

FARMLAND WORKING GROUP

Spring 2008

STRIVING TO PROTECT FOOD, FAMILIES AND FARMLAND

Supermajority in Stanislaus for Measure E

E Changes Everything!

Like the oncoming crescendo of the Carquinez winds *change* is building in the Central Valley of California. Changing the way we grow is taking shape by the Blueprint process, legal challenges, and voter decree. Change is happening!

The state sponsored Blueprint process, a citizen participatory address on issues of growth, has moved into its third year and reports widespread concern over loss of farmland, traffic congestion and other quality of life issues from throughout the 8 counties involved. A final report and action plans are due in 2008.

Legal challenges in several counties have drawn attention to often complex issues of land-use, water, and growth. In San Joaquin County the cities of Lathrop, Manteca, and Tracy chose to mitigate farmland rather than face extended legal challenges over their plans for a shared water system. The County of San Joaquin has a farmland mitigation program in place, while the City of Stockton is being sued by the Building Industry of the Delta for its adoption of a similar mitigation program.

The voters in Stanislaus, by a greater than 2-1 mar-

gin, approved Measure E which restricts housing development in unincorporated areas. The overwhelming action by citizens sends a loud message to local elected officials to take growth issues seriously. There is widespread voter concern about the loss of farmland, traffic congestion, and the costs of growth. There is a new level of responsibility upon the cities.

A new Ag Element in Stanislaus County includes farmland mitigation. The mitigation requires an acre of farmland protected for a like acre urbanized. The new Ag Element is being challenged in court by the Building Industry Association of Central California (BIA) because the farmland mitigation applies only to housing development, and excludes commercial and industrial development. Regardless of the limits of the county ordinance, when a California Environmental Quality Act (CEQA) Review calls for farmland mitigation of a development project, mitigation or legal challenge is likely to occur.

A first for Stanislaus County is underway with the March approval by the Board of Supervisors for a 155 acre Agriculture Conservation Easement (ACE) west of Modesto on prime farmland.

The City of Modesto is studying farmland mitigation and expects to enact a policy within six months.

Our Mission: To preserve the agricultural foundation of our region and promote smart growth in our urban communities through education, outreach and action.



WE ARE WATCHING...

Merced County

The Army Corps of Engineers will hold a public meeting April 23 to discuss expansion plans of the UC Merced campus. UC needs Corps' approval to build on wetlands inhabited by endangered fairy shrimp. The campus sits on about 100 acres and will expand to 810 acres to the south and east if it gets past this latest review hurdle. Officials estimate growing to about 25,000 students in a few decades.

In February 2008, a Merced Judge threw out the County's approval of the Riverside Motorsports Project (RMP). RMP is a 1200 acre proposed conversion from farmland to a motor sports complex. The Merced County Farm Bureau and three environmental groups sued in court claiming that the county violated the California Environmental Quality Act by not adequately studying how the project would affect the environment.

According to the RMP website, this ruling is a minor setback in the long process of reviews in California.

Stanislaus County

Both Measures E and L passed with large majority votes in February. The measures called for action to better manage growth in the county but Measure E received more votes and became law. Measure E restricts the conversion of land zoned for agriculture to housing outside cities without a positive public majority vote. The measure garnered a super-majority yes vote with over 67% of the county electorate. The measure is in effect for 30 years.

The Building Industry Association of Central California (BIA) has filed a lawsuit against Stanislaus County and its newly adopted Ag Element and the Farmland Mitigation Program (FMP) which calls for farmland loss mitigation for housing development but not for commercial or industrial conversion. A portion of the lawsuit states, "While this action does not question the County's underlying assumption that preservation of a viable local agricultural economy may be a worthy subject for public policy interest, this action does challenge the legal validity, rationality, and equity of the new FMP mandates which arbitrarily require new housing development — and only new housing — to try to meet the County's professed concerns about agricultural preservation."

City of Modesto

The Modesto City Council recently approved the first major planned development in over 10 years in the city. The Tivoli Plan covers 454 acres of prime and non-prime farmland and mixed housing in Modesto's northeast area. The area was approved for development by Modesto voters in 2001 and continues the long-term support for moving growth onto the lesser soils east of the city. The Council however delayed action on the issue of farmland mitigation for the prime farmland within the project.

The Environmental Impact Report on the project found there to be significant impact due to the loss of prime farmland and recommended mitigation. Mayor Ridenour addressed concerns for the additional cost of mitigation on the project

and the lack of a city policy regarding farmland mitigation.

The Council dodged a legal bullet by continuing the action on Tivoli mitigation to a later date and directed staff to provide more information in order to establish a city policy for farmland mitigation.

City of Riverbank

April 1, 2008 was the last day for public comment on the City's General Plan Draft Environmental Impact Report. The 535 page document moves on to the City Council for acceptance. Public comments may be made on-the-record when the General Plan is considered by City Council for adoption.

City of Stockton

No word on status of lawsuit against the City's farmland mitigation that requires an acre protected per acre urbanized or \$9600 for projects over 40 acres.

City of Lodi

City staff to review farmland mitigation policies for Council in addition to other land-use restrictions already imposed.

California Department of Conservation Report

Acres changed from prime farmland to urban use 2004-2006:

Stanislaus County	1259
Merced County	709

http://redirect.conservation.ca.gov/dlrp/fmmp/product_page.asp



Pitman High School Turlock, California



Thank you to Ag Studies teachers
Krista Vannest and Jacob Dunn.

On March 18, I spoke to eleven classes from the Ag Studies program at Pitman High School. The video *A Vision and a Legacy* began each period with questions following. The questions were thought provoking and often ended on dialogue paralleling the dependency on foreign oil to dependency on imported food— a valid con-

cern if the Central Valley continues to convert farmland at its current rate.

The students were very engaged when we spoke about the small percentage of disposable income spent on food by Americans, between 10 -11%, compared to nations spending 20 - 33%. While Americans spend less on food than any nation in the world, we also have the highest quality and largest selection. If food took one third of your disposable income, what would you do without?

Jeani Ferrari

Riverbank growth: 'Grupe light'

Regarding "Let' citizens decide Riverbank's growth" (March 13, Letters): His concerns for the decrease in quality of life are well-founded.

This new plan of Riverbank officials appears to be "Grupe light." Instead of removal of the entire urban forest of walnut trees, their new plan proposes cutting down the southwest portion of trees for building houses.

In 2000, the City Council passed a growth policy identifying the area as a "community separator," noting it is a prime agricultural area and stating that growth should take place on the east side of Riverbank, where the agricultural potential is lower.

But the city updated the policy and deleted language about growing east rather than west. The council also eliminated references to the area as a "community separator."

This land proposed for houses has flooded twice in recent memory. In 1955, it flooded to what would be rooftop level. In the 1970's, the seepage enabled neighborhood kids to paddle canoes there. FEMA will not install even temporary shelters on a flood plain.

Is this new plan just the camel's nose getting in the tent for a plan similar to the Grupe plan of 2007 for a community with 7,000 to 8,000 people on this flood plain?

James Gerber

Modesto Bee, March 29, 2008

We have an expressway in progress

A great example of pork-barrel politics can be seen on the Salida portion of the proposed North County Transportation Corridor. Supervisor Jeff Grover didn't get his way when voters passed Measure E instead of Measure L. Grover doesn't care what the majority wants. Now he has tacked the expressway route of the Salida Now project on to the proposed corridor. By doing that, he has found a way to shove at least one aspect of Salida Now down voters' throats.

It appears the supervisors haven't noticed the homes and businesses being torn down to widen Kiernan Avenue to six lanes. Rather than a brand-new road that cuts through prime farmland, forcing even more homes to be torn down, Kiernan, in its new, wider form is the logical choice for the expressway route from Carver Road to Hwy 99, and Kiernan is a done deal with funding in place!

Instead, the supervisors prefer to spend millions more to carve yet another expressway through some of the best farmland in the county. It's time for the supervisors to put away their dreams of megadevelopment in Salida and listen to the majority of voters for a change.

Sue Smith

Modesto Bee, March 28, 2008



President's Message

"The hottest tool in farmland protection these days is the conservation easement.

It is a contract by which a landowner gives up the right to develop property in return for money or a tax deduction. Once made, the contract runs with the land and is valid forever. Easements are acquired and held by government agencies or by private nonprofit organizations called land trusts." That is the simple explanation given by John Hart in "Private land, Public Good, taking stock of conservation easements," an informative essay on land trusts in Northern California printed in Bay Nature Magazine, March 2006.

Hart goes on to say that "by the 1970s easements were beginning to be tailored to foreclose development and protect farmland and wildlife habitat. Most states and the federal government passed laws endorsing and codifying this practice; California's Conservation Easement Enabling Act dates to 1975. In the 1980s the use of conservation easements grew; in the 1990s it exploded... Indeed, easements appear to be supplanting acquisition (often called "fee title" or "fee simple") as the nation's number one land protection tool."

One of the most successful land trusts is The Marin Agricultural Land Trust (MALT) which incorporated in 1980. By 1986 MALT had secured only three easements and three per year was the average thereafter. It currently holds easements on over 38,000 acres, quite a change from the county's 1969 general plan that foresaw 125,000 people living along the Tomales Bay and in the Olema Valley. It seemed inevitable that under relentless market pressures commercial agriculture would give way to a landscape of ranchettes, small hobby farms or rural estates.

Livermore, California's premier wine region at the end of World War I, never recovered from the depression and appeared to be headed for suburbia. The last two vintners, Concannon and Wente, seemed to have no other choice but to pick up and head to Monterey County. Sentiment in the City of Livermore turned to preservation, while the County of Alameda looked to urbanization. Directed by a judge, the two governments developed a joint program for South Livermore – establishing a firm limit to urban growth with productive agriculture locked in place to the south.

With no major funding, a plan was created in which the development of land just north of the future boundary would pay for preservation of farmland just south of it. Builders of housing near the edge of town had to purchase easements in the farm zone. Fees collected from developers pay the Tri-Valley Conservancy (land trust) to receive and administer these easements. Today, 3,800

acres are held by the land trust and 24 new small wineries operate in the region, which includes Livermore, Pleasanton, Dublin, San Ramon and Sunol. The tangible rural edge gives way to a thriving urban landscape. No one would argue that the fixed rural landscape has been a boom for Livermore as well as the region's economy.

Central Valley Farmland Trust (CVFT) is a relatively new agricultural land trust, forming in 2004. It includes Sacramento, San Joaquin, Stanislaus and Merced Counties. San Joaquin and Stanislaus Counties mitigate for the loss of agricultural land. Currently the land trust holds easements on 10,000 acres of farmland and is looking to place its first conservation easement in Stanislaus County this year.

Another Central Valley land trust is Yolo Land Trust, operating since 1988. It holds conservation easements on 6,300 acres of farmland, open space and habitat. YLT works with Woodland, Davis and the County of Yolo to hold easements on agricultural land in "farm belts" designated in the general plans of the three municipalities. Yolo County requires that developers mitigate for the loss of agricultural land.

Farmland mitigation has become a significant impetus for conservation easements in Northern California, usually to offset the loss of prime farmland to development projects. Conservation easements are an important tool for protecting farmland and demonstrate how voluntary land conservation can bring together willing landowners and experienced land managers.

Taken from "The Importance of Farming" by Diana Westmoreland Pedrozo, Merced Sun-Star, Ag Day, March 20, 2008

..."No matter what else is happening in our economy, agriculture steadily goes about its business under an ever-increasing regulatory environment. The cost of doing business is also ever-increasing, especially here in California, but it does not seem to deter the men and women who bring the food to our tables. They keep producing more on less land and using fewer resources to do it! Why then is it undervalued by our elected officials at all levels of government?"

Dan Walters, Sacramento Bee columnist, had this to say... 'No matter what topic we are talking about - the budget, water, air quality, whatever it may be - it comes down to one thing: Will California continue to grow horizontal versus vertical? It is all about growth, how we grow and who is in charge of making growth decisions. The plans have been all about *growing development*."

Pulling mitigation from Tivoli plan was a *big mistake*

In summer 2004, when the City Council approved the Kaiser medical campus in north Modesto, the agreement included a provision that the loss of farmland would be mitigated by conservation easements purchased to protect other farmland. In December, after more than a year of discussions, Stanislaus County supervisors required that whenever land is taken out of ag production to make way for houses, equivalent land must be saved. One of the selling points for the PCCP West Park plan at Crows Landing is the developer's promise to mitigate for the loss of farmland.

The concept of trying to maintain the viability of agriculture through mitigation has been discussed at length—including in plans for the Tivoli development in north Modesto.

It first came up in October 2006, when the initial environmental impact report called for setting aside money for farmland preservation—one of the best and most forward-thinking arguments in favor of Tivoli.

But well into a public hearing Tuesday night, council members suggested that this is new territory; that this thing called ag land mitigation requires separate consideration. The developers didn't even raise the issue; it was brought up by Mayor Jim Ridenour. Over the objections of Councilman Garrad Marsh, the council yanked mitigation out of the Tivoli package.

Whether council members see it or not, this is one of those incidents that contributes to public cynicism about government. It reinforces the notion that builders and business hold sway over council decisions.

Ag mitigation is not a new concept. It has been put into practice here and in other counties to protect some of the richest land in the world. There are questions about how to implement it, but it's not a surprise. Any objections to the Tivoli plan should have been raised well before Tuesday night.

That said, the council must get busy setting up goals, rules and procedures for mitigation—at least for residential development. It should not be done project by project. We would have preferred that Tivoli follow Kaiser as a model for such a process.

Marsh must hold his colleagues to their promises to look at ag mitigation as a reasonable requirement when ag land is removed from production for residential development. After it's finished its deliberations, the council should put mitigation for the loss of ag land into the Tivoli plans.

Our Point

One of the most appealing components of the Tivoli development was that it would mitigate the loss of prime farmland. The Modesto City Council was wrong to remove it.

Ag mitigation is not a new concept. It has been put into practice here and in other counties to protect some of the richest land in the world.

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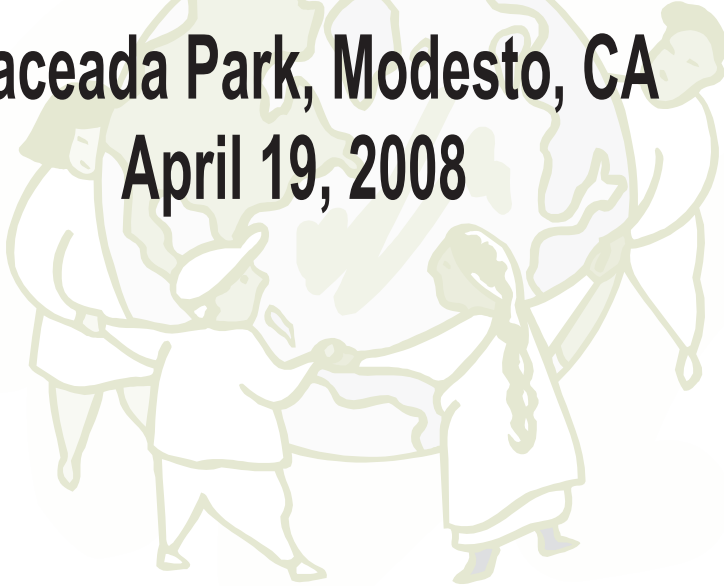
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Look for us at
EARTH DAY IN THE PARK
Graceada Park, Modesto, CA
April 19, 2008



Should mitigation be required when farmland is taken for urban use?
The Court of Appeal thinks so...

Elk Grove, California

Excerpts from
COURT OF APPEAL DECISION SUMMARY

“Under CEQA, mitigation is not limited to measures that would entirely avoid the environmental impacts of a project; rather, mitigation includes measures that would substantially lessen the significant environmental effects of the project. Obviously, when farmland is converted to urban use, a requirement that conservation easements be obtained on other land will not replace the converted land.

However, conservation easements can diminish the development pressures created by the conversion of farmland and can pro-

vide important assistance to the public and private sectors in preserving other farmland against the danger of the domino effect created by the project. In this respect, conservation easements fall well within the concept of mitigation under CEQA.

Of course, conservation easements are not always required whenever a proposed project would convert farmland to other uses. The legislature has not so declared and thus leaves the matter for resolution on the facts and circumstances surrounding a particular project.” The Court of Appeal concluded that imposing a mitigation measure to address the project’s significant farmland impact should have been subject to EIR analysis and public comment.