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**AGRICULTURAL COMMISSION AND PLANNING COMMISSION  
WORKSHOP**

**February 19; 9:00am**

**Board of Supervisors Meeting Room  
330 Fair Lane - Building A, Placerville, California**

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**I. CALL TO ORDER**

Meeting called to order at 9:07 a.m. Present: Agricultural Commissioners Lloyd Walker, Gary Ward, Bill Draper, Dave Pratt, Chuck Bacchi, and Tom Hefflin; Planning Commissioners Alan Tolhurst, John Mac Cready, Dave Machado, and John Knight; Paula F. Frantz, County Counsel; and Jo Ann Brillisour, Clerk to the Planning Commission, morning session; Nancy Applegarth, Administrative Secretary, afternoon session.

**II. APPROVAL OF AGENDA**

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER PRATT AND UNANIMOUSLY CARRIED, IT WAS MOVED TO ADOPT THE AGENDA, AS PRESENTED.

**III. PUBLIC FORUM - None**

**IV. AGRICULTURAL PROTECTIONS**

**A. CREATION OF PARCELS ADJACENT TO AGRICULTURALLY ZONED LANDS**

The adopted General Plan requires that any newly created parcel adjacent to agriculturally zoned lands be a minimum of 10 acres. This policy does not exclude or exempt Community Regions or Rural Centers from the required minimum 10 acre buffer. Should these buffer requirements apply in Community Regions and Rural Centers?

Pertinent General Plan Objectives and Policies:

***Policy 8.1.3.1** Agriculturally zoned lands including Williamson Act Contract properties shall be buffered from increases in density on adjacent lands by requiring a minimum of 10 acres for any parcel created adjacent to such lands. Those parcels used to buffer agriculturally zoned lands shall have the same width to length ratio of other parcels.*

Chair Walker explained the purpose of the workshop. The Commissions will break for lunch around 11:30 a.m. The Williamson Act Contract workshop will begin at 1:00 p.m. If anyone has questions during the afternoon workshop, please submit them in writing to the appropriate Commission so they can be researched and answered. Chair Tolhurst commented there will be no action taken today. Issues that are discussed will be taken back to the respective

Commission.

Bill Stephans said their department has identified five policies to be discussed today. He informed those present that Steve Burton, Assistant Agricultural Commissioner, passed away this past weekend.

Policy 8.1.3.1 – There are no exceptions for Rural Centers or Community Regions.

Art Marinaccio spoke about the inconsistency between this policy and the Rural Centers and Community Regions. He believes the zoning applied to parcels needs to be brought into consistency with the land use designations. If that is not done there needs to be a policy or statement applying to ten-acre minimums adjacent to Rural Centers and Community Regions. He feels a simple General Plan amendment stating agricultural policies do not apply in Rural Centers or Community Regions is what should be done. Mr. Marinaccio spoke about the Blue Print project.

Valerie Zetner, Farm Bureau, stated this policy was intended to provide buffers. Until the zoning is updated we will continue to have this problem. She wants to make sure the County looks at a comprehensive view. There is no rezoning done to properties that roll out from the Williamson Act. Perhaps we should start looking at doing that.

Cindy Schaffer said the zoning inconsistency is the major problem. There has not been a comprehensive zoning update in 20 years. We are trying to use old zoning maps to implement the General Plan. She does not believe we need to do a General Plan amendment for Policy 8.1.3.1. We should adopt some interim guidelines. We need to take a look at properties with agricultural zoning to see if they are appropriately zoned.

Peter Maurer said the Commission has adopted a Resolution of Intention to amend Policy 8.1.3.1. It is clear there are competing interests, i.e., economic development, buffers for agricultural production, etc. There is no question we have to bring our zoning into compliance with the General Plan. Staff is currently working on the update of the Zoning Ordinance and zoning maps. We need to look at balancing the needs.

Mr. Stephans showed some power point pictures of several Rural Centers.

Mr. Maurer stated there could be an interpretation that this policy applies to residential uses, and commercial uses do not create the same type of conflict as residential uses.

Commissioner Machado asked if staff looked at agricultural properties in Rural Centers and Community Regions. Mr. Stephans answered that they were going to look into that side of the issue but did not have sufficient time.

Referring to Policy 8.1.4.2, Mr. Stephans commented the General Plan does require them to look at the citing of schools.

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Commissioner Knight said problems seem to occur when we try to apply agricultural policies outside agricultural districts. He asked if we could look at an interpretation that the policy does not apply in Rural Centers or Community Regions. Paula Frantz, County Counsel, said staff can only go so far with interpretations. Whether it was intended or not, these policies were adopted based on zoning and General Plan designations.

Commissioner Bacchi said there is a lot of agricultural use outside of agricultural districts. If you just have a blanket interpretation, you affect a lot of agricultural lands.

Commissioner Mac Cready feels a change does not fit all areas. The Community Regions are different and should have different policies.

Commissioner Pratt stated growth is inevitable. There needs to be something for inside and outside the Community Regions. He agrees there are agricultural uses that occur outside of Agricultural Districts.

Commissioner Ward commented there are a lot of areas that are rural but not in an Agricultural District. Mr. Stephans stated there are criteria for grazing lands. The criteria almost meet the Department of Conservation maps.

#### **OBJECTIVE 2.1.1: COMMUNITY REGIONS**

**Purpose:** The urban limit line establishes a line on the General Plan land use maps demarcating where the urban and suburban land uses will be developed. The Community Region boundaries as depicted on the General Plan land use map shall be the established urban limit line.

Provide opportunities that allow for continued population growth and economic expansion while preserving the character and extent of existing rural centers and urban communities, emphasizing both the natural setting and built design elements which contribute to the quality of life and economic health of the County.

*Policy 2.1.1.1 The Communities within the County are identified as: Camino/Pollock Pines, El Dorado Hills, Cameron Park, El Dorado, Diamond Springs, Shingle Springs and the City of Placerville and immediate surroundings.*

#### **OBJECTIVE 2.1.2: RURAL CENTERS**

**Purpose:** The urban limit line establishes a line on the General Plan land use maps demarcating where urban and semi-urban land uses will be developed. The Rural Center boundaries as depicted on the General Plan land use map shall be the established urban limit line.

Recognize existing defined places as centers within the Rural Regions which provide a focus of activity and provides goods and services to the surrounding areas.

*Policy 2.1.2.1 The Rural Centers within the County are identified as: Coloma, Cool, Fairplay, Garden Valley, Greenwood, Georgetown, Grey's Corner, Grizzly Flat, Kelsey, Kyburz, Latrobe,*

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*Little Norway, Lotus, Mosquito, Mount Ralston, Mt. Aukum, Nashville, Oak Hill, Philips, Pilot Hill, Pleasant Valley, Quintette, Rescue, Somerset, Strawberry and Chrome Ridge.*

- 1.) Discussion of proposed amendment to Policy 8.1.3.1 to exempt lands within Community Regions and Rural Centers from minimum parcel size requirements.
- 2.) Minimum parcel sizes to meet agricultural setback standards (*Policy 8.2.2.5 New parcels adjacent to parcels zoned for agriculture shall not be created unless the size of the parcel is large enough to allow for an adequate setback from the surrounding agricultural parcels for any incompatible uses.*)
- 3.) Different application of buffering requirements inside or outside of General Plan Agricultural Districts.
- 4.) Different application of buffering requirements within Community Regions and Rural Centers.
- 5.) A General Plan amendment to allow an Administrative Relief process with certain findings to allow a reduction in the 10 acre buffering requirements within Community Regions and Rural Centers.

Under #5 in Policy 2.1.2.1, Chair Tolhurst stated it mentions a General Plan amendment for administrative relief to allow the reduction of the ten-acre buffer. That would provide relief that individuals have identified, but a General Plan amendment is still required. Commissioner Knight asked what we would want to include in a General Plan amendment. Mr. Maurer stated relief provisions could apply to ministerial type actions, but there would be a more formal process for discretionary projects.

Commissioner Hefflin said there is a difference between Rural Centers and Community Regions. We will be in trouble if they are treated the same.

Commissioner Mac Cready stated there are some agricultural operations in Community Regions, and they still need to be protected. Commissioner Pratt commented there are different issues between grazing and growing areas. Perhaps we need to look at not the footage but the type of buffering. We need to have a balanced approach. You do not only look at where agriculture is appropriate but where development is appropriate.

Chair Walker stated staff from the Agricultural Department and Development Services should take a look at the issues discussed today.

Chair Tolhurst commented the problems occur when you have an Agricultural District adjacent to a Community Region. The question arises as to where the 200-foot setback goes. Mr. Stephans said if the agricultural entity wants to plant up to the line, it is their responsibility not to intrude on the adjoining property. Chair Tolhurst spoke about conservation easements adjacent to agricultural lands. Mr. Stephans said if the easement is on the agricultural land, they are reimbursed for taking that land out of agricultural production; the same with development. Chair Tolhurst would rather see it in agricultural production than an easement if it is good agricultural land.

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Commissioner Hefflin stated we actually do not know where all the problem areas are. Mr. Stephans concurred. There are some areas where there are not that many problems.

Mr. Maurer stated staff will bring back more detailed information for the Commissions.

B. LOSS OF AGRICULTURAL LANDS

The loss of agricultural lands to development was identified as a potentially significant impact unless mitigated in the General Plan EIR.

*Policy 8.1.3.4 A threshold of significance for loss of agricultural land shall be established by the Agriculture Department and the Planning Department, with opportunity for public comment before adoption, to be used in rezone applications requesting conversion of agricultural lands to non-agricultural lands, based on the California LESA system. For projects found to have a significant impact, mitigation shall include 1:1 replacement or conservation for loss of agricultural land in active production and/or 1:1 replacement or conservation for land identified as suitable for agricultural production. A monitoring program should be established to be overseen by the Agricultural Department.*

- 1.) Discussion of impacts of General Plan land use designations as they relate to agricultural lands.
- 2.) Discussion of replacement or conservation programs for the loss of agricultural lands
- 3.) Discussion of acreage fee for nonagricultural development of agricultural lands.

Kathy Russell previously requested a General Plan amendment. Some of the problems from agricultural operations do apply to commercial areas in Rural Centers, i.e., gas stations, senior centers, etc. She feels grazing should be taken as a separate item.

Art Marinaccio said we need to look at lands that have a real agricultural potential and not those that might have a potential.

Chris, resident of Placerville, stated the General Plan is clear. Agriculture is for low density. Development is for high density. You do not have to make up a threshold statement. It is in the first sentence of Policy 8.1.3.4 under the LESA System.

Valerie Zetner believes the statement about one-to-one replacement for agricultural lands is in the Findings of Fact. We need to protect agricultural lands in the future. We need to identify what is significant and what is suitable. Until that is identified we cannot come up with a policy that makes sense.

Mr. Marinaccio read the definition of grazing lands out of the Glossary, which he stated is very specific.

Mrs. Schaffer stated under Policy 8.1.3.4, the LESA System is a state-wide model. There is a level of significance in the LESA System. Mr. Stephans commented the LESA System is project

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specific. We need something that is County-wide.

Commissioner Pratt asked how LAFCO works into the situation. Ms. Frantz stated you can go to LAFCO when you want to annex into a service district. The loss of agricultural land is considered when looking at annexations.

## V. GRAZING LAND PROTECTIONS

The General Plan requires the Agricultural Commission to identify suitable lands for sustained grazing.

*Policy 8.1.2.1 The County Agricultural Commission shall identify lands suitable for sustained grazing purposes which the Commission believes should be managed as grazing lands. Once such lands have been identified by the Commission, the Board of Supervisors shall determine whether to initiate incentive based programs to retain such lands as productive grazing units.*

- 1.) Discussion and input regarding what criteria could be used to identify lands suitable for sustained grazing.
- 2.) Discussion and input regarding County Ordinance Chapter 6.36 which has identified grazing lands within El Dorado County (See attached).

The General Plan requires protection of lands within Rural Regions that have historically been used for commercial grazing if they can be demonstrated to be suitable for grazing and if they were not assigned urban or other nonagricultural uses in the Land Use Map for the 1996 General Plan.

*Policy 8.1.2.2 Some lands within Rural Regions have historically been used for commercial grazing of livestock and are currently capable of sustaining commercial grazing of livestock. If they can be demonstrated to be suitable land for grazing, and if they were not assigned urban or other nonagricultural uses in the Land Use Map for the 1996 General Plan, those lands shall be protected with a minimum of 40 acres unless such lands already have smaller parcels or the Board of Supervisors determines that economic, social, or other considerations justify the creation of smaller parcels for development or other nonagricultural uses. Where 40-acre minimum parcel sizes are maintained, planned developments may be considered which are consistent with the underlying land use designation. Before taking any actions to create parcels of less than 40 acres in areas subject to this policy, the Board of Supervisors and/or Planning Commission shall solicit and consider input from the Agricultural Commission.*

- 1.) Discussion regarding what constitutes “historic” use.
- 2.) Discussion regarding what constitutes “not assigned urban or other nonagricultural uses” in the Land Use Map for the 1996 General Plan.
- 3.) Discussion regarding what constitutes being “consistent with the underlying land use designation” to be considered for a planned development.
- 4.) Discussion of using the Department of Conservation Important Farmland map from 1984 to establish historical grazing land.

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Commissioner Ward spoke about grazing and Williamson Act Contracts. Leased property would show historical use of the land for grazing. You have to ask if the parcel is large enough for grazing, 80 acres or larger. The income also has to be considered. Commissioner Machado is not sure grazing meets the Williamson Act criteria. He mentioned three recent applications where he did not believe the required criteria had been met.

Chair Walker asked that staff take the discussion received today back before the Agricultural Commission and Planning Commission. Chair Tolhurst would prefer the Planning Commission discuss the issues after the Agricultural Commission has discussed them so the Planning Commission can be aware of the Agricultural Commissions comments.

The Commissions took a lunch break.

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**AGRICULTURAL COMMISSION AND PLANNING COMMISSION**

**DEPARTMENT OF CONSERVATION  
WILLIAMSON ACT WORKSHOP**

**MINUTES**

**February 19, 2008**

**Board of Supervisors Meeting Room**

**1:00 to 4:00pm**

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**Agricultural Commission Members Present:** Bacchi, Draper, Heflin, Pratt, Walker, Ward

**Agricultural Commission Members Absent:** Boeger

**Planning Commission Members Present:** Knight, MacCready, Machado, Tolhurst

**Planning Commission Members Absent:** Mathews

**Ex-Officio Members Present:** William J. Stephans, Ag Commissioner/Sealer

**Staff Members Present:** Nancy Applegarth, Clerk to the Ag Commission  
Charlene Carveth, Sr. Ag Biologist/Standards Inspector  
Chris Flores, Ag Biologist/Standards Inspector  
LeeAnne Mila, Sr. Ag Biologist/Standards Inspector

Larry Appel, Development Services/Planning  
Pierre Rivas, Development Services/Planning

**Others Present:** Chris Alarcon, Sherri Lum Alarcon, Greg Baiocchi  
Michael Barsotti, Dick Bush, Paul Bush, Sheila Bush,  
Linda Cardanini, Richard & Betty Creason, Robert  
D'Agostini, Ed & Mary Ann Dante, Robyn Delfino,  
Denny Dobbas, Jim Dobbas, Everett & Jackie Fox,  
Thaleia Georgiades, Dennis Look, Richard Moran, Ray  
Nutting, Pat O'Halloran, Dave Olivarez, Chris Pittenger,  
Kathye Russell, Cindy Shaffer, Kirk Taylor, Gloria  
Varozza, Linda Westwood, Louis Wunshchel, Valeri  
Zentner

## **I. WILLIAMSON ACT OVERVIEW**

Mr. Walker, Chair Pro-Tem, for the Agricultural Commission, thanked the audience and staff for their attendance and stated that if anyone had questions regarding information received during both the morning and afternoon sessions, they would need to be put them in writing and address them to either, the Agricultural Commission, the Planning Department or the California Department of Conservation so a formal answer may be provided.



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Dennis O’Bryant, Program Manager for the Williamson Act, Department of Conservation’s Division of Land Resource Protection, introduced the staff, Adele Lagomarsino, Tom Tandoc, Mike Krug and Robert Shun. He thanked both the Agricultural and Planning Commission members for inviting them to present their information on the Williamson Act.

The Williamson Act falls under the California Land Conservation Act.

- It is an enforceable restriction – per the State Constitution.
- It is a voluntary initial ten year contract, which renews annually.
- It is locally administered by participating counties and cities.
- Agricultural Preserves and Williamson Act Contracts are two separate things.

Intent of the Williamson Act –

- Preservation of the limited supply of agricultural land is necessary
- Discouragement of premature and unnecessary conversion of Ag land to urban use is in the public interest
- Agricultural lands have important open space aspects, and should be kept in production.

In 1966 California voters passed an initiative that amended the State Constitution which states, “Land that is an enforceably restricted to an Agricultural Use, or Open Space use is entitled to taxation in line with its restricted use.”

The California State Legislature puts more support into the Williamson Act in 1971 by use of Subventions – payments back to local governments for forgone tax revenues.

## II. COMPATIBLE USE

Purposes of the Williamson Act -

- Preservation of a maximum amount of limited supply of agricultural land is needed
- Discouragement of the premature and unnecessary conversion of agricultural land is a benefit to state
- Agricultural lands have a value as open space in an urbanizing society.

Compatible Uses Defined –

- Gas, electric, water, communication, Ag laborer housing facilities

Principles of Compatibility (Sec. 51238.1)

- Not significantly compromise Ag capability on parcel or other contracted lands

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- Not displace or impair Ag on parcel or contracted parcels unless – related directly to production of commercial Ag- harvesting, processing, shipping
  - Not result in significant removal of adjacent contracted land

A question was asked if the compatible use also referred to cell towers. DOC staff explained that if the tower was built with use of more than a few acres the contract may need cancellation.

A question was asked regarding the difference between a solar power facility being used to power a dairy versus a house being built on the property – would the house be an incompatible use? Staff answered that the house would have to be an Ag Use.

### III. CANCELLATION PROCEDURES

Cancellation is allowed in “extraordinary situations” only – per Supreme Court, initiated only by the landowner, or it is not an immediate cancellation. Lax cancellation procedures defeat the intent of the Legislature to reduce the taxes on agricultural land in return for long-term binding commitments.

Required findings:

- Cancellation is consistent with the purposes of the Williamson Act and/or
- Cancellation is in the Public Interest \*(check the contract – some contracts require both findings)

In most cases it is either or. One thing to note, when the petition comes to the Board it needs to be specific enough to make those cancellation findings.

Consistency Findings:

- 1) Notice of non-renewal filed
  - 2) Removal of adjacent land from agricultural use is not likely
  - 3) Alternative use is consistent with the General Plan
  - 4) Will not result in discontinuous urban development
  - 5) No proximate non-contracted land available
- \*MUST provide substantial supporting evidence

Mr. Bacchi stated that to his knowledge there has never been a cancellation in El Dorado County. He asked, “How many cancellations statewide do you see per year?” Dennis O’Bryant stated there were about 3,500 acres last year. The idea is that because it is a restrictive contract situation, they want to encourage people to think very seriously about how they get out, and when they get out of the contract. A person would want to create an analytical route of evidence towards those findings as the Board of Supervisors need to rely on them, as they go forward in making a public record if they allow a cancellation. Any landowner within a mile of any Williamson Act Contract in the county can sue.

Referring to finding #2, it was asked if someone were to decide to roll-out of a Williamson Act Contract, or make a filing, could the County decide it is not a good idea because it puts pressure on the neighboring parcels? DOC staff confirmed that this could happen but it would not be so much the county making the decision but it would be a lack of evidence to show that the landowner is not going to immediately drop out of Ag use. It was mentioned that this is only in regards to cancellation which can go into effect immediately as opposed to roll-out.

#### **IV. CANCELLATION VALUATION**

Formal Review –

SB 1820 became effective as of January 1, 2004. What does it do?

The Assessor makes a determination of current fair market value and notification to landowner and Department of Conservation. It provides procedures for a formal review by the Assessor upon request of the landowner or DOC. Also, allows recovery of reasonable costs of review from cancellation fee and is the only allowable method of appealing a valuation.

#### **V. SUBDIVISION & LOT-LINE ADJUSTMENTS**

The Local Board or Council is required to make seven findings when the Lot Line Adjustment is done on Williamson Act Contracted land pursuant to subdivision (d) of Section 66412 – no maps were required under the Subdivision Map Act

#### **VI. SUBVENTION AUDITS**

About 70% of the counties have been audited since the late 1980s. Previously, audits were conducted by DOF, now DOC. Butte, Humboldt, Sonoma, Alameda, Shasta and Calaveras Counties have been audited. Good administration and fiduciary responsibility ensure the continuance of the Act.

The purpose and audit process was explained. Common issues were discussed such as nonprime and prime land. A project is considered prime if it has an income of \$200 gross per acre.

A question was asked regarding the distinction between prime and nonprime. DOC staff explained that there is basically no difference between the two in many areas, however, there are a few things where it will have a bearing as to whether it is prime or nonprime, such as if you start to sub-divide, then there is an impact. Compatible Uses for grazing is not quite as restrictive and there is a bit more flexibility. It does not make a difference if it is prime or nonprime in most cases. DOC is really saying, “Do you have an Ag Use and what is the Use? Is it a prime use (which is typically growing something) or non-

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prime use? (which is typically grazing land.)

It was pointed out by a Planning Commission member that El Dorado County regulations require a ten acre standard based on prime soils and that is different than the use for animal grazing versus a soil type.

DOC staff said that back when the state started making these decisions the standard was ten acres. This was a presumptive minimum they generally looked at statewide. Some areas of the code still require that it is viable – just because you have a ten-acre prime parcel, you still have to have an Ag Use to do certain things. An important factor is that the contracts have to state that the landowner agrees, during the duration of the contract, they will use the property for an Ag Use. If the property is not used for Ag then there is no compliance with the Williamson Act Contract.

It was stated that some thought, as the Oak Woodlands Management Plan was being finalized, there would be some Williamson Act parcels that would want to offer up a conservation easement for the protection of the oaks. Also, it is assumed that cattle could graze under the oaks. DOC staff said this would not be considered a problem.

It was discussed that possibly the Oak Woodlands conservation easement should be taken out of Ag (Williamson Act) and put into Open Space.

Recommendations –

Ensure there is a trained, knowledgeable staff, have better coordination between planning department, assessor's office, public works, LAFCO, etc. Clearly identify WA parcels:

- Parcel maps
- Permitting requests
- Subdivision or LLA requests

Contact information:

Contact DOC for assistance: DLPR: (916) 324-0850

Email: [dlpr@conservation.ca.gov](mailto:dlpr@conservation.ca.gov)

Website: [www.conservation.ca.gov/dlpr](http://www.conservation.ca.gov/dlpr)

Legal: (916) 323-6733

Meeting was adjourned at 3:43 p.m. by Mr. Walker.

**APPROVED:** Lloyd Walker, Chair Pro Tem

**Date:** March 12, 2008

For further information please see the following Powerpoint presentations:

# Agricultural Commission and Planning Commission Workshop

February 19, 2008



## IV. Agricultural Protections

### ➤ **Creation of Parcels Adjacent to Agriculturally Zoned Lands**

- The adopted General Plan requires that any newly created parcel adjacent to agriculturally zoned lands be a minimum of 10 acres. This policy does not exclude or exempt Community Regions or Rural Centers from the required minimum 10 acre buffer.
- Should these buffer requirements apply in Community Regions and Rural Centers?

## OBJECTIVE 2.1.1: COMMUNITY REGIONS

- **Purpose:** The urban limit line establishes a line on the General Plan land use maps demarcating where the urban and suburban land uses will be developed. The Community Region boundaries as depicted on the General Plan land use map shall be the established urban limit line.
- *General Plan Policy 2.1.1.1 The Communities within the County are identified as: Camino/Pollock Pines, El Dorado Hills, Cameron Park, El Dorado, Diamond Springs, Shingle Springs and the City of Placerville and immediate surroundings.*

## OBJECTIVE 2.1.2: RURAL CENTERS

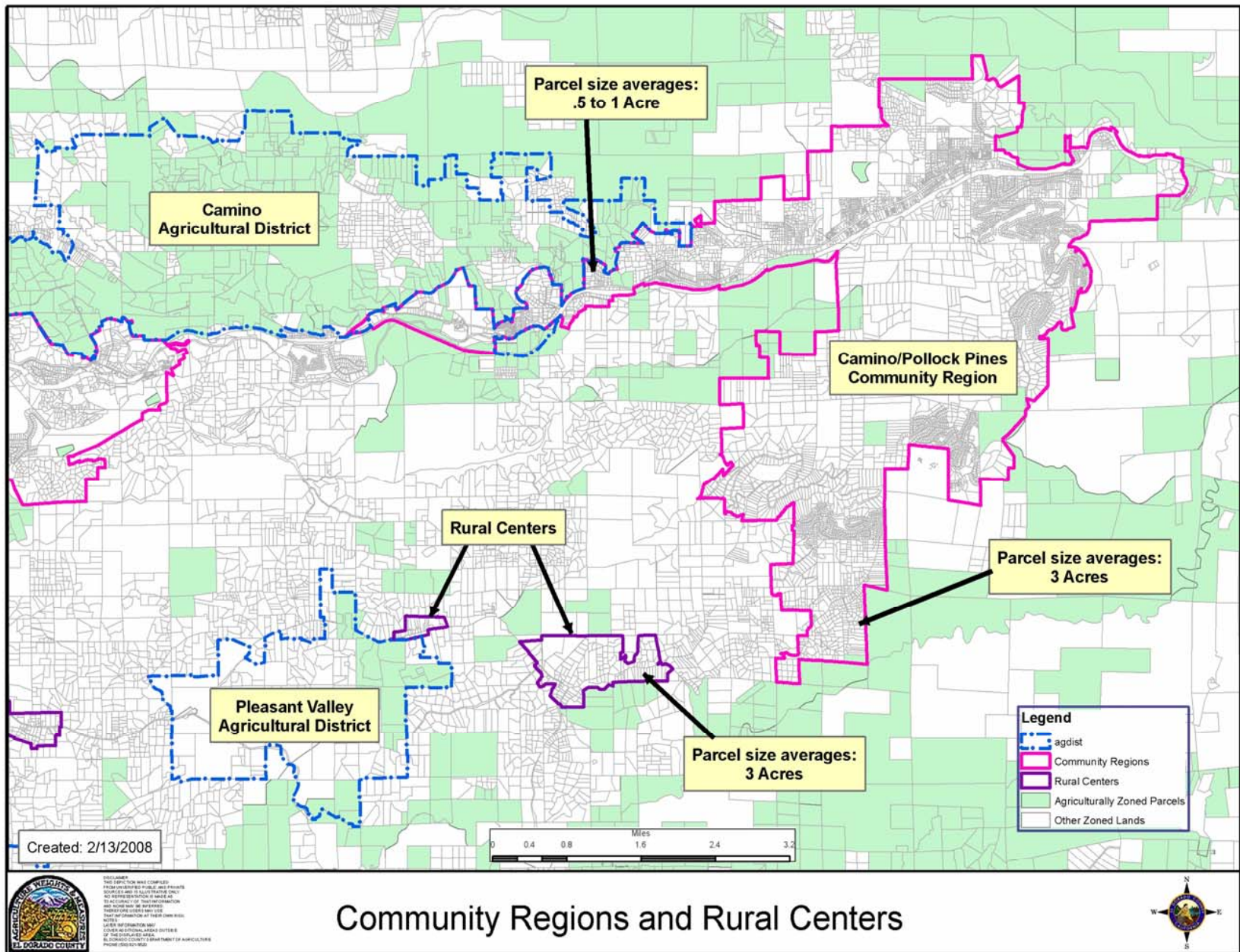
- **Purpose:** The urban limit line establishes a line on the General Plan land use maps demarcating where urban and semi-urban land uses will be developed. The Rural Center boundaries as depicted on the General Plan land use map shall be the established urban limit line.
- **General Plan Policy 2.1.2.1** *The Rural Centers within the County are identified as: Coloma, Cool, Fairplay, Garden Valley, Greenwood, Georgetown, Grey's Corner, Grizzly Flat, Kelsey, Kyburz, Latrobe, Little Norway, Lotus, Mosquito, Mount Ralston, Mt. Aukum, Nashville, Oak Hill, Philips, Pilot Hill, Pleasant Valley, Quintette, Rescue, Somerset, Strawberry and Chrome Ridge.*





# Some of our Rural Centers







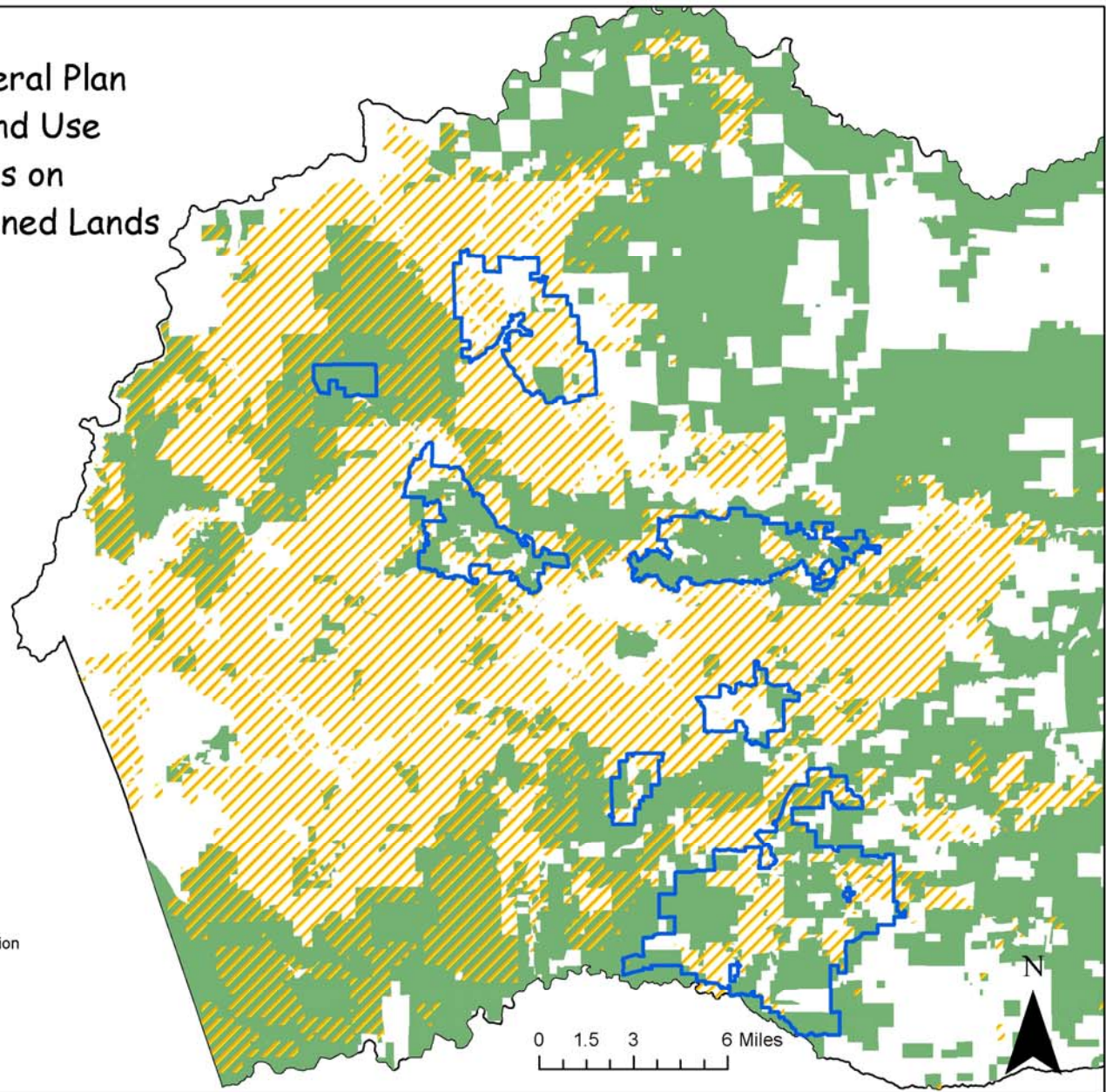
## Loss of Agricultural Lands

- The loss of agricultural lands to development was identified as a potential significant impact unless mitigated in the General Plan EIR.
- **General Plan Policy 8.1.3.4** *A threshold of significance for loss of agricultural land shall be established by the Agriculture Department and the Planning Department, with opportunity for public comment before adoption, to be used in rezone applications requesting conversion of agricultural lands to non-agricultural lands, based on the California LESA system. For projects found to have a significant impact, mitigation shall include 1:1 replacement or conservation for loss of agricultural land in active production and/or 1:1 replacement or conservation for land identified as suitable for agricultural production. A monitoring program should be established to be overseen by the Agriculture Department.*

Impacts of *General Plan*  
Residential Land Use  
Designations on  
Agriculturally Zoned Lands

**Legend**

-  Agricultural District
-  Residential Land Use Designation
-  AGlandsF
-  Other Lands






## V. Grazing Land Protections

- The General Plan requires the Agricultural Commission to identify suitable lands for sustained grazing.
- **General Plan Policy 8.1.2.1** *The County Agricultural Commission shall identify lands suitable for sustained grazing purposes which the Commission believes should be managed as grazing lands. Once such lands have been identified by the Commission, the Board of Supervisors shall determine whether to initiate incentive based programs to retain such lands as productive grazing units.*



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- The General Plan requires protection of lands within Rural Regions that have historically been used for commercial grazing if they can be demonstrated to be suitable for grazing and if they were not assigned urban or other nonagricultural uses in the Land Use Map for the 1996 General Plan.

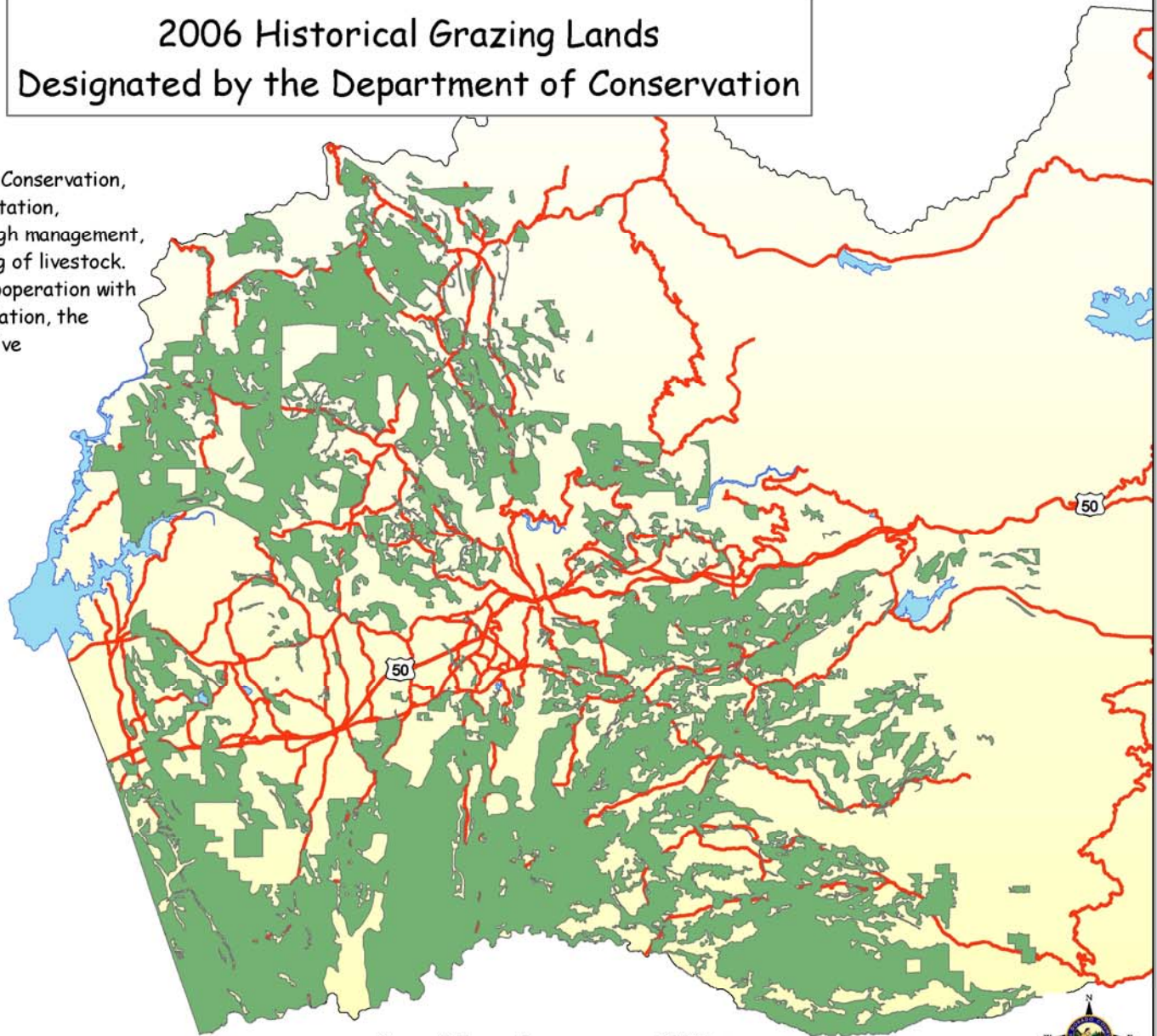
- ***General Plan Policy 8.1.2.2*** *Some lands within Rural Regions have historically been used for commercial grazing of livestock and are currently capable of sustaining commercial grazing of livestock. If they can be demonstrated to be suitable land for grazing, and if they were not assigned urban or other nonagricultural uses in the Land Use Map for the 1996 General Plan, those lands shall be protected with a minimum of 40 acres unless such lands already have smaller parcels or the Board of Supervisors determines that economic, social, or other considerations justify the creation of smaller parcels for development or other nonagricultural uses. Where 40-acre minimum parcel sizes are maintained, planned developments may be considered which are consistent with the underlying land use designation. Before taking any actions to create parcels of less than 40 acres in areas subject to this policy, the Board of Supervisors and/or Planning Commission shall solicit and consider input from the Agricultural Commission.*

## 2006 Historical Grazing Lands Designated by the Department of Conservation

\*Grazing Land, as defined by the Department of Conservation, is land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock. This category was developed in cooperation with the California Cattlemen's Association, the University of California Cooperative Extension Service, and other interested groups. The minimum mapping unit for Grazing Land is 40 acres.

### Legend

- 2006\_GrazingLands
- lakes
- MjrRoads



0 2.5 5 10 Miles



# 1984 Historical Grazing Lands Designated by the Department of Conservation

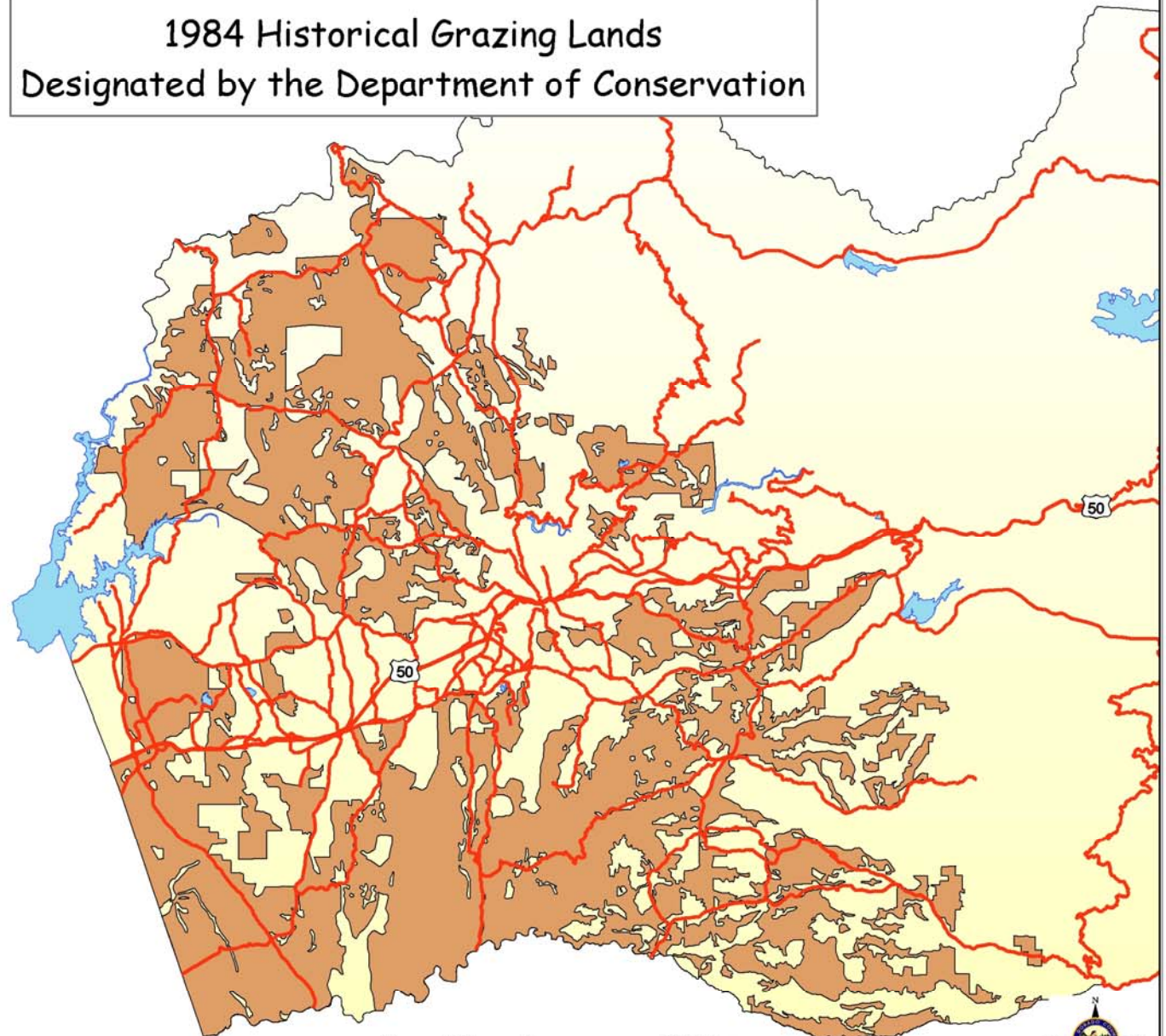
1984 Grazing Lands  
200,642 Acres

2006 Grazing Lands  
195,936 Acres

Loss of Grazing Lands  
4,705 Acres

## Legend

- 1984\_Grazing Lands
- lakes
- MjrRoads



0 2.5 5 10 Miles







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- Future Agenda Topics for Discussion?

# The Williamson Act

- “It’s More Than a Tax Break”



# The Williamson Act



- **California Land Conservation Act**
- **Enforceable restrictions- per the State Constitution**
- **Voluntary initial 10-year contract, renews annually**
- **Locally administered by participating counties and cities**
- **Subventions- State replaces lost taxes**

# Williamson Act Today



- **Over 16.8 million acres enrolled**
- **\$40 million in subventions paid last year**
- **54 counties participate**

# Intent of the Williamson Act



- **Preservation of the limited supply of agricultural land is necessary**
- **Discouragement of premature and unnecessary conversion of ag land to urban uses is in the public interest.**
- **Agricultural lands have important open space aspects, and should be kept in production.**

# The Williamson Act

- “It’s More Than a Tax Break”

## “Compatible Uses”



# Purposes of the Act



- **Preservation of a maximum amount of limited supply of agricultural land is needed**
- **Discouragement of the premature and unnecessary conversion of agricultural land is a benefit to state**
- **Agricultural lands have a value as open space in an urbanizing society**



# Compatible Uses- Some Statute



- **Every contract shall exclude uses other than agricultural uses, and those compatible with agricultural uses (Sec 51243 (a))**
- **The enforceability of contracts is necessary to permit the preferential taxation provided under the Constitution (Sec 51243.6)**
- **Additional population- permanent or temporary- can hinder ag operations and must be evaluated (Sec. 51220.5)**

# Compatible Uses Defined



- Gas, electric, water, communication, ag laborer housing facilities (*but the Legislature discussed cancellation requirements for power generation facilities*)
- **Principles of Compatibility (Sec. 51238.1)**
  - Not significantly compromise ag capability on parcel or other contracted lands
  - Not displace or impair ag on parcel or contracted parcels *unless*

# Compatible Uses Defined (2)



- related directly to production of commercial ag- harvesting, processing, shipping
- Not result in significant removal of adjacent contracted land

# Compatible Uses- Nonprime



- **Allows conditional (needs a CUP) uses that do not meet previous sections if**
  - Conditions avoid or mitigate on- or off-site impacts to ag
  - Ag productivity and loss or displacement are considered
  - Use is consistent with the purposes of the Act to preserve ag land and open-space land (as defined)
  - Is not a residential subdivision

# Compatible in 1994?



- Sec 51238.3- Previous sections don't apply if use existed before 7/7/94
- Don't apply if use was allowed by contract prior to 7/7/94 and Act defined it as a compatible use at the time contract was signed or amended. DOC glad to consult on compatibility definitions as they existed
- Uses must be listed within the contract (before 7/7/97, may refer to other documents)



# How to evaluate

- Principles of compatibility
- Purposes of the Act
- Constitution- “for the production of food and fiber”
- The Compatibility Continuum:  
Not OK 30% --- Use Discretion 40% --- ok 30%

# Compatibility Issues



- **Residences-** Allowed if related to the commercial agricultural use of the property. *For subdivisions, must be incidental to the agricultural use.*
- **NO commercial ag use**  
= **NO residence allowed**
  - “Planned” ag use does **NOT** count
  - Good to have income or other criteria to ensure commercial ag use

## Issues (2)



- **Horse facilities-** NOT commercial agriculture per Food and Agriculture Code, NOT food or fiber
- **Wineries-** On-site tasting, sales, storage, processing, transportation OK. More is problematic
- **Golf courses-** NOT allowed since 1998, specifically excluded as Recreation
- **Ski Lakes-** No



# Issues (3)



- **Duck clubs-** NOT commercial ag, may be OK as Open Space. Watch for clubhouses, cabins, etc.
- **Airstrips-** For ag use only, not for “convenience”
- **B and B’s-** New buildings related to commercial ag use?
- **Recreation-** Natural or ag state, open to the public, cost not preclude public use

# Mining and Compatibility



- NOT automatically compatible - not a commercial ag use
- May be compatible if short term and reclaimed to SMARA ag standards.
- Can often work if mined in phases so nonrenewal completed before mining contracted areas, or partial cancellation
- Many old contracts allow, but DOC does not agree this was a compatible use under the Act

# Bad Outcomes



- Breaches of contract- Buildings over 2500 sq. ft., not related to the ag use, are material breaches subject to enhanced penalties
- Citizen suits- any landowner within 1 mile, or any WA contract holder in county, has standing to sue
- Subventions- DOC must certify that requests are authorized- can we?
- Lose the Act

# How to Avoid Problems



- **Ensure there is a commercial agricultural use- establish a commercial ag threshold and verify annually with a tax questionnaire**
- **Have an up-to-date WA ordinance that meets statutory requirements**
- **If needed, establish Open Space contracts**
- **Nonrenew parcels that don't meet requirements- too small, no ag**

# The Williamson Act

- “It’s More Than a Tax Break”

## Contract Cancellation



# Nonrenewal is...



- **Recommended method of getting out**
- **Nine-year nonrenewal path**
- **Taxes gradually increase each year**
- **Either landowner OR County may initiate nonrenewal**

# Cancellation is...



- Allowed in “extraordinary situations” ONLY - per Supreme Court
- Initiated by landowner ONLY
- Immediate
- Lax cancellation procedures defeat the intent of the Legislature to reduce the taxes on agricultural land in return for long-term binding commitments



# Required Findings:

**1. Cancellation is consistent with the purposes of the Williamson Act**

and/or

**2. Cancellation is in the Public Interest**

\*\* Check the contract – some contracts require BOTH findings



# Helpful Hint #1



**Petition must be specific enough to permit Board or Council to make all required cancellation findings**

**Also include:**

- **General Plan/Specific Plan info**
- **Map and surrounding uses**
- **CEQA documentation, if available**



# (1) Consistency Findings:

- 1) Notice of nonrenewal filed
- 2) Removal of adjacent land from agricultural use is not likely
- 3) Alternative use is consistent with General Plan
- 4) Will not result in discontinuous urban development
- 5) NO proximate noncontracted land available

\* **MUST** provide substantial supporting evidence

# Helpful Hint #2



- **Substantial supporting evidence = analytical route from evidence → → findings**
- **Uneconomic agricultural return is not a sufficient reason to cancel**

## (2) Public Interest Findings:



1) Other public interest substantially outweighs objectives of the Act

2) NO proximate noncontracted land available for the proposed use

## Helpful Hint #3



If petition claims that continued land restriction is contrary to the public interest

→ petition MUST also address original criteria used to restrict land and provide preferential tax assessment on behalf of public interest



# TIMELINE:

- 1) Notice of Nonrenewal
- 2) Petition for Tentative Cancellation
- 3) Calculation of Cancellation Valuation
- 4) Public Hearing on Tentative Cancel.
- 5) Satisfaction of Conditions and Contingencies
  - including payment of Cancellation Fee
- 6) Final Cancellation and Notice of Decision

# What to send:



- **Copy of the petition = proposal for specified alternative use**
- **Copy of original contract**
- **Map**
- **Deadline for comments**
  - **no less than thirty (30) days prior to public meeting**

# Where and When to send:



**Bridgett Luther, Director**  
**Department of Conservation**  
**Division of Land Resource Protection**  
**801 K Street, MS 18-01**  
**Sacramento, CA 95814-3528**

- **Determined that application is complete – no less than thirty (30) days prior to public hearing**





# Public Hearing:

- Prior to taking action, Board/Council must consider Dept. of Conservation comments

- Assessor to determine cancellation value

**CANCELLATION FEE =**

**12<sup>1</sup>/<sub>2</sub>% OF FAIR MARKET  
VALUE**

- Notice to Dept. of Conservation and to every landowner under contract within one mile

# Certificate of Tentative Cancellation:



- Name of landowner
- Final Cancellation to be issued upon satisfaction of conditions and contingencies
- Legal description of property
- Statement that cancellation fee MUST be paid within one year of recording date, or it will be recomputed

*\*\* Record it with the County*



# Notice of Decision:

- **Publish within 30 days of decision**
- **General Explanation of decision**
- **Required Findings**
- **General description of land under contract**
- **Send copy to Dept. of Conservation**

## \*Helpful Hint\*



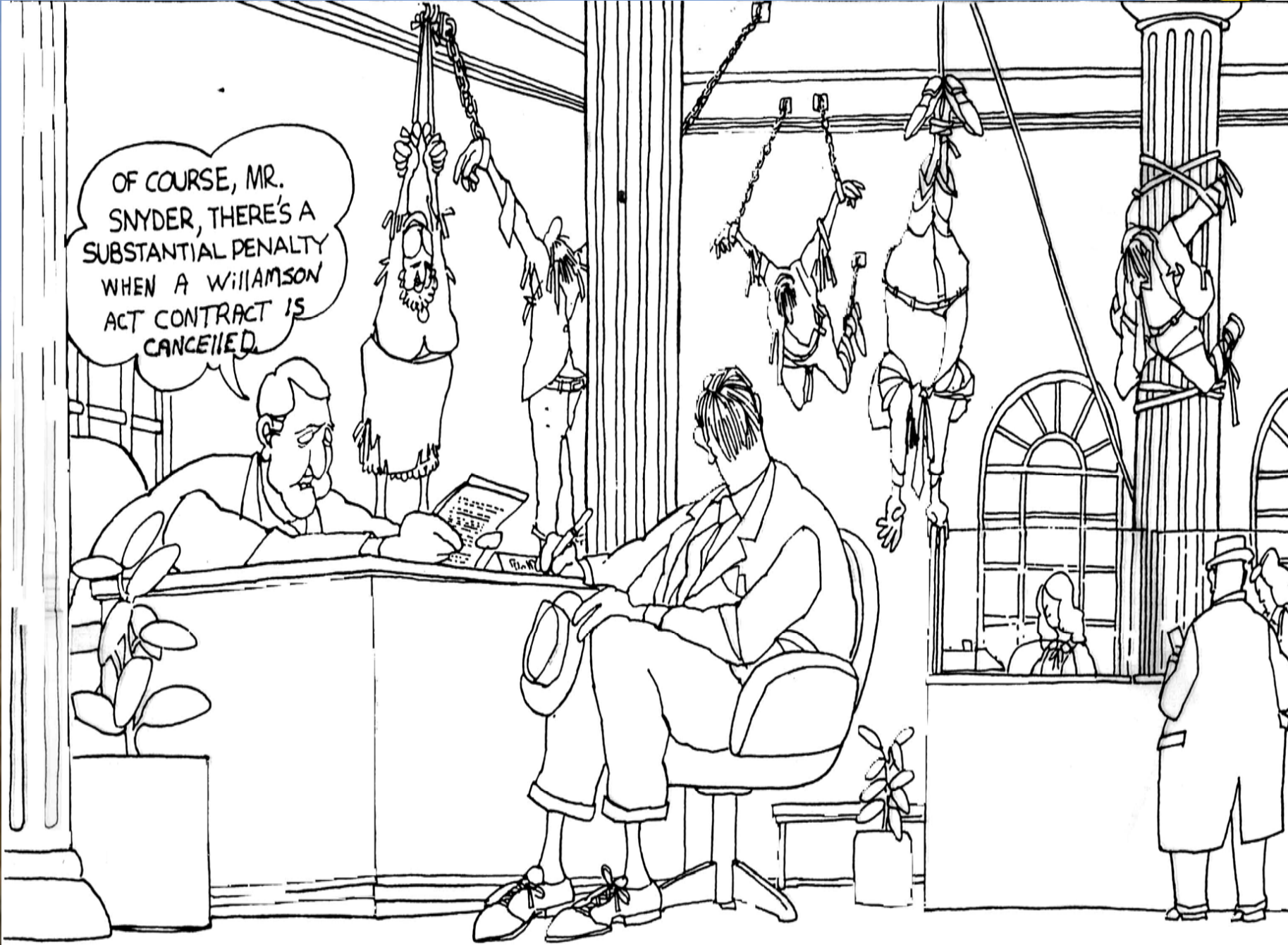
- **SEND THE CANCELLATION FEE to State Controller within 30 days of final cancellation**

# Point to remember:



- **NO contracting landowner has any reasonable expectation that their contract is immediately terminable, pursuant to this article, without incurring a penalty...**

OF COURSE, MR. SNYDER, THERE'S A SUBSTANTIAL PENALTY WHEN A WILLAMSON ACT CONTRACT IS CANCELLED.



# The Williamson Act

- “It’s More Than a Tax Break”

## Cancellation Valuation Formal Review



# SB 1820 - effective 1/1/04

## What it does...



- **Assessor determination of current fair market value and notification to landowner and DOC**
- **Provides procedures for a formal review by the Assessor upon request of the landowner or DOC**
- **Allows recovery of reasonable costs of review from cancellation fee**
- **Is the only allowable method of appealing a valuation**



# Notice of Cancellation Valuation



- **Landowner and DOC- by certified mail**
- **Identify parcel(s)**
- **Opportunity for formal review-45 days and information relevant to valuation**

# SB 49 - effective 9/22/05



- **Assessor may deny formal review for lack of evidence**
- **Parties may request all information relevant to valuation**

# Formal Review Timeline



- **Request to be within 45 days of notice by certified mail**
- **30 days to receive info from parties**
- **Allow 20 day party response to new info**
- **Complete review within 120 days of receipt of request**

# Formal Review Do's



- **Provide parties with required notices**
- **Provide parties with shared information**  
**\*certified mail**
- **Avoid ex parte contact**
- **Accept appeals only within 45 days of valuation notice**
- **Give no consideration to information not served on all parties**

# Judicial Challenge

- To avoid 3 year Statute of limitations



- **Provide parties with notice of initial cancellation valuation and opportunity for formal review**
- **Provide parties with notice of formal review undertaking or not**
- **Provide parties with any recomputed valuation**
- **Provide parties with notice of public hearing**

# Cancellation before valuation is complete



- **Calculation of cancellation fees should be timely**
- **Cancellation can be effective in light of formal review or judicial challenge**
- **Security 20% of assessor's initial determination of fee**
- **Approved by DOC - held by board/council**

# Cancellation Fee Waiver/Extension



- **Must be in the Public Interest and not exceed expired term of contract**
- **Cancellation caused by involuntary transfer or change**
- **Land not immediately used or available for greater economic return**
- **Requires approval of Secretary of Resources Agency- given once since 1965**

# Responses to Commonly Asked Questions



- **Cancellation Valuation Fair Market Value assumes landowner has permits required to commence project**
- **Cancellation valuation expires 1-year from certification by board/council**
- **Cancellation is not Final until fee is paid**



# Where to Get More Information



**Williamson Act Program**

**(916) 324-0850**

**[www.conservation.ca.gov/dlrp/lca](http://www.conservation.ca.gov/dlrp/lca)**

# The Williamson Act

- “It’s More Than a Tax Break”

## SUBDIVISION & LOT LINE ADJUSTMENT ON CONTRACTED LAND



J. Kyle Nast

California Department of Conservation

(916) 323-6733



# Question #1



- **Is a map required by the Subdivision Map Act?**
  - **Government Code § 66412(d)**
  - **If YES**
    - **Follow Government Code § 66474.4**
  - **If NO**
    - **Follow Government Code § 51257**

# Government Code § 66412(d)



**Allows for Lot Line Adjustments to proceed without filing a tentative map, parcel map, or final map ONLY when the following conditions are met:**

- 1. The lot line adjustment is between four or fewer existing adjoining parcels.**
- 2. The land taken from one parcel is added to an adjoining parcel.  
Adjoining is defined as: “Touching; sharing a common boundary; Contiguous.” (Black’s Law Dict. (7<sup>th</sup> ed. 1999) p. 42, col. 1)**
- 3. There is the same or fewer number of parcels before the lot line adjustment as there are after the adjustment.  
(People v. County of Tehama (2007) 149 Cal. App. 4th 422)**

# Government Code § 66412(d) conditions cont.



**4. The adjusted parcels must conform to the general plan, local zoning and Williamson Act presumed minimums (10 acres for prime agricultural Land and 40 acres for non-prime agricultural land).**

**5. The adjustment shall be reflected in a deed, which shall be recorded.**

# Exempt Lot Line Adjustment under Gov. Code 66412(d)



Road



Before

Road



After



# Lot Line Adjustment and the Williamson Act – Govt. Code § 51257

The Local Board or Council is required to make the following 7 findings when:

- The Lot Line Adjustment is done pursuant to subdivision (d) of Section 66412.
  - No maps were required under the Subdivision Map Act
- The land is under Williamson Act Contract.

# Lot Line Adjustment and the Williamson Act – Govt. Code § 51257



- 1. If a new contract is required, the new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.**
  - Rescind and re-enter is only required when the exterior boundary of a contract is changed. Otherwise, it is strongly recommended.**



# Lot Line Adjustment and the Williamson Act cont.



- 2. There is no net decrease in the amount of the acreage restricted.**
  - May aggregate the subject parcels.
  - May restrict more acreage under the new contract
  
- 3. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.**
  
- 4. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use. (40 acre non-prime, 10 acre prime)**

# Lot Line Adjustment and the Williamson Act cont.



5. The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
6. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
7. The lot line adjustment does not result in a greater number of developable parcels, or an adjusted lot that is inconsistent with the general plan.

# Williamson Act Lot Line Adjustment Example #1



- **2 adjoining contracted non-prime parcels under 1 contract**



Before



After

- Does not require rescind and re-enter

# Williamson Act Lot Line Adjustment Example #2



Before



Contracted

After



Contracted 10 Acres

New contract or contracts are required

# Subdivision and the Williamson Act – Govt. Code § 66474.4(a)



- The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either:
    1. the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use (Conclusive presumption of 40 Acres Non-prime, 10 Acres Prime);
- OR
2. the subdivision will result in residential development not incidental to the commercial agricultural use of the land.

# Exceptions to Govt. Code § 66474.4(a)



- **Parcel sizes may be smaller than the presumed minimum size if the Local Board or Council finds:**
  - **The parcels can sustain an agricultural use permitted under the contract or easement**
  - or**
  - **are subject to a written agreement for joint family management (Section 51230.1) and the parcels that are jointly managed total at least the presumed minimum size.**

# Exceptions to Govt. Code § 66474.4(a) Cont.



**Parcel sizes may also be smaller than the presumed minimum size if:**

- One of the parcels contains a residence and is subject to **Section 428 of the Revenue and Taxation Code**;
- the residence has existed on the property for at least five years;
- the landowner has owned the parcels for at least 10 years;

# Exceptions to Govt. Code § 66474.4(a) Cont.



## **Parcel sizes may be smaller than the presumed minimum size if:**

- the remaining parcels shown on the map are at least 10 acres for prime land, or at least 40 acres for not prime land.
- The remaining parcel may not have a new house put on it for 10 years after the creation of the home site parcel



# Exceptions to Govt. Code § 66474.4(a) Cont.



- **Section 66474 shall not apply when:**
  - LAFCO has approved annexation of the land to a city and the city will not succeed to the contract because of a proper protest.
  - Only 3 years remains on a Contract.
  - The board or council has granted tentative approval for cancellation of the contract.

# Certificates of Compliance and the Williamson Act



- **If the parcel for which the Certificate of Compliance is sought meets the minimum parcel size, a Certificate of Compliance shall be granted.**
  - **If the new parcel is sold, the contract should be rescinded and reentered pursuant to Gov't code § 51254.**

# Certificates of Compliance and the Williamson Act cont.



- If the parcel for which the Certificate of Compliance is sought does not meet the minimum parcel size, a conditional certificate of compliance may be granted.

# The Williamson Act

- “It’s More Than a Tax Break”

## AUDITS



**Robert Shun**

Williamson Act Analyst

Phone: (916) 324-0850

# Background



- **About 70% of the counties have been audited since the late 1980s.**
- **Previously conducted by DOF, now DOC.**
- **Butte, Humboldt, Sonoma, Alameda, Shasta, and Calaveras Counties.**
- **Good administration and fiduciary responsibility ensure the continuance of the Act.**

# Purpose



- **State fiduciary responsibility for subventions**
- **Ensure constitutional restrictions are maintained**
- **Compliance**
  - **Williamson Act (GC §51200 - §51297.4)**
  - **Open Space Subvention Act (GC §16140 - §16154)**
  - **Subdivision Map Act (GC §66474.4)**
  - **Revenue and Taxation Code (§421 - §430.5)**
- **Research issues identified by satellite photography, local contacts, and inquiries**
- **Recommendations**
  - **Correct Deficiencies**
  - **Improve Program and Internal Controls**

# Audit Process



- **Notification Letter**
- **Entrance Conference**
- **Duration: 2 – 3 weeks**
- **Assessor's Office, Planning Department, Public Works, LAFCO.**
- **In-progress updates**
- **Exit Conference**
- **Audit Report**
- **County has 20 working days to respond**
- **DOC tracks recommendations until "Closed"**

# Assessor's Office



- Review Subvention Reports
- Examine data contained in WA Folders
- Trace parcel splits and lot-line adjustments using current and prior parcel maps.
- Check accuracy of Assessor database for:
  - Prime vs. nonprime (land classification)
  - Compare restricted value, FMV & Proposition 13
  - “Agricultural Use” on the parcel – Questionnaire
  - Taxability and Land Use codes.
  - Types and uses of structures on the parcel.



# Planning Department



- **Check county's procedures for:**
  - New Contracts
  - Non-Renewals
  - Cancellations
  - Public Acquisitions
  - Ordinance conformity to statute
- **Ensure compliance with zoning**
- **Review database:**
  - Structures or other development on WA parcels (e.g., Material Breach)
  - Conditional Use Permits
  - Evidence that BOS or City Council made the finding required for LLA or the subdividing of parcels. Look at staff reports.

# Common Issues



- **Nonprime claimed as prime**
- **No commercial agriculture (Questionnaires)**
- **Non-compatible uses**
- **Lot Line Adjustment**
- **Subdivision Map Act**
- **Substandard parcels**

# Common Issues cont.



- **Restrictive Easements (OS WA Contract)**
- **Non-compatible structures**
- **Public Acquisitions**
- **Annexations**
- **Amending Contracts**

# Recommendations



- **Ensure trained, knowledgeable staff**
- **Better coordination between planning department, assessor's office, public works, LAFCO, etc.**
- **Clearly identify WA parcels:**
  - **Parcel maps**
  - **Permitting requests**
  - **Subdivision or LLA requests**

## Contact Info:



- **Contact DOC for assistance**
  - DLRP: (916) 324-0850
  - Email:**  
[dlrp@conservation.ca.gov](mailto:dlrp@conservation.ca.gov)
  - Website:**  
[www.conservation.ca.gov/dlrp](http://www.conservation.ca.gov/dlrp)
  - Legal: (916) 323-6733