Holm, Carl P. x5103

From: Christopher Bunn [chbunn@redshift.net]
Sent: Friday, October 06, 2006 11:18 AM
To: Holm, Carl P. x5103
Cc: Chris A Bunn
Subject: comments on DEIR - General Farm Investment/Bunn

Chris A. Bunn
General Farm Investment
PO Box 247
Salinas CA 93901
(831) 424-7923

October 5, 2006

Carl Holm, Planning Manager
Monterey County Planning Department
168 W. Alisal St., 2nd Floor
Salinas CA 93901

Dear Mr. Holm,

After reading over the DEIR, here are some comments and/or critiques that we would like to bring to your attention. Thank you for all the time and effort you and the other planning staff have put into this process. If we can assist in any way, particularly in terms of agricultural issues, please do not hesitate to contact us.

Sincerely,
Chris A. Bunn
Christopher Bunn Jr.

1. Draft EIR Impact Ag-1x

This single mitigation out of all the issues in the GPU and the DEIR is probably causing the most heartburn in the ag community. In a nutshell, this one says that new non-ag related land uses on designated Important Farmland have to be compensate by permanently conserving other Important Farmland in the County at a minimum replacement ratio of 2 to 1.

Basically, this idea should be thrown out due to the fact that it's based on a lot of faulty assumptions, as well as the overwhelmingly negative effects it would have on ag, housing in the County in general, as well as land use patterns.

First, the loss of Important Farmland is not an environmental problem. As everyone in the industry knows, and according to the DEIR itself, there's been an increase in Important Farmland acreage since 1984 (table 4.25 in the DEIR says that the increase has been by about 15,000 acres). If loss of Important Farmland is projected, what is the scientific rationale for extrapolating that projection based on ag industry behavior since 1984? Additionally, though this might not qualify as a reason pertinent to EIRs, why didn't the DEIR take into account the changes in ag methods over the last two decades that have resulted in higher crop production per acre (ie., shifting to 80-inch beds, improved seed strains, more precise irrigation and tillage methods due to drip, GPS-guidance, etc., that have all resulted in drastic net increases per acre)? Therefore, we don't simply have a net increase in Important Farmland acreage over the last 20 years, we have a net increase PLUS a increased net capability that reaches far beyond the simple increase in acreage. 23-1

Second, one of the potential effects of this mitigation that needs to be analyzed (and which the DEIR did not) is that permanent protection of Important Farmland over the long-run will mean that increased pressure will come to bear on other 23-2

types of land, such as slope, which is pretty much the only other type of land in the valley which is not farmed. Development on slope, of course, brings with it a host of environmental issues: erosion, drainage problems, viewshed issues, etc. I would feel it incumbent upon staff that this theoretical be analyzed for its potential over the life of the GPU, if the AG1x mitigation is seriously entertained. 23-2 Cont.

Third, the sheer fact that development would have to include a cost for buying up conservation easements would drive up the cost of housing in this county. The upward curve on that added cost might start out shallow, but it would certainly angle upwards at a sharper and sharper rate over time as the availability of Important Farmland remaining on the market for easements diminished. There are some easements on Important Farmland that have recently gone for as much as $60,0000 an acre. If that's the starting point, then affordable housing in the County is about to become even less affordable. 23-3

Fourth, there is a potential that this mitigation would negatively affect water quality. By this, I mean that if a developer is forced to go out and convert grazing land to Important Farmland in order to qualify for fulfilling the mitigation, that means an alteration in water useage for that land. The overall long-term effect on water patterns in the County and the potential environmental degradation inherent in that should be analyzed. 23-4

Lastly, this mitigation is an odd and contradictory idea to begin with in that it doesn't really seem like a mitigation. One isn't creating new farmland by going out and preserving pre-existing farmland. 23-5

2. Draft EIR Impact WR-2

In WR-2/OS-3.5 is identified a mitigation for construction-related soil erosion and sedimentation. The mitigation says that ministerial permits should be required for development on existing lots of records with slopes greater than 15% (or even 10% or more on highly erodible soils).

First and foremost, where's the science behind this? What is the empirical rationale that has identified 15% and/or 10% as the benchmark numbers? How are these numbers scientifically justified across the different geologic areas of the County (ie., North County vs. South County, Santa Lucia slopes vs Gabilan slopes, etc.)? Where is the mapping to justify this? Furthermore, there is rumor floating around that the DEIR consultants took this specific idea and specific percentage from a different county (Napa? Sonoma?). Is this true? If so, where is the empiricism in the assumption that what might work environmentally in one county would automatically translate to an entirely different county? 23-6

Second, there is a potential environmental impact here on agricultural lands. If development is so severely limited on slope, the only other area left for development is agricultural land. That increase in pressure to develop ag lands would be a significant environmental impact. Has this potential consequence been analyzed? 23-7

3. Draft EIR Impact WR-3

This mitigation is, plainly speaking, one of the more puzzling and confusing ideas in the DEIR (apologies for the editorial comment). Basically, it says that a ministerial permit shall be required for any new large ag land conversion project (which seems to be defined as over 100 acres in size, which, from a farming perspective, is a ridiculously small amount of land) or activity or cumulative new activity from multiple projects within any 5 year time-frame that have the potential to do 1 or more of 3 things: create off-site erosion impacts, violate adopted H2O quality standards, or substantially alters land cover in an area that is 25% or more of a watershed. Part of the permit is the requirement to develop a Watershed Management Plan. 23-8

There are so many potential problems with this idea that is somewhat difficult identifying a place to begin. However:

First, what is the scientific rationale for identifying 100 acres as the definer for a large age land conversion project?

Second, how is activity being defined in this context? 23-9

Third, the idea of "cumulative new activity from multiple projects" does not seem definable. How is this being defined? Does this mean contiguous projects being conducted by multiple land-owners over a given area? If not contiguous, then how is pertinent proximity being defined? If contiguous, would, for example, two running feet of adjoining land suffice? How is project defined in this context? 23-10

Fourth, multiple projects within any 5 year period carries inherent ambiguity. What is the rationale for making Farmer E responsible for what Farmers A, B, C and D did over the last 4+ years? 23-11

Fifth, what is meant by 25% of a watershed? What is the scientific rationale for settling on 25% as some kind of benchmark figure? How is watershed defined in this context and how are they being mapped? 23-12

Sixth, I think this idea is redundant in part to pre-existing policies, such as the ag waiver being run through the RWQCB. I hope that such policies and other, whether at the county, state or federal level, would be researched before adding on potential redundancies. 23-13

Seventh, what protocols would be set up to police such a policy, and by "protocol" I really mean, what sort of scientific 23-14

methods?

To conclude, this mitigation is extremely puzzling. The science behind it seems to be lacking and, as such, it needs to be identified and justified: from the mapping of watersheds to the rationale for the figures involved, to how cumulative activities would be identified and measured, etc. 23-14 Cont.

4. Draft EIR Impact WR-5

Basically, this mitigation says that any project located within important or major groundwater recharge areas has to be designed to maintain or increase the site's pre-development absorption of rainfall, as well as to recharge groundwater. 23-15

First, where's the science behind this? Where's the empirical facts in terms of maps of these important/major recharge areas?

Second, how does this mitigation work in terms of major storm events (ie., 25-100 year events)? 23-16

Third, how is "project" being defined? Does this apply to routine and ongoing ag? 23-17

Fourth, what is the scientific method that will be used by the County to id areas/ parcels in terms of their pre-dev absorption rates? And, along that line, how will the County maintain tabs on post-dev groundwater recharge? 23-18

Fifth, what is the scientific rationale for justifying the need to maintain or increase a site's pre-dev absorption? 23-19

5. Draft EIR Impact WR-5

This mitigation says that H2O conservation measures for ag shall be developed, updated and implemented. I'm puzzled as to why there's a need to put this sort of thing in the DEIR, as there are already plenty of pre-existing regulations and policies that cover this issue. This idea is completely redundant to what's out there: case in point, the polices of the RWQCB, as well as MCWRA, etc. This is unnecessary verbiage and time wasted, and the fact that citizens' tax dollars paid for this is extremely galling. I would respectfully request that the County ask for a refund from the DEIR consulting firm for this section. 23-20

6. Draft EIR Impact WR-6

This mitigation says that criteria should be developed for the evaluation and approval of all new wells. Effects to be evaluated include: quality, production capability, recovery, effect on other wells in vicinity, existing groundwater conditions, and TMF of operator. Pump tests and/or hydro geologic studies shall be conducted on all new high-capacity wells. No new wells shall be allowed in areas of salt-water intrusion. 23-21

First, this conflicts with state law. State law guarantees that a landowner has the right to use their underlying ground water rights (and Schwarzenegger just confirmed this recently when he vetoed a recent water bill). How does this mitigation interact with that right?

Second, what happens when a well fails in a salt-water intrusion area? Is the landowner stuck in a situation where they cannot replace their well? Is the County going to then supply their replacement water? 23-22

Third, where is the analysis of how the multiple aquifers play into this? There might be saltwater intrusion at the 180 foot aquifer, but where is the empirical evidence that drilling into the 400 or 1100 foot aquifers would then affect the compromise of the higher aquifer? 23-23

Fourth, what is the definition of a high-capacity well and what is the scientific justification for that figure? Also, how has the concept of vicinity been determined (in terms of "vicinity wells")? Are there figures associated with that determination in terms of distance, depth and rate of pumping? If not, I would think that these numbers would have to be ascertained before the mitigation itself could be determined. 23-24

7. Draft EIR Impact BIO-1

This mitigation basically says that development approval will need a biological survey for various classifications of species. I say "various" because the mitigation language refers to several different phrases in terms of species: "special status species," "Federal and State designated special status species," "sensitive species," and "those protected by the Migratory Bird Act." 23-25

First, after checking with some lawyers on this, it's clear that a great deal of this mitigation has no foundation in law. The ESA, of course, regulates land use in terms of protecting Fed/State listed threatened and endangered species, as well as designated critical habitat. However, these other so-called classifications in the mitigation ("sensitive species," "special status species") are not part of the ESA, and there is no legal reason to be protecting them.

Second, where's the empirical evidence for protecting those species in the "sensitive species" and "special status species" categories? Species listed by the ESA go through a rigorous process of scientific review, vetted by peers and the government. 23-26

If whoever people are so intent on getting these other categories environmental protection, then they need to be put through the same due process that is part of the ESA, otherwise, what kind of protection do property owners have against such lack of due process? 23-26 Cont.

Third, if we add on extra regulations for species that do no belong to the ESA, this will further weaken the viability of agriculture. There is a direct, negative economic effect here that needs to be analyzed and acknowledged. 23-27

Fourth, what kind of effect will this extra regulation have on such environmental issues as controlling the flood potential of the Salinas River? 23-28

8. Draft EIR Impact BIO-1

This mitigation says that each acre (or even less) of critical habitat that is impacted by development should be replaced at a minimum ration of 2 to 1. 23-29

First, where is the legal basis for this? The term used here is "special status species" and the last time I checked, this is not part of the ESA.

Second, there is no due process involved here. "Critical habitat" for species that are not listed in the ESA avoids due process of any kind. This sort of thing tramples on the rights of property owners. Where is the scientific evidence that backs up the so-called need to protect and mitigate this "critical habitat?" Where's the peer review? 23-30

Third, this mitigation would have a significant and unavoidable economic impact that needs to be addressed and analyzed. It is more than likely that pressure will increase to take ag land out of production in order to provide the replacement habitat (particularly in light of the fact that over a million acres in this County is ag land). This demand will compete with the need for ag land, thus driving up rents and land costs and further weakening an already fragile industry. 23-31

Fourth, this mitigation, like the previous one will potentially have severe environmental impacts. Case in point, if land is restricted for "critical habitat" around the Salinas River, this will further exacerbate flood control issues, as the river is already in heightened danger of flooding due to the maintenance restrictions put on it by the Army Corp of Engineers, Fish and Game, and National Marine Fisheries. This added risk-potential to the environment (as well as the economic impacts of surrounding farmlands being flooded and losing their crops [see flood of '95]) needs to be analyzed and weighed against this mitigation. 23-32

Fifth, the economic impacts of this mitigation need to be analyzed, in addition to the potential economic impact of increased chances of flooding mentioned above. If this mitigation is enacted, it will increase pressure on land uses in terms of competition. The end result will be an ever increasing cost of land in general, which will in turn drive up ag costs and housing costs. I would think that this effect alone would make this mitigation infeasible and candidate for termination. 23-33
