

To: Roger Putty
From: Tom Infusino, Facilitator
Calaveras Planning Coalition
Re: Comments on Draft Calaveras County Water Element
Date: 1/15/09

The Calaveras Planning Coalition member groups reviewed the December draft of the Water Element and as a result have the following comments. The extensive comments on one member group, the Foothill Conservancy, are in a separate attachment. In addition, sample water element principles, also provided by the Foothill Conservancy, are in a separate attachment.

General Concerns:

A lot of hard work has been done. Since a water element does not exist presently, this is a step forward. This is a great starting point.

The element text is structured with Goals, Policies, and Implementation Programs. The OPR Guidelines include three other categories in their planning hierarchy: Objectives, Principles, and Standards. (See 2003 General Plan Guidelines, OPR, Chapter 1.) Objectives are measurable and time specific intermediate steps to achievement of the goal. Principles are rules and doctrinal guides used in policy development. (Sample water element principles are provided in a separate attachment.) A Standard is a level of quality or quantity that must be satisfied. In some cases we have imbedded standards in the policies and implementation measures. However, the Water Element is much weaker because we have not agreed on principles, and not set objectives. We have set no quantitative targets for achievement in water storage, water delivery infrastructure, wastewater treatment infrastructure, water recycling, or water conservation. As this Water Element moves forward to the public review and CEQA review, these gaps must be filled.

One major concern is that the implementation measures need to be made more specific in terms of timing and resources to do the work. The element does not put forward a realistic framework for implementation. The element suggests that the Planning Department shall be responsible for a vast array of programs. 10 of the 24 Implementation Programs give Planning exclusive responsibility for implementation, and 7 more name Planning as a responsible partner. At the present time, and likely into the future, there will not be enough personnel or enough expertise in the Planning Department to fulfill all the mandates of this element. Please consider reallocating some of the responsibility to other departments, such as Environmental Health and Public Works.

Furthermore, the implementation measures only generally bracket five-year suggested timeframes when tasks need to be done. Please provide more precise direction so that task deadlines will be more evenly spaced rather than clumped.

Past experience has shown that the County has not funded the Planning Department to do advance planning programs and processes. A more explicit commitment is needed. This element really needs a section identifying potential sources of funding for administering implementation.

Finally, 16 policies in the element are not connected to any Implementation Program: 1.4, 1.7, 1.12, 1.13, 1.14, 1.16, 2.1, 2.3, 2.4, 3.1, 3.2, 6.3, 6.6, 6.7, 7.2, and 7.7. This omission needs to be rectified.

As part of a general plan, the element must be understandable to the general public. We need to either remove the jargon, or include the definitions in the General Plan glossary. (We have discussed this before but I am not sure we have resolved the issue.) Terms like “conjunctive use” (Policy 2.3) need to be defined in the General Plan.

Throughout the Water Element Working Group discussions, there has been tension between those who want things general and those who want things spelled out. Unfortunately, too often the compromise is to have things vague and ambiguous. This is not appropriate for a document that will be the County’s land use Constitution for the next three decades. Toward the end of creating more certainty and clarity, we should more often give the County an active rather than a passive role. We need to change many of the “shall support” and “shall encourage” to “shall lead” or “shall collaborate”. If we mean “shall require”, we should say “shall require”.

Throughout our Water Element Working Group discussions, there has been a tension in the between the desire of some to establish policies to manage the increasing demands on a limited resource, and the fear of others that such policies will result in over-burdensome regulations. Somewhere in the General Plan, the County should establish an Integrated Resource Conservation Manager at the County level to: 1) properly address the increasing need to integrate protections for riparian corridors, wetlands, wildlife, agriculture, recreation, forestry, and mineral resources; 2) efficiently oversee implementation of the Land Use, Open Space, and Conservation Elements; and 3) ensure that regulations are consistent, up to date, and fairly administered in a timely fashion.

State law requires an annual report on efforts to implement the General Plan. A policy and implementation measure should be somewhere in the General Plan mandating that an annual report be submitted to the Board of Supervisors (by say February 15 of each year) reviewing the County’s efforts and progress on implementing the General Plan policies and implementation measures. The actual deadline for the report should be set to allow its results to influence the County budget for the coming year. This report would identify where good progress is being made, and where efforts need to be improved. The report would include the items staff is committed to work on the following year. The report would thereby allow staff and the public to assist the County on budget priorities for the next fiscal year. It might be useful to note in the Water Element that the County’s performance regarding its policies and implementation measure will be monitored in these annual reports.

Specific Comments:

Cover Memorandum

If the Cover Memorandum is going to be used in the future, please add the following paragraph at the end of the introduction:

“As development continues, the long-term adequacy of groundwater and surface water resources has become a major public concern. Like much of California, Calaveras County is facing major water resources and supply challenges. Thirteen small public water and wastewater special districts and several private municipal providers scattered throughout

Calaveras' largely rural population cannot, alone and in isolation, provide the protection and ecological health of our rivers, streams, and watersheds over the next twenty years. To achieve community designs that include the protection of open space for riparian corridors, wetlands, wildlife, agriculture, recreation, forestry, and mineral resources; water availability must be tightly integrated with implementation of the Land Use, Open Space and Natural Resource Conservation Elements of the General Plan. Conservation methods are key to the protecting water rights and facilitating future growth. "

The cover memorandum indicates that the Water Element will be sent to the Community Development Agency for integration with the General Plan Update. We hope that the CDA and consultants Mintier Harnish will do their best to ensure that other general plan elements will be consistent with the Water Element. We expect that the Water Element will undergo revision as it proceeds through the public review process, the CEQA process, and internal County staff review. We encourage the CDA to share this document with folks at the Planning Department, Public Works Department, and the Environmental Health Department to determine which departments will implement which provisions of the element.

Goals, Policies, & Implementations

Goal 1, Water Reliability: Shouldn't there be a safe yield policy somewhere in this section? Also, many policies in this section use the terms phrases "shall support" and "shall encourage" and "shall promote". (Policies 1.1, 1.3, 1.4, 1.8, 1.11, 1.13, 1.16.) The County can do more on these issues than just stand on the sideline and cheer. For example regarding groundwater, the County could form a Groundwater Management Committee to oversee implementation of the groundwater policies, and to advise the Board of Supervisors on groundwater issues.

Policy 1.3 – 1.5: Neither here or elsewhere is there a commitment to use EBMUD's ground water analysis program that Supervisor Steve Wilensky keeps urging. Has that been abandoned? Brian Moss of Environmental Health was involved with this policy development, yet the Planning Department is listed as the key Department for all of this section. One would think Environmental Health would be put on lead in this area. Additionally, that department would probably have more time to do these types of studies. That department is largely overlooked in this element.

Policy 1.3 – 1.6: Calaveras County's water supply will be affected by climate change. Analyses designed to prove water availability should factor in future reductions in snowfall and/or other precipitation. The water availability section policies should be recast to deal with climate change scenarios.

Policy 1.5, Sufficient Water Supply for New Residential Development: This policy references Government Code Section 66473.7. Since this State code section may be amended in the future, please add to the end of this sentence the phrase, "or more current State code requirements." Also, add a sentence at the end of the policy indicating that land use designations should be adjusted based upon the lack of water availability: "Water availability will be addressed as a factor in setting land use map designations."

Policy 1.9, Adequate Facilities: When performing reviews of development proposals, and assessing the adequacy of water facilities and services, the County needs to consider not only the existing use and the proposed development, but also the future demand of the other vacant but approved and developable parcels. This should be expressly stated in this policy. After,

“such as fire protection as provided in Policy 1.10”, add “, and the future demand from developable parcels within the service district.”

Policy 1.10, Fire Protection Standards: The Uniform Fire Code has standards. Will these be the ones that the County applies? DHS and NFPA also have standards.

Policy 1.14, New Community Water Systems: The County should consult with LAFCO to ensure the viability of new service providers. Add another sentence to this policy indicating, “The County shall consult LAFCO when making an adequacy determination.”

Policy 1.15, Interagency Coordination: Change “The County” to “The Board of Supervisors” or “The CAO”. They have the power to direct departments.

The Implementation Measures for Goal 1, on pages 3, 4, & 5; seem to routinely place County responsibility with the Planning Department. Environmental Health might be a better department for dealing with some of these implementations such as #1 groundwater management. They have more expertise. The Agriculture Commission should probably be involved in Implementation 6 regarding irrigation water. As another option, the County could hire a Resource Manager to do some of the implementation tasks and to provide reports to the Board of Supervisors.

Regarding Implementation Program 1, the County should form a Groundwater Management Committee to oversee implementation of the groundwater policies, and to advise the Board of Supervisors on groundwater issues.

Regarding Implementation Program 3, the County should also refer those considering development projects to the appropriate water and/or wastewater agency for early consultations. Also, add to the end of the sentence the word “quarterly”, so that the Planning Department knows how often it should forward the list.

Regarding Implementation Program 4, LAFCO’s municipal service reviews may be the appropriate mechanism for completing this task. This study should have a useful product. Add a sentence stating, “The County shall create, and keep current, a map showing Critical Fire Areas where fire-flow requirements are not met.”

Regarding Implementation 7, there is no need for the phrase “shall consider adopting an ordinance” since there is no ordinance needed. This is a mandatory and specific general plan policy that can be applied directly by the Planning Department and the Board of Supervisors without the need for a further ordinance. Many in the Water Element Working Group have specifically asked to avoid unnecessary regulations. In this instance, no ordinance is needed, and the Water Element should not call for one.

Policy 2.4, Drought Planning: One way water agencies could prepare to help each other emergencies is to develop system inter-ties so that those that have water can sell/share/loan water supplies to those that do not. Please add the phrase “system inter-ties,” between the words “plans,” and “mutual”.

Regarding Implementation 8, again there needs to be a County department or position with the capacity to take on this implementation.

Policy 2.6, Compact development: This seems consistent with the sentiment in recent state laws and the Board of Supervisors' statements. However, this policy seems to be undermined Policy 5.3 which would allow sprawl served by "approved system" like package plants. Requiring that any project over 5 units to being served with by a public sewer agency makes far more sense.

Policy 3.1, Climate Change: This is a general plan for the next few decades. Policy 3.1 says "The County shall adopt policies" on the subject in the future. Isn't this the time to do that? A policy to maybe do policies in the future, as stated in Policy 3.1, is insufficient. Similarly, Policy 3.2 indicates that the County, rather than taking any initiative on its own to adapt to climate change, shall merely "support" the efforts of others. There is no implementation measure for either of these policies. Since climate change has major water implications, the water element needs policies to deal with these implications now. For example:

- * Require the Environment Health Department to produce a report annually, say in July, which shows the water flows historically in our rivers, and the updated annual flows collected by the water agencies. If there is a downward trend that could affect the water supply, this would be taken into account when evaluating the availability of water to serve applications for new connections, and could trigger remedial action to boost water supplies.

- * Limit new wells in areas where the water table declines more than 5% in depth over some time line.

- * Set minimum flows on each stream used for water supply. When those minimum flows are reached, require water emergencies to be declared for districts that use that source.

Policy 4.6, Irrigation Education: It might be useful to refer to the Natural Resource Conservation Service that has very good publications and programs for public education on irrigation practices. Add the phrase, "and groups like the Natural Resource Conservation Service," between the words "organizations" and "to".

Regarding Implementation 10, it seems like a very good first step (to identify best practices) but will there be broad follow through? After identifying the practices will they be promoted with incentives, or negotiated through the purchasing conservation easements? Will financing or funding be sought for those willing to employ the best practices, but unable to afford the necessary equipment or, or infrastructure, or training? The implementation needs to comprehensively identify the path from studying the issue to solving problems on the ground.

Policy 5.1, Adequate Facilities: When performing reviews of development proposals, and assessing the adequacy of wastewater facilities and services, the County needs to consider not only the existing use and the proposed development, but also the future demand of the other vacant but approved and developable parcels. This should be expressly stated in this policy. After, "meet capacity needs" add " , including the future demand from developable parcels within the service district." LAFCO should be consulted on these issues during development review, and should be sent the completed analyses.

Policy 5.4, Individual Systems: This policy should be conditional on the system meeting soil condition criteria and local and state regulations.

Policy 5.7, Education: This policy should be implemented by the Environmental Health Department.

Policy 5.8, Septic System Failure: Add the phrase “and support” between the words “encourage” and “the”.

Regarding Implementation 12, this may be better administered by the Environmental Health Department.

Policy 6.9, Building Setbacks: Add the phrase “and floodplains” between the words “wetlands” and “that”.

Regarding Goal 7 Implementations 17 & 18, the Department of Public Works is probably the better administrator for these programs. While the Planning Department is involved in this at the project approval level, the Public Work Department is usually the department best suited to deal with non-point water pollution issues. Why are they not the staff lead in this area? There is a far better chance of success in the Water Element implementation if departments have specific obligations suited to their areas of expertise.

Policy 7.7, Agricultural Runoff: Add the phrase, “, like the Natural Resource Conservation Service,” between the words “partners” and “to”.