

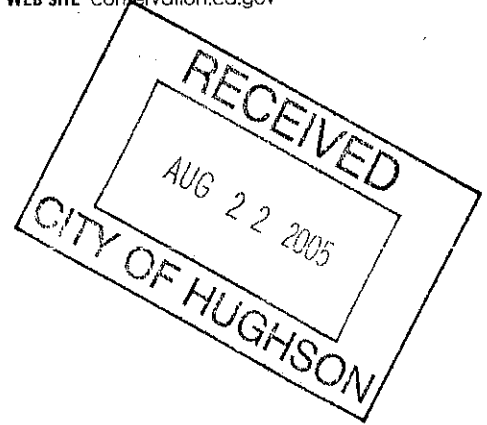


DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

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TO: Project Coordinator
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FROM: *Charles Tyson for*
Dennis J. O'Bryant, Acting Assistant Director
Department of Conservation, Division of Land Resource Protection

DATE: August 17, 2005

SUBJECT: HUGHSON 2005 GENERAL PLAN DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) **SCH#2005022146**

The Department of Conservation's Division of Land Resource Protection (Division) commented on the Notice of Preparation for this project in March 2005. The Division has reviewed the above referenced DEIR which provides an excellent discussion on agricultural resources and project impacts. We, however, recommend that the following points be clarified or expanded in the Final Environmental Impact Report (FEIR).

2-1

Farmland of Local Importance Definition

The DEIR provides a generic definition for this map category. The FEIR should also provide the county-specific definition approved by the Board of Supervisors for the Stanislaus County Important Farmland Map:

2-2

Farmlands growing dryland pasture, dryland small grains, and irrigated pasture.

Sphere of Influence Boundary Changes and Annexations

The DEIR notes that the 2005 General Plan also considers an expanded Sphere of Influence. The FEIR should provide a discussion of or reference to the necessary

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Local Agency Formation Commission (LAFCO) findings for approving annexation of lands covered by Williamson Act contracts (Government Code Section 56856.5 et seq.). The LAFCO must notify the Department of Conservation within 10 days of a city's proposal to annex land under contract (Government Code Section 56753.5). (The notice should be mailed to Debbie Sareeram, Interim Director, Department of Conservation, c/o Division of Land Resource Protection, 801 K Street MS 18-01, Sacramento, CA 95814-3528.)

The FEIR should also note that if a city annexes land under Williamson Act contract (Williamson), the city must succeed to all rights, duties and powers of the county under the contract (Government Code Section 51243) unless conditions in Section 51243.5 apply to give the city the option to not succeed to the contracts.

2-3

Williamson Act Contract Termination

The DEIR notes that there are lands under Williamson Act contract within the city's Sphere of Influence and that the 2005 General Plan directs growth into these areas. The DEIR should note that the preferred method for contract termination is through the nine-year nonrenewal process. Immediate termination via cancellation is reserved for "extraordinary", unforeseen situations (See Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-855). In addition to making the necessary findings (Government Code Section 51282), the notice of the hearing to approve the tentative cancellation, and a copy of the landowner's petition, must be mailed to the Director of the Department of Conservation ten (10) working days prior to the hearing.

Mitigation Measures

The DEIR mentions several policies to address loss of agricultural lands, including working cooperatively with land trusts and other non-profit organizations to preserve agricultural land possibly using conservation easements. The city may want to add more specificity to this policy such as acreage criteria for mitigation, e.g., required mitigation for each acre of farmland converted with agricultural conservation easements on the same acreage of similar quality land, or payment of a mitigation fee to a land trust or non-profit organization to be used for purchase of conservation easements.

2-4

Thank you for the opportunity to comment on the DEIR. If you have questions on our comments, or require technical assistance or information on agricultural land conservation, please contact the Division at 801 K Street, MS 18-01, Sacramento, California 95814; or, phone (916) 324-0850.

cc: East Stanislaus RCD
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