

APPENDIX B

RESOURCE PRODUCTION ELEMENT CALAVERAS COUNTY GENERAL PLAN

RESOURCE PRODUCTION LANDS MITIGATION PROGRAM GUIDELINES

**Prepared by the Agricultural Coalition
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Purpose and Intent:

The purpose of the Resource Production Lands Mitigation Program (RPLMP) is to aid in mitigating the loss of Resource Production Lands in the unincorporated areas of Calaveras County. The RPLMP requires the conservation of Resource Production Lands by providing a 1:1 ratio to the amount of Resource Production Lands proposed for conversion. The RPLMP is designed to utilize conservation easements, as well as alternative mitigation methods, as a means of mitigating the loss of Resource Production Lands.

The intent of these guidelines is to establish standards for the acquisition and long-term oversight of conservation easements and alternative mitigation methods secured in accordance with the RPLMP.

Applicability:

These guidelines shall apply to any development project requiring a General Plan amendment from Resource Production Lands designation to a residential or other non-resource based land use designation of the Calaveras County General Plan. The acreage required for mitigation consideration shall be equal to the entire overall size of the parcel(s) subject to the land use designation amendment. I.E. Mitigation is required for the entire land area to be amended, not just the area proposed for development.

Definitions:

Agricultural Conservation Easement:

An easement over Resource Production Lands for the purpose of restricting its use to agriculture or forestry consistent with these guidelines and General Plan policies. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements acquired in accordance with these guidelines shall be established in perpetuity (or shall be permanently protected from future development via enforceable deed restriction), and shall minimize any restrictions on current or future customary agricultural husbandry or forestry practices.

Building Envelope:

An area delineated by the agricultural conservation easement within which existing structures and uses may remain or future structures and uses are allowed.

Conversion:

A use of land requiring a General Plan Amendment.

Development Interest:

The property owner, developer, proponent, and/or sponsor of a discretionary development project subject to these guidelines.

Land Trust:

A private not for profit organization whose mission in whole or part is to conserve and protect resource production/agricultural lands through acquisition of land and/or administration of conservation easement agreements. Land trusts such as the Mother Lode Land Trust or other approved land trusts that meet the above definition shall be utilized to hold individual conservation easements under the RPLMP.

Legal Parcel:

A portion of land separated from another parcel or portion of land in accordance with the Subdivision Map Act. A separate Assessor's Parcel Number alone shall not constitute a legal parcel.

Resource Mitigation Land:

Resource Production Lands encumbered by an agricultural conservation easement or other conservation mechanism acceptable to the County. Resource Production Lands is used synonymously with agricultural, forest or mineral land in these guidelines.

Resource Production Lands:

Resource Production Lands include any one of the following:

- A. Lands currently under Williamson Act contract (i.e. agricultural preserve lands).
- B. Lands under cultivation for crop production, as defined in Calaveras County Code Section 17.06.0132-Agricultural Operation.
- C. Lands used for grazing purposes, as defined in Calaveras County Code Section 17.06.0132 – Agricultural Operations.
- D. Lands that are currently designated or zoned for agricultural uses.
- E. Lands that are currently designated or zoned as forestry or timber production.
- F. Lands that are currently designated or zoned as mineral resource or mineral resource extraction.
- G. Lands that have been identified as containing deposits of minerals that are of economic value. (Refer to the "Mines and Mineral Resources of Calaveras County" County Report #2 from the Department of Conservation, Division of Mines and Geology.)
- H. Lands that are currently zoned "Unclassified" and meet the criteria as set forth herein.
- I. Lands that have historically supported agricultural, timber or mineral resource production.
- J. For lands that are fallow or lands that require a more comprehensive assessment, a determination of their potential as Resource Production Lands should be made on a case by case basis utilizing the following criteria:
 - 1) Suitability of soils for different types of crops and/or forage production

- 2) Slope, drainage and vegetation cover
- 3) Parcel size
- 4) Water resources availability (district water, well water, spring water, riparian water, dry land production)
- 5) Surrounding resource production lands
- 6) Surrounding protected resource lands (Williamson Act contracted lands, public parks, forests, and watersheds, and lands restricted by agricultural, wildlife habitat, open space, or other natural resource easements)
- 7) Geologic make up and mineral content
 - K. A determination by the Board of Supervisors that the lands should be designated as Resource Production Lands rather than another type of land use designation.
 - L. Landowners may petition the Board of Supervisors for inclusion of their land into Timber Production Zone (TPZ) pursuant to Government Code 51113.

Methods of Mitigation:

Resource Production Lands mitigation at a 1:1 ratio shall be satisfied by using one of the following techniques:

- 1) Resource Production Lands mitigation shall be satisfied by direct acquisition of a conservation easement or an alternative method of mitigation, including but not limited to purchase of banked mitigation credits as set forth in these guidelines. Payment of an in-lieu mitigation fee may be authorized by the Board of Supervisors if the development interest can show a diligent effort to obtain a conservation easement, an alternative method of mitigation or that banked mitigation credits have been made without success. The Board of Supervisors may consider the following facts in making a decision regarding a request for payment of an in-lieu fee including but not limited to; a showing of multiple good faith offers to purchase an easement, alternative mitigation methods or banked mitigation credits having been declined by the seller(s). Refer to description of Mitigation Credit Banking below. It shall be the development interest's sole responsibility to obtain the required easement or provide for an alternative mitigation method.
- 2) Alternative Resource Production Lands Conservation Methods – It is understood that alternative mitigation methods other than agricultural conservation easements may provide a more viable means for mitigating the conversion of resource production land to non-resource based uses. These guidelines recognize that a number of alternative mitigation methods and incentives should be considered when mitigation is required. These alternative mitigation methods include, but are not limited to the transfer of development rights (TDRs), coupled with density bonuses and long-term conservation leases. Alternative methods may be authorized by the Board of Supervisors provided the land will remain in resource production use consistent with these guidelines. Any request for consideration of an alternative Resource Production Land Conservation Method shall be reviewed by the Agricultural Advisory Committee for consistency with these guidelines and recommendations made to the Planning Commission prior to a decision by the Board of Supervisors.

Direct Acquisition (In-Kind Acquisition):

- 1) The conservation easements or alternative mitigation methods herein described shall be administered and maintained by a land trust upon which is mutually agreed by the County and land owner.
- 2) The Planning Commission with input from the Agricultural Advisory Committee shall review each resource land conservation mitigation acquisition for consistency with these guidelines. The Planning Commission shall make a formal recommendation to the Board of Supervisors for their consideration.
- 3) The location and characteristics of the resource mitigation land shall comply with the provisions of these guidelines.
- 4) The development interest shall pay an administrative fee equal to cover the costs of administering, monitoring and enforcing the agricultural land conservation mitigation measures. The fee amount shall be determined by the Land Trust and approved by the Board of Supervisors.

In - Lieu Fees:

The payment of an in-lieu fee shall be utilized solely for mitigation in Calaveras County and subject to the following provisions:

- 1) The in-lieu fee shall be determined case-by-case in consultation with the land trust approved by the Board of Supervisors. In no case shall the in-lieu fee be less than 60% of the average per acre price for five (5) comparable land sales in Calaveras County.
- 2) The in-lieu fee shall include the costs of managing the easement or lands under alternative mitigation methods, including the cost of administering, monitoring and enforcing the farmland conservation easement, and a five percent (5%) endowment of the cost of the easement, and the payment of the estimated transaction costs associated with acquiring the easement. The costs shall be approved by the Board of Supervisors based on information relating to the costs provided by the land trust.
- 3) The Planning Commission with input from the Agricultural Advisory Committee shall review the final in-lieu fee proposal for consistency with these guidelines. The Commission shall make a formal recommendation to the Board of Supervisors for final approval.

Use of In-lieu Fees:

In-lieu fees shall be administered by the land trust in fulfillment of its programmatic responsibilities. These responsibilities cover, without exception, acquiring interests in land and administering, monitoring and enforcing the agricultural conservation easement or other alternative mitigation method designed to conserve the resource production land for resource land mitigation purposes. The location and characteristics of agricultural mitigation land shall comply with the provisions of these guidelines.

Mitigation Credit Banking:

Mitigation credits may be banked and utilized in accordance with the following provisions:

- 1) Purpose - The purpose of establishing a method of banking mitigation credits is to equalize the imbalance between the acreage size of resource production land suitable, and available, for purchase of resource land conservation easements and the amount of acreage required to meet a 2:1 ratio.
- 2) Process - The Board of Supervisors may approve banking of mitigation credits on the acreage in excess of the 2:1 ratio required for mitigation of the original project. The mitigation credits shall be held by the individual or entity purchasing the resource conservation easement.
- 3) Credit Value - Each acre in excess of the required 2:1 ratio for mitigation may be utilized at a 2:1 ratio to satisfy the mitigation requirements of another development.
- 4) Negotiations - Negotiations to purchase mitigation credits shall not involve the County and shall be subject to free market values. The County Planning Department shall make available a contact list of individuals or entities with banked mitigation credits on record. The sale of banked mitigation credits shall not alter the terms of the original resource land conservation easement which generated the mitigation credits.
- 5) Authorization - The Board of Supervisors shall accept purchased mitigation credits upon receipt of a sales agreement.
- 6) Records - The County Planning Department shall maintain a record of banked and purchased mitigation credits to ensure the Resource Production Lands Mitigation Program is maintained whole and reported in the Annual Report of Agriculture.

Resource Production Mitigation Lands: Locations and characteristics:

- 1) Location – Resource mitigation land shall be:
 - A) Located in Calaveras County;
 - B) Designated Resource Production Lands by the Calaveras County General Plan;
 - C) Within consistent zoning districts applicable to Resource Production Lands
 - D) Resource Production Lands must be mitigated with equal or higher quality resource land. Alternatives may be considered when equal or higher quality land cannot be reasonably obtained.
 - E) Mitigation under these guidelines shall not be required for the conversion of Resource Production Lands that have been identified within a Community Plan, the City of Angels Sphere of Influence or the General Plan for future residential or commercial development. These same lands should not be utilized as mitigation lands to satisfy the requirements under these guidelines without the approval of the Board of Supervisors or the City of Angels City Council, as the case may be. This exception shall apply only to those lands that have been identified for future

residential, commercial or industrial development within the Community Plans, City of Angels Sphere of Influence or the General Plan at the time of the adoption of the new General Plan Update by the Board of Supervisors.

- F) Located outside the City of Angels adopted Sphere of Influence if the mitigation method is in perpetuity.
- 2) Allowable Uses – Resource Mitigation Land shall be in conformance with the compatible zoning district. Any legal nonconforming use of the property shall be abandoned prior to execution of the conservation easement and shall not be allowed to reestablish except as authorized within a building envelope. The type of resource related activity allowed on mitigation land shall be specified as part of the mitigation document and shall not be less restrictive than the restrictions set forth in the applicable consistent zoning districts.
 - 3) Soil Quality - The resource mitigation land shall be of equal or better soil quality than the resource land whose use is being changed to non-resource uses.
 - 4) Water Supply - The resource mitigation land shall have an adequate water supply to support the resource uses or activities on the land. The water rights on the resource mitigation land shall be protected in the resource land conservation easement.
 - 5) Previous Encumbrances - Land already effectively encumbered by a conservation easement may not be eligible to qualify as resource mitigation land. Lands under a Williamson Act contract or forest lands zoned TPZ are eligible to participate in the Resource Production Lands Mitigation Program.
 - 6) Subsequent Encumbrances- Lands encumbered as resource mitigation land shall not be subject to future encumbrances that limit resource based activities and operations, except as specified in these guidelines under “Stacking of Conservation Easements”.

Final Approval/General Plan Amendments:

A General Plan amendment shall not be effective until execution of any of the necessary legal instruments, payment of fees or fulfilling of those conditions/requirements as specified by these guidelines.

Legal Instruments for Encumbering Resource Mitigation Land:

Requirement - To qualify as an instrument encumbering the land for resource land mitigation:

- 1) All owners and record of interest of the resource mitigation land shall execute the instrument;
- 2) The instrument shall be in recordable form and contain an accurate legal description of the resource mitigation land;
- 3) The instrument shall prohibit any activity which impairs or diminishes the permitted or historical resource uses of the resource mitigation land;

- 4) The instrument shall protect the existing water rights and retain them with the resource mitigation land;
- 5) The interest in the resource mitigation land shall be held in trust by the land trust;
- 6) The land trust or County shall not sell, lease, or convey any interest in the resource mitigation land except for compatible resource based uses;
- 7) If the land trust ceases to exist, the duty to hold, administer, monitor, and enforce the interest shall pass to the County to be retained until a qualified land trust mutually agreed upon between the County and land owner is selected.

Monitoring, Enforcing, and Reporting:

- 1) Monitoring and Enforcing - The land trust shall monitor all lands under resource mitigation acquired in accordance with these guidelines and shall review and monitor the implementation of all management and maintenance plans for these mitigation areas. It shall also enforce compliance with the terms of the conservation easement or resource mitigation instruments.
- 2) Reporting by the land trust - Annually, beginning one year after the adoption of this chapter, the land trust shall provide to the County Planning Director an annual report delineating the activities undertaken pursuant to the requirements of these guidelines and assessment of these activities. The report(s) shall describe the status of all lands and easements acquired in accordance with these guidelines, including a summary of all enforcement actions.

Stacking of Conservation Easements:

Stacking of easements for both habitat conservation and/or species mitigation on top of a resource production land conservation easement granted in accordance with these guidelines may be allowed if approved by the Board of Supervisors provided the habitat needs of the species addressed by the habitat conservation easement or species mitigation can be protected and maintained in combination with the permitted resource based uses and activities of the land.

The Planning Commission, with input from the Agricultural Advisory Committee, shall review all stacking proposals to ensure the stacking will not be incompatible with the maintenance and preservation of resource based activities and operations. The Planning Commission shall make a recommendation to the Board of Supervisors.

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