

To: Agencies Managing Public Lands in Calaveras County.  
From: Tom Infusino, Facilitator, Calaveras Planning Coalition (209) 295-8866  
Re: Calaveras County Zoning Code and Zoning Map Update  
Date: 6/27/24

## **I. Recommendations**

- A) Please briefly review the zoning categories applied to the land you manage in Calaveras County on the online zoning map at <https://gisportal.co.calaveras.ca.us/PORTAL/apps/webappviewer/index.html?id=43be0b8bd58b435f8e4b62c7193fc915> .  
Simply select the current and updated zoning layers and zoom into the land in question.
- B) Please briefly review the uses allowed by right, allowed with a permit, and prohibited in the applicable zoning category in the new zoning code tables (attached to this email) to determine if they are satisfactory to meet the needs of your agency and those who use the public land you manage.
- C) Please carefully consider the applicability and the preemption language on page 2 of the final draft of the Zoning Code to determine if it is satisfactory to meet the needs of your agency and those who use the public lands you manage.
- D) If all is well, please let us know and accept our thanks for your review.
- E) If you have small improvements, of a few words to a couple of sentences in length, then please pass those on to Calaveras County as soon as possible, as the Board of Supervisors will be making its final approval of the Zoning Ordinance and Map Update on July 16, 2024. Planning Director Peter Maurer is at 'Peter Maurer' <pmaurer@calaverascounty.gov>, the Chair of the Planning Commission is at 'Michelle Plotnik' <mplotnik@calaverascounty.gov>, and the Clerk of the Board of Supervisors is at 'BoardClerk@co.calaveras.ca.us'.
- F) If you believe that addressing your concerns would involve extensive revision to the ordinance or would involve controversial matters, then ask the Board of Supervisors to address these concerns at a later date when they are considering other extensive revisions and controversial matters.
- G) Accept our apologies for the late notice regarding this matter.
- H) Accept our thanks for providing gainful employment, recreational opportunities, and resource management in Calaveras County

## **II. Background**

### **A. Who is the Calaveras Planning Coalition (CPC)?**

The CPC is a group of community organizations and individuals who want a healthy and sustainable future for Calaveras County. We believe that public participation is critical to a successful planning process. United behind twelve land use and development principles, we seek to balance the conservation of local agricultural, natural and historic resources, with the need to provide jobs, housing, safety, and services. For more information you may visit our website at [www.calaverascap.com](http://www.calaverascap.com).

**B. Calaveras County is updating its 1986 Zoning Code to implement the 2019 General Plan.**

Since October of 2023 the Planning Commission has been refining the 270-page Zoning Ordinance Update (ZOU) to simplify the organization of the code and to implement the 2019 General Plan. In June, the Planning Commission spent one hearing looking at changes to the Zoning Map. The CPC has actively participated in those hearings. This update is supposed to address matters already considered in the EIR for the 2019 General Plan, other matters that do not require extensive code revisions, and matters that are not controversial. To date, the Planning Commission has been open to making improvements in the code that range from a few words to a couple of sentences.

**C. Why should my agency care?**

As you know, your agency manages public land in Calaveras County. The proposed Zoning Map Update zones your agency's land. The Zoning Code Update determines the uses allowed by right, allowed with a permit, and prohibited on your land, to the extent allowed by law. The application and preemption language in the code generally explains the scope of the County's jurisdiction.

Our review of the map in June raised some concerns for us regarding the effectiveness of using the same zoning categories for both public and private land, and the effectiveness of the application and preemption language in the code. That is why the CPC is asking you to take a look at the Zoning Code Update and the Zoning Map Update to determine if they meet needs of your agency and the people who use your public lands.

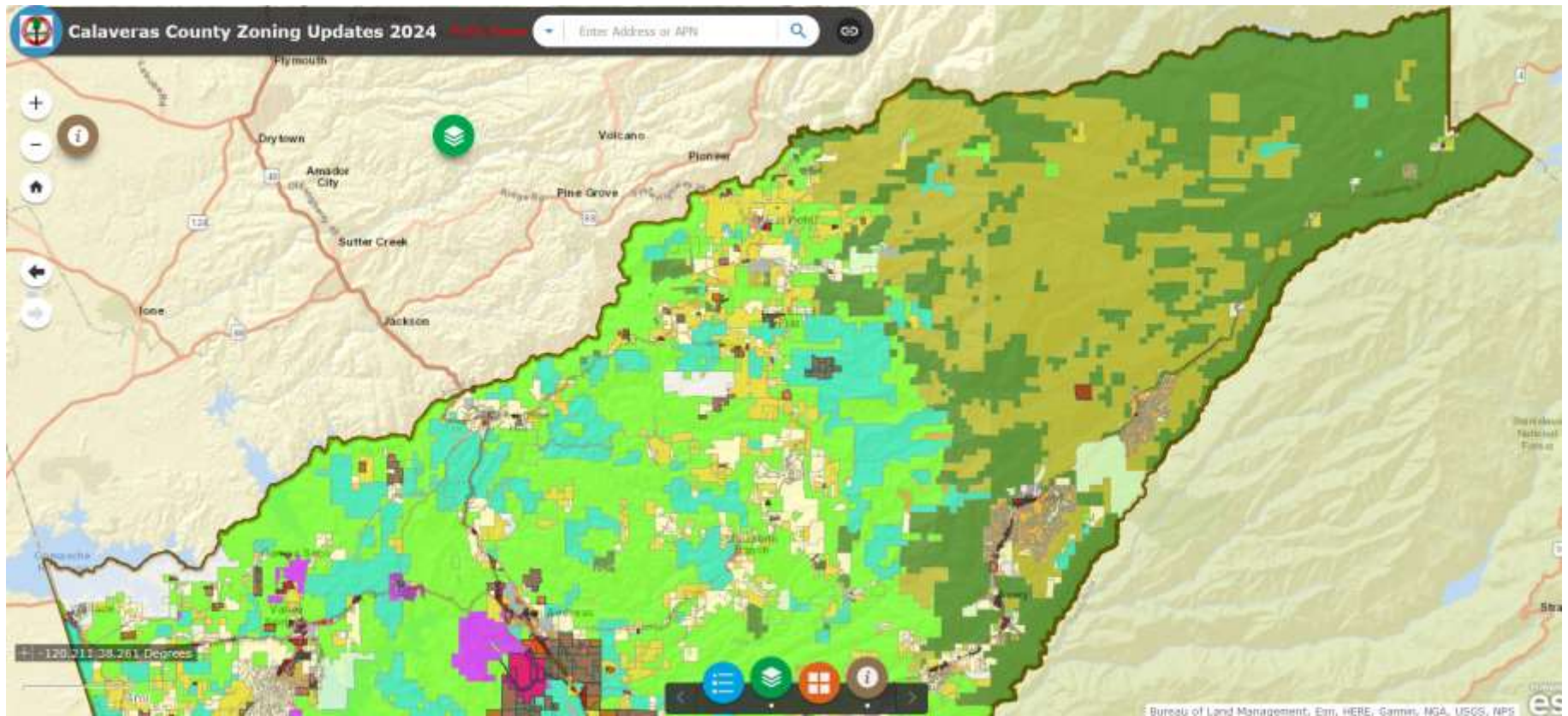
**D. On July 16, 2024, the Board of Supervisors is scheduled approve the Zoning Code Update and the Zoning Map Update.**

The Zoning Ordinance Update (ZOU) and the Zoning Map Update (ZMU) will be going to the Board of Supervisors for final approval on July 16, 2024. This will be a subsequent approval under the scope of the 2019 General Plan Update EIR, so there will be no additional environmental review.

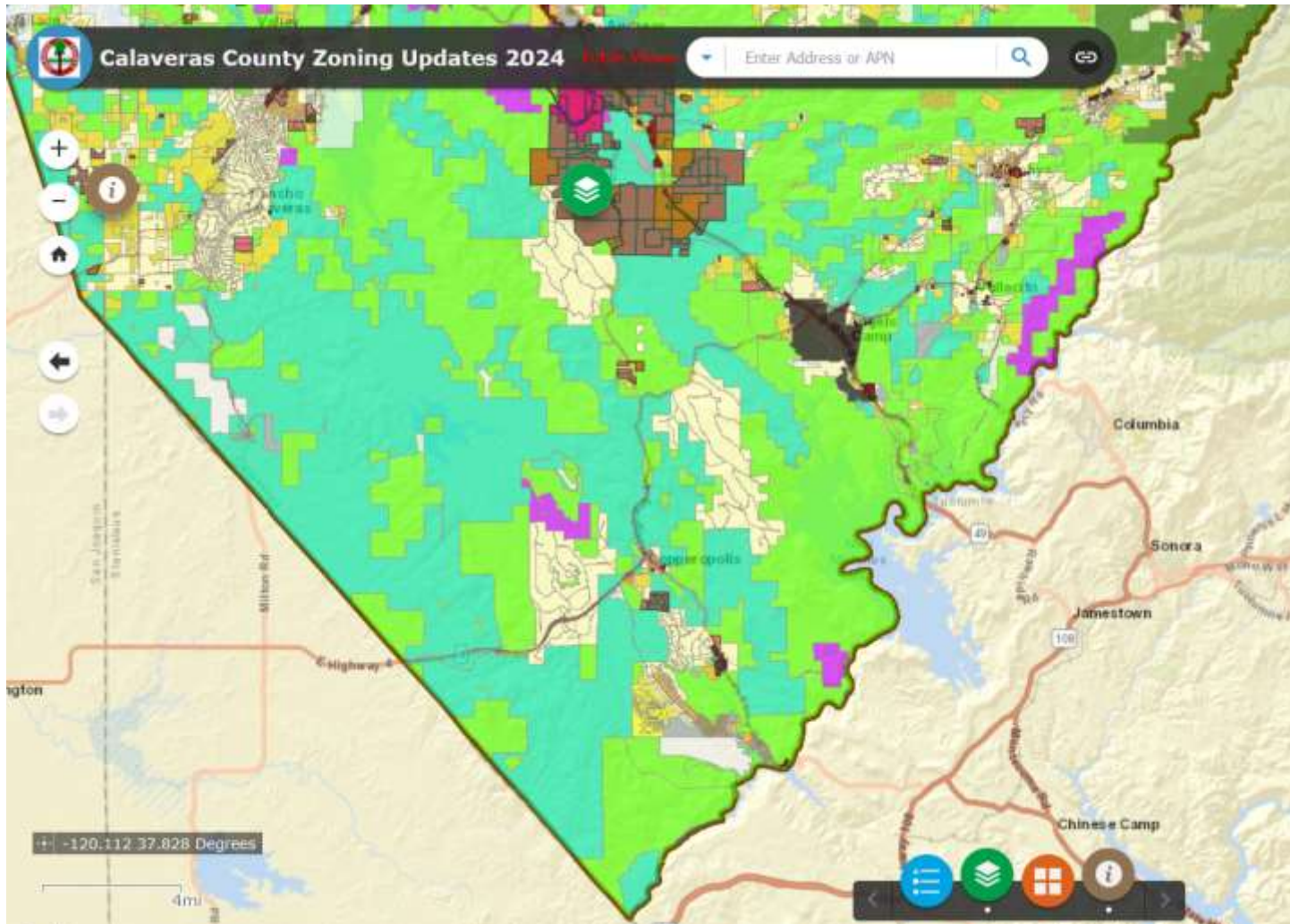
**III. Analysis**

**A) The Zoning Map Update applies county zoning categories to EBMUD, State of California, and federal public lands.**

Among the many other matters addressed in the ZOU are the General Forest, General Agriculture, and the Recreation zoning categories. These zoning categories can be applied to private lands, to public lands, and to quasi-public lands. (See attached, Calaveras County, Draft ZOU, June 2024, p. 17.) The Zoning Map Update applies the General Forest zoning category federal public lands administered by the U.S. Forest Service (USFS). The Zoning Map Update applies the combined General Agriculture/Recreation category to the East Bay Municipal Utility District lands around Camanche Reservoir. The Recreation category is applied to Army Corps of Engineer land around New Hogan Reservoir, and to Big Trees State Park. The BLM lands throughout the County, and the Bureau of Reclamation lands around New Melones Reservoir, are zoned General Agriculture.

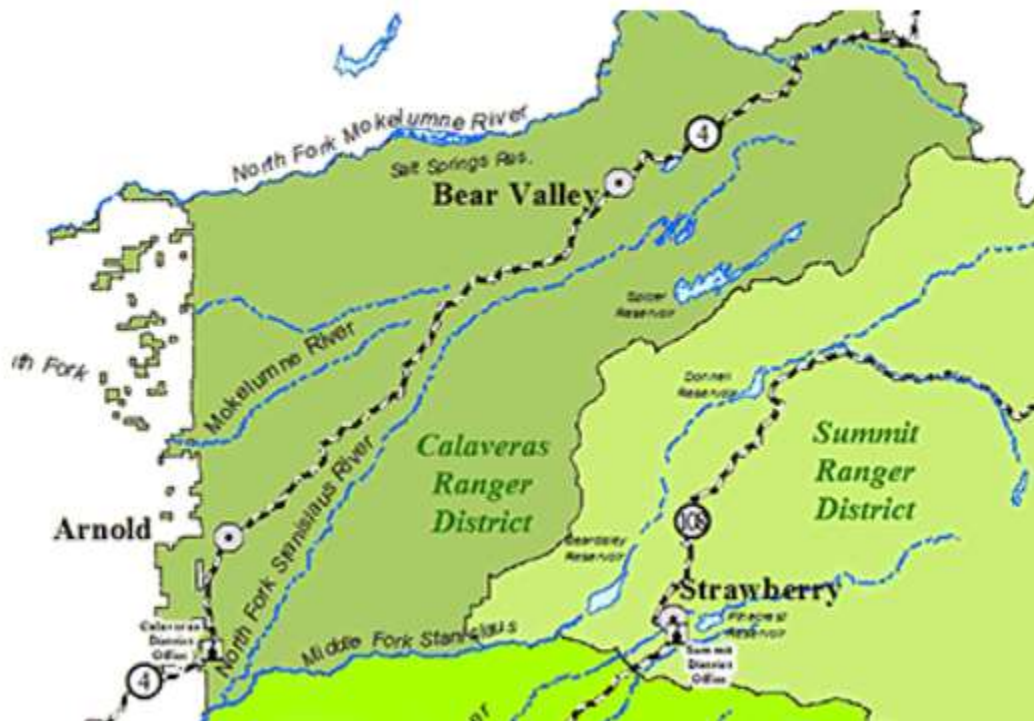




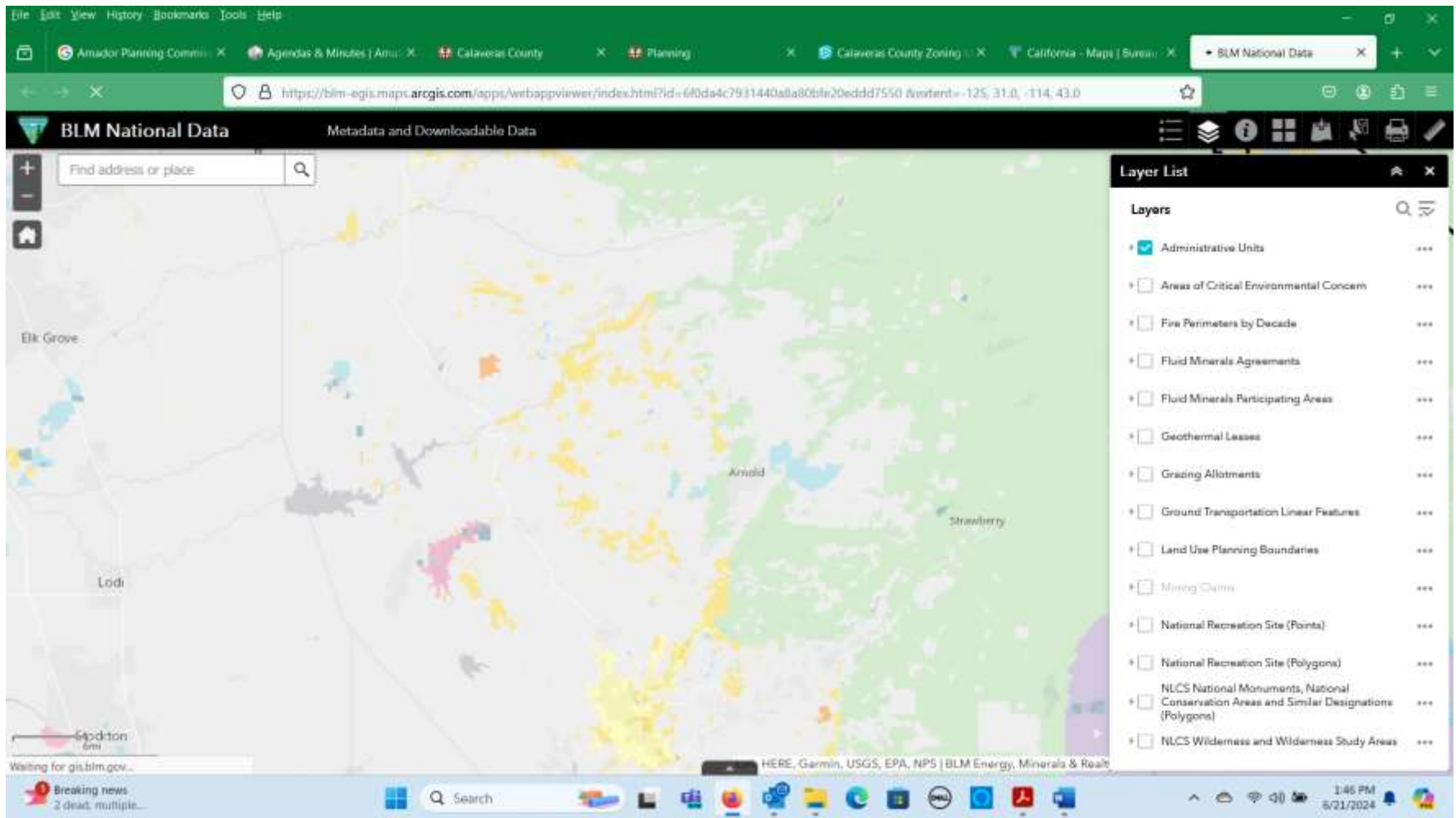


The zoning maps above depict the General Forest zoning category (dark green), the Recreation zoning category (light blue), and the General Agriculture (A1) zoning category (light green). The zoning map can be reviewed in more detail at <https://gisportal.co.calaveras.ca.us/PORTAL/apps/webappviewer/index.html?id=43be0b8bd58b435f8e4b62c7193fc915>.

# Districts

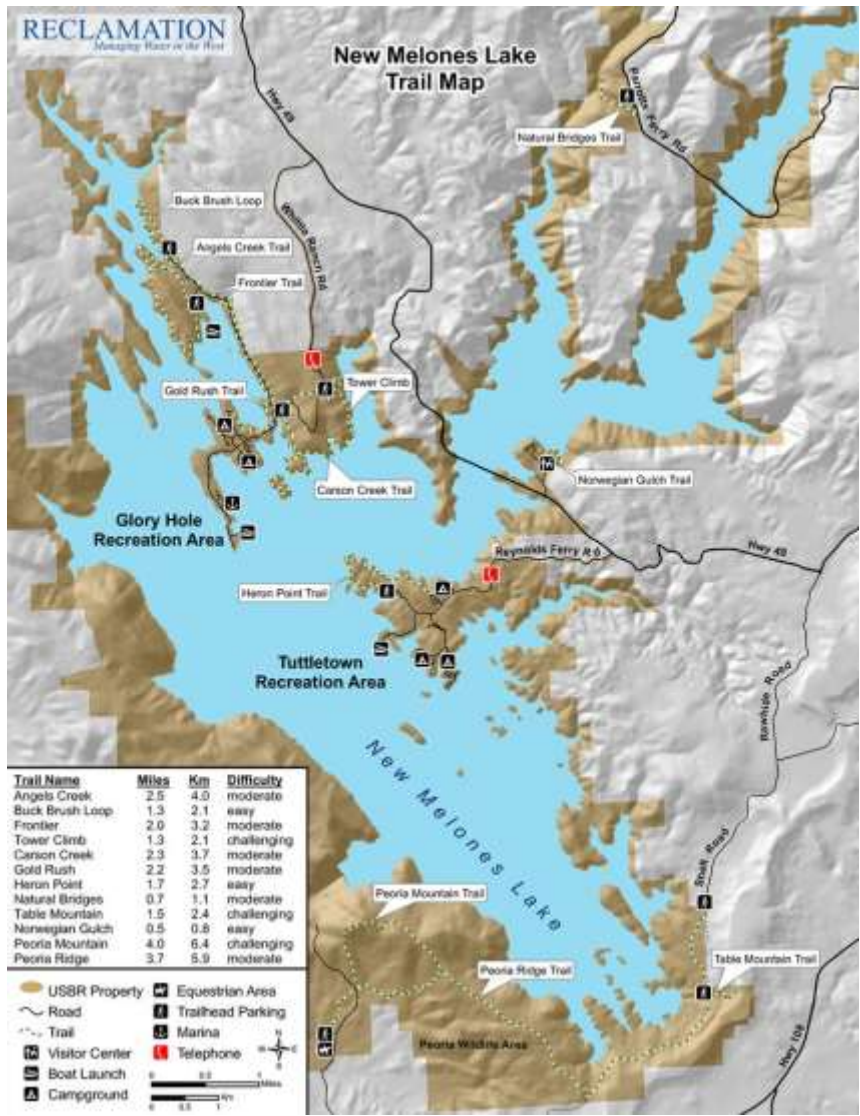


By comparing the above map of the boundaries of the Calaveras Range District to the ZOU Map, you can confirm that General Forest zoning category is being applied to USFS lands between the Mokelumne River North Fork and the Stanislaus River North Fork in the far eastern part of Calaveras County.



By comparing the above map of BLM-managed federal public lands to the ZOU Map, you can confirm that the General Agriculture (A1) zoning category is being applied to BLM lands throughout the County.





By comparing the above map of the Bureau of Reclamation lands around New Melones Reservoir to the zoning map, you can confirm that the Bureau of Reclamation lands are being zoned General Agriculture (A1).

**B) Do the uses allowed by right and by permit meet the needs of your agency and the people who use your land?**

Please take a moment to look at the use tables in the Zoning Ordinance Update that relate to the resource lands and/or recreation lands managed by your agency. (Calaveras County, Final Draft ZOU, pp. 18-23, 50-53.) Look at the uses allowed by right (designated “P” in the table), the uses that require some kind of permit from the County (designated “A”, “C” or “T” in the table), and the uses that are prohibited (designated by a – in the table.) Determine if the uses commonly made of your public land by your agency, your visitors, and your contractors are appropriately accounted for in the Zoning Code Update.

For the most part, we believe your uses have been accommodated in some fashion. However, there may be some anomalies on the face of the code. **For example, in the Recreation zone that applies to parts of New Hogan Reservoir and to Big Trees State Park the many uses prohibited by the ZOU include government offices, day-care facilities, medical clinics, public works, heliports, and recycling collection facilities. (Calaveras County, Draft ZOU, June 2024, pp. 50-51.) It is fairly certain that the County does not have jurisdiction to prevent the Army Corps of Engineers (a government agency with statutory purposes including water retention and distribution) from erecting a government office or public works to retain and distribute water.**

Fortunately, the code does recognize that the concept of preemption does limit the jurisdiction of the County.

**C) Is the ZOU’s recognition of preemption sufficient to satisfy your agency?**

Under the ZOU, the County asserts land use regulatory jurisdiction over these regional, state, and federal lands “to the extent permitted by law.”

“17.01.050 Applicability

“A. Applicability to Property. This Zoning Code shall apply, **to the extent permitted by law**, to all property within the unincorporated areas of Calaveras County, including all uses, structures, and land owned by any private person, firm, corporation or organization, or Calaveras County or other **local, State or federal agencies**. Any governmental agency shall be exempt from the provisions of this Zoning Code only to the extent that such property may not be lawfully regulated by Calaveras



County.”

“D. Conflicting Regulations. The regulations of this Zoning Code and requirements or conditions imposed pursuant to this Zoning Code shall not supersede any other regulations or requirements adopted or imposed by the Calaveras County Board of Supervisors, the State of California, or any federal agency that has jurisdiction by law over uses and development authorized by this Zoning Code. All uses and development authorized by this Zoning Code shall comply with all other such regulations and requirements. Where conflict occurs between the provisions of the Code and any other County ordinance, chapter, resolution, guideline, or regulation, **the more restrictive provisions shall control, unless otherwise specified or context so requires.**”

(Calaveras County, Draft ZOU, June 2024, p. 2)

**Is this general treatment of the issue of regulatory jurisdiction satisfactory to your agency? Is there different language that your agency would suggest if they had the opportunity? Could they provide that language to the County before July 16 when the Board of Supervisors is scheduled to adopt the Zoning Code Update?**

**D) Could the ZOU’s treatment of preemption be improved to help applicants for land use approvals?**

The ZOU does not attempt to explain where the County believes County jurisdiction ends. Similarly, there is no indication that the regional, state and federal authorities agree with the County’s interpretation of where County jurisdiction ends.

Evidently, any one of the many members of the public seeking to use regional, state, or federal lands will need to not only seek a permit or contract from that agency, but must also check with the County to determine if County regulations apply. There is no procedure for applicants to use to get the County and the other land use authorities to resolve jurisdictional disputes.

People get federal permits and contracts to use public lands for a vast spectrum of uses including mining, grazing, timber harvesting, mushroom collecting, Christmas tree harvesting, ski resorts (including bars, community assembly rooms, wedding venues, condominiums and employee housing), private residential cabins, employee housing, special events, personal and group recreation, and even the distribution of human cremains.

File Edit View History Bookmarks Tools Help

Amador Planning | Agendas & Minu... | Calaveras County | Planning | Calaveras County | California - Maps | BLM National Data | Stanislaus Nation... | Stanislaus Nation...

https://blm-egis.maps.arcgis.com/apps/webappviewer/index.html?id=6f0da4c7931440a8a00bfe2bbeddd7550&extent=-125,31.0,-114,43.0

**BLM National Data** Metadata and Downloadable Data

Find address or place

Map showing various land management areas with labels: CA04154, A Dunlap CA04119, CI Dunlap Middle Mokelumne North CA04118 CA04133, M Cuneo CA04205, Electra CA04114, Electra CA04114, French Hill CA04116, Volunteer Gulch CA04160, A Dutil CA04120.

Layer List

**Layers**

- Administrative Units ...
- Areas of Critical Environmental Concern ...
- Fire Perimeters by Decade ...
- Fluid Minerals Agreements ...
- Fluid Minerals Participating Areas ...
- Geothermal Leases ...
- Grazing Allotments ...
- Ground Transportation Linear Features ...
- Land Use Planning Boundaries ...
- Mining Claims ...
- National Recreation Site (Points) ...
- National Recreation Site (Polygons) ...
- NLCS National Monuments, National Conservation Areas and Similar Designations (Polygons) ...
- NLCS Wilderness and Wilderness Study Areas ...

85°F Sunny

Search

Department of Land Management, Esri, HERE, Garmin, USGS, EPA, NPS

2:24 PM 6/21/2024

For example, the map above depicts the location of grazing allotments and mining claims on BLM lands in the West Point, Rail Road Flat, Mokelumne Hill triangle in Calaveras County. Most people who get permits simply want to use the public land. They do not want to trigger a complex jurisdictional squabble between the County and other land use authorities.

When the Zoning Code was previously updated in 1986, local, state and federal agencies had not yet had the benefit of U. S. Supreme Court's decision in *California Coastal Commission v. Granite Rock* (1987) 480 U.S. 572 that ushered in a new era of collaborative federalism. Since then, we have had nearly four decades of court decisions on preemption to educate us.

If your agency has any suggestions to help the Zoning Code Update clarify the jurisdictional boundaries between the County and your agency, then please provide them to the County before July 16.

**E) Under what circumstances will a use require a permit from both the County and another agency?**

As described above, the zoning categories rarely prohibit land uses. In most instances, land uses in these categories are allowed by-right (without a permit) or require some kind of use permit from the County. (Calaveras County, Draft ZOU, pp. 18-23, 50-53.)

However, it is not clear from the ZOU when a use allowed by right on state, federal or EBMUD land may require a permit from the County. Similarly, it is not clear from the ZOU when a use that the County allows by right in a zone may need a state, federal, or EBMUD permit. It is not clear when a use requires a permit from **both** the County and another government agency. In such instances, it is not clear from the ZOU which health, safety, and welfare issues the County has jurisdiction over and which ones the other agencies have jurisdiction over.

More clarity for applicants would be helpful. Omissions in the zoning code should not mislead private or agency applicants into thinking that a County permit is not required. Omissions in the zoning code should not mislead private applicants into thinking that a permit is not required from another agency.

Again, if your agency has any suggestions to help the Zoning Code Update clarify the jurisdictional boundaries between the County and your agency, then please provide them to the County before July 16.

**F) Would it be better to have a separate zoning category for all the regional, state, and federal lands?**

The County's desire to prohibit some uses on some private land makes perfect sense. Application of the General Forest Zone, the General Agriculture Zone, and the Recreation Zone to those private lands makes perfect sense. The zoning scheme seems less suited to applying the General Forest, General Agriculture, and Recreation zoning categories to public lands. Perhaps it would make sense to give these public lands their own zoning categories so that it is crystal clear that the County does not intend to prohibit land uses

allowed by the public land management agencies, so that it is clear when the County intends to require a permit for activity on public lands, and what the County seeks to regulate under such permits.

**If your agency has any suggestions to improve the Zoning Code Update, then please provide them to the County before July 16.**

**G) Consider if the countywide regulations appropriately apply to your agency, contractors, or visitors.**

The ZOU also includes a number of countywide regulations that apply across all of the zoning categories. These include the regulation of outdoor illumination, streamside setbacks, building heights, landscape watering, signs, campgrounds, special events, and telecommunications facilities. (See ZOU, Section IV.) If you have the time, you may want to determine if and how these regulations apply to your agency, contractors, and/or visitors.

**H) Conclusions**

It may be that the issue of preemption is too complex for the County to address meaningfully in the ZOU. It may be that jurisdictional conflicts will have to be resolved informally on a case-by-case basis, to the delay and detriment of innocent applicants caught in the middle. It may be that decades of working together have led to clear understandings among the County and other agencies that help to avoid jurisdictional squabbles. It may be that your agency has already considered these issues and contacted the County with your suggestions to improve the ZOU. However, if some changes can be made to the ZOU to reduce the potential for future confusion and complications, it would be good to make those changes soon. The last time the County overhauled the zoning code was in 1986. If we are only going to do this once every forty or so years, then it seems worthwhile to take a little extra time and effort to get it right. Thank you so much for taking the time to carefully consider these issues.