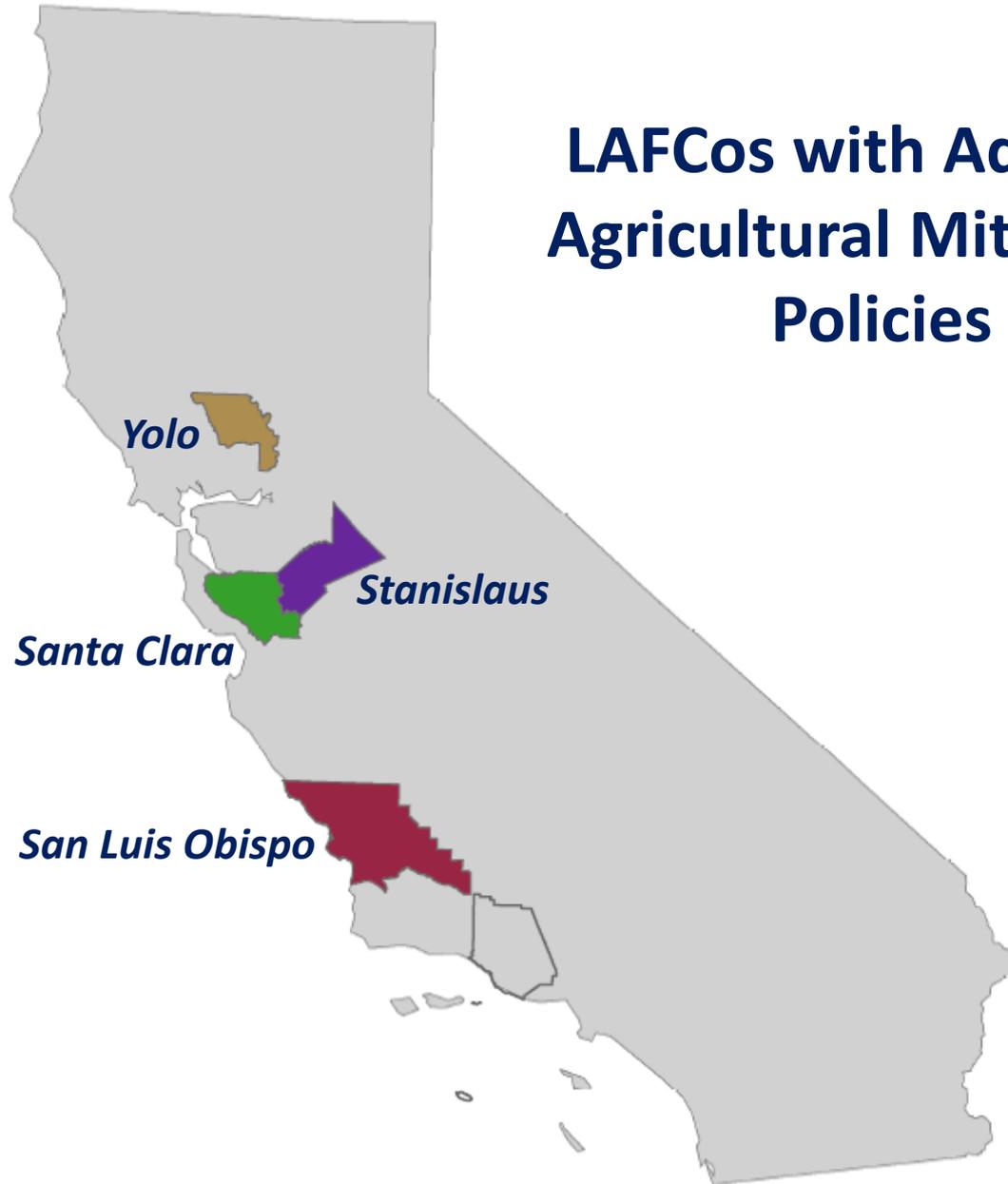
lafco@stancounty.com



VENTURA LOCAL AGENCY FORMATION COMMISSION

Case Studies: How Agricultural Mitigation Policies Have Worked for Other LAFCos

LAFCos with Adopted Agricultural Mitigation Policies



San Luis Obispo LAFCo Policy



Mitigation Triggered by:

- Annexation of prime ag land

Mitigation:

- 1:1 mitigation ratio achieved by:
 - Acquisition and dedication of farmlands, development rights, and/or conservation easements
 - In-lieu fee
 - Other

Mitigation Land:

- Permanent protection of similar farmlands
- Within County Planning Area

Santa Clara LAFCo Policy

Mitigation Triggered by:

- Proposals involving conversion of prime ag lands

Mitigation:

- 1:1 mitigation ratio (plus costs) achieved by:
 - Acquisition and dedication of ag land and/or conservation easements
 - In-lieu fee

Mitigation Land:

- Permanent protection of similar prime ag land
- Within County
- Within cities' SOI in area planned for ag



Stanislaus LAFCo Policy



Mitigation Triggered by:

- Proposals involving SOI expansion or annexation to city or special district involving conversion of ag land

Mitigation:

- Plan for Agricultural Preservation:
 - 1:1 mitigation ratio achieved by:
 - Acquisition and dedication of ag land, development rights, and/or conservation easements
 - In-lieu fee
 - Removal of ag lands from existing SOI
 - Voter-approved urban growth boundary

Mitigation Land:

- Permanent protection of similar land
- Irrigation water supply
- Within County
- Not already protected

Yolo LAFCo Policy



Mitigation Triggered by:

- Annexations of prime ag lands

Mitigation:

- 1:1 mitigation ratio (plus costs) achieved by:
 - Acquisition of farmland, development rights, and/or conservation easements
 - In-lieu fee
- Establishment of open space buffers

Mitigation Land:

- Permanent protection of similar prime ag land
- Within County
- Not already protected

Agricultural Mitigation Policy Summary – Comparison of LAFCos

LAFCo	Trigger	Mitigations	Eligibility Criteria for Mitigation Land
<i>San Luis Obispo</i>	Annexations of prime agricultural land	<ul style="list-style-type: none"> • 1:1 minimum mitigation ratio by: <ul style="list-style-type: none"> ○ Acquisition/dedication of farmlands, development rights, and/or agricultural conservation easements ○ In-lieu fee 	<ul style="list-style-type: none"> • Permanent protection of similar farmlands • Within the County Planning Area
<i>Santa Clara</i>	Proposals involving the conversion of prime agricultural lands	<ul style="list-style-type: none"> • 1:1 minimum mitigation ratio (plus costs) by: <ul style="list-style-type: none"> ○ Acquisition/dedication of agricultural land, and/or agricultural conservation easements ○ In-lieu fee 	<ul style="list-style-type: none"> • Permanent protection of prime agricultural land of similar quality and character • Within the County • Within cities' sphere of influence in an area planned for agriculture
<i>Stanislaus</i>	Proposals involving a sphere of influence expansion or annexation to a city or special district involving the conversion of agricultural land	<p>Plan for Agricultural Preservation:</p> <ul style="list-style-type: none"> • 1:1 minimum mitigation ratio by: <ul style="list-style-type: none"> ○ Acquisition/dedication of agricultural land, development rights, and/or agricultural conservation easements ○ In-lieu fee • Removal of agricultural lands from existing sphere of influence as an offset • Voter approved urban growth boundary 	<ul style="list-style-type: none"> • Permanent protection of mitigation land of equal or better soil quality • Within the County • Dependable and sustainable supply of irrigation water • Territory may not be otherwise permanently protected
<i>Yolo</i>	Annexations of prime agricultural land	<ul style="list-style-type: none"> • 1:1 minimum mitigation ratio by: <ul style="list-style-type: none"> ○ Acquisition of farmland, development rights, and/or conservation easements ○ In-lieu fee • Establishment of open space buffers 	<ul style="list-style-type: none"> • Permanent protection of prime agricultural property of reasonably equivalent quality and character that would otherwise be threatened, in the reasonably foreseeable future, by development and/or other urban uses • Within the County • Territory may not already be protected for habitat conservation purposes, or for incompatible purposes

San Luis Obispo LAFCo Agricultural Mitigation Policy

A key policy for preserving agricultural land calls for any conversion of prime agricultural land associated with an annexation to be offset by preserving similar lands at a substitution ratio of 1:1 per acre.

The Commission shall approve annexations of prime agricultural land only if mitigation that equates to a substitution ratio of at least 1:1 for the prime land annexed is agreed to by the applicant (proponent), the jurisdiction with land use authority. The 1:1 substitution ratio may be met by implementing various measures:

- a. Acquisition and dedication of farmland, development rights, and/or agricultural conservation easements to permanently protect farmlands with similar characteristics within the County Planning Area.
- b. Payment of in-lieu fees to an established, qualified, mitigation/conservation program or organization sufficient to fully fund the acquisition and dedication activities stated above in 12a.
- c. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural land at a 1:1 ratio.

Santa Clara LAFCo Agricultural Mitigation Policy

Background

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

Purpose of Policies

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

General Policies

1. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies.
3. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.
5. LAFCO will review and revise these policies as necessary.

Definition of Prime Agricultural Lands

6. "Prime agricultural land" as defined in the Cortese Knox Hertzberg Act means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Mitigation Recommendations

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:
 - a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
 - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.

- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund*:
 1. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.
- * with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
8. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
 9. The agricultural mitigation should result in preservation of land that would be:
 - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
 - b. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
 - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
 10. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
 - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
 - b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.

- c. Development of programs to promote the continued viability of surrounding agricultural land.

Agricultural Conservation Entity Qualifications

11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
 - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

Timing and Fulfillment of Mitigation

12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

Plan for Mitigation

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:

- a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with the County Recorder's office against the property to be developed. The agreement should specify:
 1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
 2. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
 3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
 4. The location of the mitigation lands, when possible.
 5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
 6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
 7. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
- b. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.

Stanislaus LAFCo Agricultural Mitigation Policy

Agriculture is a vital and essential part of the Stanislaus County economy and environment. Accordingly, boundary changes for urban development should only be proposed, evaluated, and approved in a manner which, to the fullest extent feasible, is consistent with the continuing growth and vitality of agriculture within the County. LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. Additionally, Government Code Section 56668(e) requires LAFCO to consider "the effect of the proposal on maintaining the physical and economic integrity of agricultural lands."

Consistent with the legislative intent of LAFCO, the goals of this policy are as follows:

- Guide development away from agricultural lands where possible and encourage efficient development of existing vacant lands and infill properties within an agency's boundaries prior to conversion of additional agricultural lands.
- Fully consider the impacts a proposal will have on existing agricultural lands.
- Minimize the conversion of agricultural land to other uses.
- Promote preservation of agricultural lands for continued agricultural uses while balancing the need for planned, orderly development and the efficient provision of services.

The Commission encourages local agencies to identify the loss of agricultural land as early in their processes as possible, and to work with applicants to initiate and execute plans to minimize that loss, as soon as feasible. Agencies may also adopt their own agricultural preservation policies, consistent with this Policy, in order to better meet their own local circumstances and processes.

The Commission shall consider this Agricultural Preservation Policy, in addition to its existing goals and policies, as an evaluation standard for review of those proposals that could reasonably be expected to induce, facilitate, or lead to the conversion of agricultural land.

A. Plan for Agricultural Preservation Requirement

Upon application for a sphere of influence expansion or annexation to a city or special district ("agency") providing one or more urban services (i.e. potable water, sewer services) that includes agricultural lands, a Plan for Agricultural Preservation must be provided with the application to LAFCO. The purpose of a Plan for Agricultural Preservation is to assist the Commission in determining how a proposal meets the stated goals of this Policy.

The Plan for Agricultural Preservation shall include: a detailed analysis of direct and indirect impacts to agricultural resources on the site and surrounding area, including a detailed description of the agricultural resources affected and information regarding Williamson Act Lands; a vacant land inventory and

absorption study evaluating lands within the existing boundaries of the jurisdiction that could be developed for the same or similar uses; existing and proposed densities (persons per acre); relevant County and City General Plan policies and specific plans; consistency with regional planning efforts (e.g. the San Joaquin Valley Blueprint and the Sustainable Communities Strategy); and an analysis of mitigation measures that could offset impacts to agricultural resources. The Plan for Agricultural Preservation should be consistent with documentation prepared by the Lead Agency in accordance with the California Environmental Quality Act (CEQA).

The Plan for Agricultural Preservation shall specify the method or strategy proposed to minimize the loss of agricultural lands. The Commission encourages the use of one or more of the following strategies:

1. Removal of agricultural lands from the existing sphere of influence in order to offset, in whole or in part, a proposed sphere of influence expansion or redirection.
2. An adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1. This can be achieved by acquisition and dedication of agricultural land, development rights and/or conservation easements to permanently protect agricultural land, or payment of in-lieu fees to an established, qualified, mitigation program to fully fund the acquisition and maintenance of such agricultural land, development rights or easements.
 - a. In recognition of existing County policies applicable to agricultural land conversions in the unincorporated areas, as well as the goals of individual agencies to promote employment growth to meet the stated needs of their communities, an agency may select to utilize a minimum of 1:1 mitigation for conversions to residential uses.
 - b. Agricultural mitigation easements or offsets shall not be required for any annexations of land for commercial or industrial development.
3. A voter-approved urban growth boundary designed to limit the extent to which urban development can occur during a specified time period.

B. Commission Evaluation of a Plan for Agricultural Preservation

1. The Commission may consider approval of a proposal that contains agricultural land when it determines that there is sufficient evidence within the Plan for Agricultural Preservation that demonstrates all of the following:
 - a. Insufficient alternative land is available within the existing sphere of influence or boundaries of the agency and, where possible, growth has

been directed away from prime agricultural lands towards soils of lesser quality.

- b. For sphere of influence proposals, that the additional territory will not exceed the twenty year period for probable growth and development (or ten years within a proposed primary area of influence). For annexation proposals, that the development is imminent for all or a substantial portion of the proposal area.
 - c. The loss of agricultural lands has been minimized based on the selected agricultural preservation strategy. For the purposes of making the determination in this section, the term "minimize" shall mean to allocate no more agricultural land to non-agricultural uses than what is reasonably needed to accommodate the amount and types of development anticipated to occur.
 - d. The proposal will result in planned, orderly, and efficient use of land and services. This can be demonstrated through mechanisms such as:
 - i. Use of compact urban growth patterns and the efficient use of land that result in a reduced impact to agricultural lands measured by an increase over the current average density within the agency's boundaries (e.g. persons per acre) by the proposed average density of the proposal area.
 - ii. Use of adopted general plan policies, specific or master plans and project phasing that promote planned, orderly, and efficient development.
2. For those proposals utilizing agricultural mitigation lands or in-lieu fees, the Commission may approve a proposal only if it also determines all of the following:
- a. The mitigation lands must be of equal or better soil quality, have a dependable and sustainable supply of irrigation water, and be located within Stanislaus County.
 - b. An adopted ordinance or resolution has been submitted by the agency confirming that mitigation has occurred, or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit, or final map approval for the site, whichever comes first.
 - c. The agricultural conservation entity is a city or a public or non-profit agency that: has the legal and technical ability to hold and administer agricultural preservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production; and has

adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") and is operating in compliance with those standards.

- d. The agricultural mitigation land is not already effectively encumbered by a conservation easement of any nature.

C. Exceptions

The following applications are considered exempt from the requirement for a Plan for Agricultural Preservation and its implementation, unless determined otherwise by the Commission:

1. Proposals consisting solely of the inclusion of lands owned by a city or special district and currently used by that agency for public uses.
2. Proposals which have been shown to have no significant impact to agricultural lands, including, but not limited to:
 - a. Proposals consisting solely of lands which are substantially developed with urban uses.
 - b. Proposals brought forth for the purpose of providing irrigation water to agricultural lands.

Yolo LAFCo Agricultural Mitigation Policy

IV. Policy Standards and Implementation

- A. Detachment of prime agricultural lands and other open space lands shall be encouraged if consistent with the sphere of influence for that agency.
- B. Annexation of prime agricultural lands shall not be approved unless the following factors have been considered:
 - 1. There is insufficient marketable, viable, less prime land available in the subject jurisdiction for the proposed land use.
 - 2. The adoption and implementation of effective measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Such measures may include, but need not be limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county; participation in other development programs (such as transfer or purchase of development rights); payments to responsible, recognized government and non-profit organizations for such purposes; the establishment of open space and similar buffers to shield agricultural operations from the effects of development.
- C. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:
 - 1. The area is within the annexing agency's sphere of influence.
 - 2. The Commission makes findings required by Government Code Section 56856.5.
 - 3. The parcel is included in an approved city specific plan.
 - 4. The soil is not categorized as prime.
 - 5. Mitigation for the loss of agricultural land has been secured at least at a 1:1 ratio of agricultural easements for the land lost.
 - 6. There is a pending, or approved, rescission for the property that has been reviewed by the local jurisdictions and the Department of Conservation.

7. The property has been non-renewed if still awaiting rescission approval.
- D. Less prime agricultural land generally should be annexed and developed before prime land is considered for boundary changes. The relative importance of different parcels of prime agricultural land shall be evaluated based upon the following (in a descending order of importance):
1. Soil classification shall be given the utmost consideration, with Class I or II soil receiving the most significance, followed by the Storie Index Rating.
 2. Consideration shall also be given to the land's economic viability for continued agricultural use.
- E. LAFCO will approve a change of organization which will result in the conversion of prime agricultural land in open space use to other uses only if the LAFCO finds that the proposal will lead to planned, orderly, and efficient development. The following factors shall be considered:
1. Contiguity of the subject land to developed urban areas.
 2. Receipt of all other discretionary approvals for changes of boundary, such as rezoning, environmental review, and service plans as required by the Executive Officer before action by LAFCO. If not feasible before LAFCO acts, the proposal can be made contingent upon receipt of such discretionary approvals within not more than one (1) year following LAFCO action.
 3. Consistency with existing planning documents of the affected local agencies, including a service plan of the annexing agency or affected agencies.
 4. Likelihood that all or a substantial portion of the subject land will develop within a reasonable period of time for the project's size and complexity.
 5. The availability of less prime land within the sphere of influence of the annexing agency that can be developed, and is planned and accessible, for the same or a substantially similar use.
 6. The proposal's effect on the physical and economic viability of other agricultural operations. In making this determination, LAFCO will consider the following factors:

- a. The agricultural significance of the subject and adjacent areas relative to other agricultural lands in the region.
- b. The existing use of the subject and adjacent areas.
- c. Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby agricultural land, or will be extended through or adjacent to, any other agricultural lands which lie between the project site and existing facilities.
- d. Whether natural or man-made barriers serve to buffer adjacent or nearby agricultural land from the effects of the proposed development.
- e. Provisions of the General Plan's open space and land use elements, applicable growth management policies, or other statutory provisions designed to protect agriculture. Such provisions may include, but not be limited to, designating land for agriculture or other open space uses on that jurisdiction's general plan, adopted growth management plan, or applicable specific plan; adopting an agricultural element to its general plan; and acquiring conservation easements on prime agricultural land to permanently protect the agricultural uses of the property.
- f. The establishment of measures to ensure that the new property owners shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with the agricultural zone in accordance with the Right to Farm Ordinance adopted by the Yolo County Board of Supervisors.

F. Agricultural Mitigation

1. Except as expressly noted in subsection 8 and 9 below, annexation of prime agricultural lands shall not be approved unless one of the following mitigations has been instituted, at not less than a 1:1 replacement ratio:
 - a. The acquisition and dedication of farmland, development rights, and agricultural conservation easements to permanently protect adjacent and other agricultural lands within the County.

4. As a general rule, the Commission will not accept, as mitigation required by this Policy, an agricultural conservation easement or property that is "stacked" or otherwise combined with easements or property acquired for habitat conservation purposes, nor for any other purposes that are incompatible with the maintenance and preservation of economically sound and viable agricultural activities and operations. The Commission retains the discretion to make exceptions on a case-by-case basis, based upon the following criteria:
 - a. Whether the applicant made a good-faith effort to mitigate separately for the loss of habitat in accordance with the Yolo County Habitat/Natural Community Conservation Plan process but such efforts were infeasible, and
 - b. Whether the proposed "stacked" mitigation for the loss of prime agricultural land and habitat involves one of the following, whichever results in the greatest acreage of preserved land:
 - (i). Mitigation at a ratio of no less than 2:1 for the loss of prime agricultural soils; or
 - (ii). Mitigation at a ratio of no less than 1:1 for the loss of all agricultural lands in the proposal area; or
 - (iii). The property subject to the agricultural conservation easement is larger than the proposal area, meets the conditions specified in this Policy, and encompasses a complete field, legal parcel, or farm line.
5. The presence of a home on land that is subject to an agricultural conservation easement is generally incompatible with the maintenance and preservation of economically sound and viable agricultural activities and operations on that land. The presence or introduction of a home may diminish the value of the agriculture conservation easement as mitigation for the loss of prime agricultural land. Consequently, an agricultural conservation easement will generally not be accepted as mitigation for the loss of prime agricultural land if the easement permits the presence of a home, except an existing home that has been present on the proposed easement for at least twenty-five (25) years, or construction of a comparable replacement for such a home.

Exceptions to this section of the Policy may be granted by the Commission on a case-by-case basis if the homesite is less than two acres and if the applicant can provide sufficient evidence that a homesite on the agriculture conservation easement is necessary to further the goals of maintaining and preserving economically sound and viable agricultural activities and operations on that easement.

6. LAFCO favors the use of a local non-profit agricultural conservation entity or the regional branch of a nationally recognized non-profit agricultural conservation entity as the easement holder. The Commission will use the following criteria when approving the non-profit agricultural conservation entity for these purposes:

- a. Whether the entity is a non-profit organization that is either based locally or is a regional branch of a national non-profit organization whose principal purpose is holding and administering agricultural conservation easements for the purposes of conserving and maintaining lands in agricultural production;
- b. Whether the entity has a long-term proven and established record for holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
- c. Whether the entity has a history of holding and administering easements in Yolo County for the foregoing purposes;
- d. Whether the entity has adopted the Land Trust Alliance's "Standards and Practices" and is operating in compliance with those Standards; and
- e. Any other information that the Commission finds relevant under the circumstances.

A local public agency may be an easement co-holder if that agency was the lead agency during the environmental review process.

LAFCO also favors that applicants transfer the easement rights or in lieu fees directly to the recognized non-profit agricultural conservation entity in accordance with that entity's procedures.

The Commission retains the discretion to determine whether the agricultural conservation entity identified by the applicant and the local lead agency has met the criteria delineated above.

7. The Commission prefers that mitigation measures consistent with this Policy be in place at the time that a proposal is filed with the

Commission. The loss of prime agricultural land may be mitigated before LAFCO action by the annexing city, or the County of Yolo in the case of a district annexation, provided that such mitigation is consistent with this Policy. LAFCO will use the following criteria in evaluating such mitigation:

- a. Whether the loss of prime agricultural land was identified during the project's or proposal's review process, including but not necessarily limited to review pursuant to the California Environmental Quality Act;
 - b. Whether the approval of the environmental documents included a legally binding and enforceable requirement that the applicant mitigate the loss of prime agricultural land in a manner consistent with this Policy; and
 - c. Whether, as part of the LAFCO application, an adopted ordinance or resolution was submitted confirming that mitigation has occurred, or requiring the applicant to have the mitigation measure in place before the issuance of either a grading permit, a building permit or final map approval for the site.
8. As noted in III(J) of this Policy, the Commission has concluded that, in the case of proposals that are undertaken exclusively for the benefit of a public agency, the Commission should review the applicability of the mitigation requirements set forth in this Policy on a case-by-case basis to determine the appropriateness of requiring mitigation in any particular case.

In making such a determination, the Commission will consider all relevant information that is brought to its attention, including but not limited to the following factors:

- a. Whether the public agency had any significant, practical option in locating its project, including locating the project on non-prime or less prime agricultural land.
- b. Whether the public agency is subject to or exempt from the land use regulations of another public agency.
- c. Whether the public agency identified the loss of agricultural land as an environmental impact during the project's review, including but not limited to California Environmental Quality Act review, and, if so, whether it adopted a "Statement of Overriding Considerations" for that impact.

- d. When the public agency learned of the agricultural conservation mitigation requirements of the Commission's Policy or that of another public agency (whether or not it was subject to that agency's land use control).
- e. Whether the public agency could reasonably have allocated or obtained sufficient revenues to provide for some or all of the mitigation required by this Policy if it had learned of that requirement before submitting its proposal to this Commission.
- f. Whether the public good served by the public agency's proposal clearly outweighs the purposes served by this Policy and its mitigation requirements.
- g. Whether the proposal is necessary to meet the immediate needs of the public agency.

If the Commission determines that it is not appropriate to require mitigation for the loss of agricultural land resulting from a public agency's proposal, or to require less mitigation than otherwise prescribed by this Policy, it shall adopt findings, and a statement of overriding considerations if applicable, supporting that determination.

- 9. Mitigation shall not be required for the annexation of less than five (5) acres of land if the Commission finds that the land:
 - a. scores in the fourth tier of the Yolo LAFCO Land Evaluation and Site Assessment (LESA) Model; and
 - b. is "infill" as defined in this Policy; and
 - c. has not been used for active agriculture purposes in the previous 20 years.