



STATE OF CALIFORNIA - THE RESOURCE AGENCY
DEPARTMENT OF FISH AND GAME

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Monterey County
Planning and Building
Inspection Administration

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February 3, 2009

Carl Holm
Resource Management Agency –
Planning Department
County of Monterey
168 West Alisal, 2nd Floor
Salinas, California 93901

Subject: Draft General Plan 2007 (DGP)
Draft Environmental Impact Report (DEIR)
SCH No. 2007121001

Dear Mr. Holm:

The Department of Fish and Game has reviewed the Monterey County Draft General Plan 2007 and the Draft Environmental Impact Report (DEIR) which addresses the adoption of the General Plan Update. We recognize this draft represents a monumental effort to update the 1982 General Plan and commend the County on its efforts to address the challenges of balancing various and competing needs into the foreseeable future. We endorse the guiding objectives of the DGP, and offer comments with the intent of supporting implementation of those objectives.

The Department's comments are focused on helping the County identify and conserve the unique and characteristic natural resources found throughout Monterey County. We recognize the desirability of concentrating growth into those areas where there is existing or planned infrastructure and insuring the continued viability of agricultural lands in the County. We believe both these objectives are consistent with the objective of protection of areas of important natural resources. We offer the following comments to aid in general plan implementation and protection of public trust resources.

California Environmental Quality Act (CEQA) Authority: The Department is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact fish and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

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Habitat Connectivity: The Department supports incorporating open space goals and policies to provide for habitat connectivity between conservation lands within the County and between neighboring counties. California's Wildlife Action Plan (<http://www.dfg.ca.gov/wildlife/wap/report.html>) directs us to work with local agencies to protect large, relatively unfragmented habitat areas, wildlife corridors, and under-protected ecological community types. The Department recommends a comprehensive approach to producing a map of existing and potential open space areas and a wildlife corridor system to connect those areas.

The Western Governor's Association (WGA) recently recognized the importance of maintaining wildlife corridors and crucial wildlife habitat with a 2007 policy resolution entitled "Protecting Wildlife Migration Corridors and Crucial Wildlife Habitat in the West." The WGA 2008 "Wildlife Corridors Initiative Report" summarized the importance of open spaces and wildlife corridors: "Large, intact and functioning ecosystems, healthy fish and wildlife populations, and public access to natural landscapes contribute to the West's quality of life and economic well-being. Important wildlife movement corridors and crucial wildlife habitats within these landscapes are critical to maintaining these Western qualities". The full report can be found at (<http://www.westgov.org/wga/initiatives/corridors/index.htm>).

Development, agricultural conversion, and overuse of water resources increasingly isolate the County's open space areas and reduce their fish and wildlife habitat values. Many of the protected open space areas are too small to maintain viable isolated wildlife populations. In many cases, only the surrounding unprotected open space areas allow species to persist within the protected areas by providing larger habitat patches and corridors connecting to larger habitat patches. Maintaining species diversity within open spaces will require expanding protected areas and maintaining habitat connectivity between them. Incorporating wildlife corridors into the Conservation and Open Space Element would facilitate species conservation and, therefore, maintain the value of open space within Monterey County.

To facilitate conservation of habitat linkages, the Department recommends that the general plan include an overlay map of linkages required to maintain wildlife populations in protected areas and other important habitat patches which are likely to remain undeveloped. Without a map representing the important linkages, planning efforts are likely to slowly erode remaining habitat connectivity and result in projects with significant, unmitigated impacts. A general connectivity map can be developed without being parcel-specific. General plan policy should be developed to protect connectivity in the mapped linkages.

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Some important linkages to maintain and/or enhance include the following: Santa Lucia to Gabilan Mountains, Gabilan/Diablos to Santa Cruz Mountains, Santa Lucias to Fort Ord, and the Monterey Peninsula to Santa Lucias. The Department would be happy to work with you on mapping these linkages, identifying other important linkages, and developing effective policy for their maintenance.

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Goal AG-4 Proposed Winery Corridors: The proposed winery corridors fall within San Joaquin kit fox range. Associated policy should include requirements to minimize habitat fragmentation. In addition to kit fox habitat connectivity, linkages are necessary to allow wildlife movement between river corridors and upland habitats, and between the Gabilan and Santa Lucia mountain ranges.

Where a project has the potential to inhibit wildlife movements, it should be designed to minimize the potential impacts to wildlife movement. To reduce crop damage and subsequent depredation permit requests to the Department, policy should require fencing to limit deer access to any new vineyards. General Plan policies should also require that any wire mesh fencing in San Joaquin kit fox range be constructed of mesh not smaller than six (6) by six (6) inches at ground level or other designs which are permeable to kit fox. General Plan policies for winery corridors should require breaks every 0.25 miles to allow passage of all wildlife where winery projects would fragment wildlife habitat.

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Goal AG-5: Goal AG-5 promotes compatibility between agricultural uses and environmental resources, specifically soils and water quality. We support this goal and request that policies under AG-5 also promote compatibility between agricultural uses and biological resources. The DEIR identifies substantial impacts to biological resources resulting from anticipated agricultural expansion under the proposed General Plan. For example, the DEIR anticipates the loss of 7,709 acres of annual grasslands, due to development, and 7,536 acres due to agricultural conversion, with no means currently identified to compensate for San Joaquin kit fox habitat losses.

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Goal OS-5: This proposed goal would "Conserve designated critical habitat for listed plant and animal species designated as federal or state threatened or endangered species and critical habitats designated in area plans." The Department recommends clarifying the term "critical habitat," revising this goal and subsequent policies to be consistent with the CEQA definition of "endangered, rare, or threatened species," and reevaluating the reference to area plan species lists since the area plans do not appear to contain species lists.

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"Critical habitat" is a Federal designation applied to some Federally listed species. It applies only to Federal projects. The United States Fish and Wildlife Service (USFWS)

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has not designated critical habitat for many Federally listed species. The State has no equivalent designation for State-listed species.

While the Department supports the goal of conserving critical habitat, we note that this goal and its supporting policies seem to misinterpret "critical habitat"—applying it to State-listed species, species designated by area plans, and Federally listed species which may have no critical habitat designation. Policies OS-1.7, 1.8, 5.1, 5.17, refer to different classes of resources with "critical habitat." This may lead to confusion when policies are applied to projects. Clarification of the term "critical habitat" and revising the goals and policies to reflect the CEQA definition of "endangered, rare, or threatened," may aid in more effective general plan implementation.

The CEQA Guidelines define "endangered, rare, or threatened" in Section 15380. Since the DGP is a "project," as defined by CEQA, and an intent of CEQA is to avoid, minimize, and (as a last resort) compensate for impacts to endangered, rare, or threatened species, Goal OS-5 should be consistent with the CEQA definition. The CEQA definition includes all species listed under the State and Federal Endangered Species Acts as well as those species which meet the criteria in Section 15380(b). For example, the California Native Plant Society maintains lists of rare species which meet the criteria for CEQA consideration, but are not on State or Federal endangered species lists.

The proposed OS-5 language referring to species listed in area plans is problematic because the area plans presented in the DGP do not designate species or critical habitats to be conserved. If the area plans will contain lists, they should be consistent with the CEQA definition of "endangered, rare, or threatened" as discussed above. Species which may not meet the criteria in Section 15380(b), but are of local importance, can be included in addition to those which meet the CEQA criteria. The area plans should also recognize that the status of species will change over time; any area plan lists should not be considered static.

Policy OS-5.4: This goal relies on the USFWS to prescribe mitigation measures for projects which affect critical habitat. This may be problematic because Federal critical habitat designations apply only to Federal projects. We are unaware of any mechanism that would require the USFWS to consult on non-Federal actions which may affect critical habitat. The Department recommends developing a general plan policy which parallels the Federal Endangered Species Act critical habitat regulations by requiring the County and its applicants to develop mitigation which avoids destroying or adversely modifying critical habitat.

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Mitigation Measure BIO-1.3 and Policy OS-5.6: Mitigation measure BIO-1.3 in the DEIR and policy OS-5.6 in the DEIR require biological surveys only for projects which the County determines would affect special status species or sensitive natural communities. This may lead to a biological survey requirement only when special status species are already known to occur on a project site. The Department recommends that this measure and policy be revised to require that biological surveys should be required *to determine if* projects would affect biological resources.

One reasonable trigger may be to require biological surveys when a project would disturb or remove naturally occurring (including naturalized) vegetation. Such a policy would correspond with the botanical survey guidelines developed by the Department (<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/guideplt.pdf>). Other circumstances may also warrant biological surveys even when naturally occurring vegetation would not be disturbed or removed, such as when building demolition could result in the loss of important bat roosts and the direct "take" of bats. Adopting a general plan policy to hire biological staff may aid in determining appropriate biological studies for each project.

Requiring surveys to determine if a project would affect biological resources, rather than requiring surveys when it is already known that a project may affect biological resources, would strengthen subsequent CEQA reviews in the following ways:

- assist in determining whether projects which would normally be categorically exempt may not be exempt because of location or a reasonable possibility of a significant effect (CEQA Guidelines §15300.2 (a) and (c)); circumstances which would go undetected in the absence of biological surveys
- assist in establishing baselines for CEQA reviews as required by CEQA Guidelines Section 15125
- assist in disclosing the impacts of a project
- assist in conserving biological resources which are currently undocumented

Policy OS-5.12: This policy requires Department consultation for impacts to "Areas of Special Biological Significance" (ASBS). While we support the underlying intent to protect these areas and would participate in discussions of impacts to them, please note that these areas are designated by the State Water Resources Control Board. The extents of ASBSs do not represent the range of species and natural communities which should be addressed in CEQA analyses. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from all CEQA project activities.

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Affordable Housing Overlay Area for the Monterey Airport and Vicinity: The Department requests that the area identified for affordable housing near the Monterey Airport be reconsidered. The area bounded by State Route 68, Olmstead Road, Via Malpaso, and the unnamed drainage to the east is an intact coastal terrace prairie dominated by native perennial grasses. The combination of this plant community with the mima-mound topography found on-site is exceptionally rare, often associated with rare endemic plant species, and typically comprises wetlands as defined by the California State Fish and Game Commission. This particular site is known to support several endemic, special status plant species, some of which indicate seasonal wetlands in coastal prairies:

Table 1. Special-Status Plant Species Known to Occur at the Affordable Overlay Area for the Monterey Airport and Vicinity

Species	Common Name	Status
<i>Allium hickmanii</i>	Hickman's onion	CNPS 1B.2
<i>Cordylanthus rigidus</i> ssp. <i>littoralis</i>	seaside bird's beak	SE, CNPS 1B.1
<i>Piperia yadonii</i>	Yadon's piperia	FE, CNPS 1B.1
<i>Trifolium polyodon</i>	Pacific Grove clover	SR, CNPS 1B.1
<i>Trifolium buckwestiorum</i>	Santa Cruz clover	CNPS 1B.1

SE: State Endangered; FE: Federal Endangered; SR: State Rare; CNPS 1B.1: California Native Plant Society seriously endangered in California; CNPS 1B.2 fairly endangered in California.

Development of this site may require an Incidental Take Permit, pursuant to Section 2080 of Department of Fish and Game Code. For State Rare species such as Pacific Grove clover, we currently do not have a mechanism to permit "take." The Department recommends that this site be managed for its significant natural resource values instead of being targeted for housing.

Lockwood Rural Center: The proposed Lockwood Rural Center boundaries include Critical Habitat for the Federal endangered vernal pool fairy shrimp (*Branchinecta lynchii*). The proposed rural center area south of Jolon Road, and a portion of the area north of Jolon Road and west of Lockwood-Jolon Road, overlaps entirely with Critical Habitat Unit 29A as designated by the USFWS. Designating this area as a rural center for development conflicts with the proposed general plan Goal OS-5, which would "conserve designated critical habitats..." In addition, much of the overlapping area appears to contain vernal pool and swale features. Please see our other comments above regarding Goal OS-5 and the use of the term "critical habitat."

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Oak Tree Replacement: The North County and Carmel area plans require 1:1 oak tree replacement with 1-gallon plantings. The remaining area plans contain no oak tree replacement policies. All the planning areas contain oak woodlands. The Department recommends an oak woodland and oak tree policy for all planning areas. Policy should be developed to minimize or avoid the net loss of oak woodlands.

Tree planting mitigation ratios are typically greater than 1:1 to compensate for tree plantings which fail to reach maturity. Allowing a 1:1 ratio will likely lead to a net loss in trees, potentially resulting in unmitigated impacts.

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In addition, tree plantings alone may not mitigate the loss of an oak woodland. Therefore, we recommend developing policy which requires replacing areas of oak woodlands when a project displaces oak woodlands. Public Resources Code (PRC) Section 21083.4 outlines the tools available to offset significant oak woodland impacts. The Department encourages general plan policy which reflects the provisions of PRC Section 21083.4. The provisions include oak woodland conservation easements, replacement tree plantings with a seven-year maintenance period, restoration of degraded oak woodlands, and contributions to the Oak Woodlands Conservation Fund. The Department is willing to provide a letter of support should the County submit a grant proposal to obtain funds to develop an oak conservation element for the general plan, oak protection ordinance, or an oak woodland management plan, pursuant to the Oak Woodlands Conservation Act.

Mitigation Measure BIO-1.2: The Department supports this measure and encourages its implementation, which would require the County to develop a conservation plan to sustain the Salinas Valley San Joaquin kit fox population. A Natural Communities Conservation Plan may be an appropriate tool for the Salinas Valley and adjoining foothills.

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Thank you for the opportunity to comment on the 2007 General Plan and DEIR. If you have any questions regarding these comments, please contact Dave Hacker, Environmental Scientist, at 3196 Higuera Street, Suite A, San Luis Obispo, California 93401, by telephone at (805) 594-6152, or email at dhacker@dfg.ca.gov.

Sincerely,

Andrew G. Gordon, PhD

for Jeffrey R. Single, PhD.
Regional Manager

cc: See Page Eight

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INSTRUCTIONS: Original to follow by mail.