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To: Dave Bryant

From: Julie Allen

Date: June 3, 2010

RE: Sequoia Riverlands Trust Comments on General Plan Update

Number of pages including this cover sheet: 7

Comments:

Dave, if you have any questions, please don't hesitate to call the land line above or my cell 288-9411. Email address is julallen@springvillewireless.com

Best,

Julie

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Sequoia Riverlands Trust

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June 2, 2010

Mr. David Bryant
Tulare County Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93291

RE: Sequoia Riverlands Trust Comments on Tulare County General Plan Update

Dear Mr. Bryant,

I submit the following comments on the Tulare County General Plan Update on behalf of Sequoia Riverlands Trust. We are a regional, non-profit land trust dedicated to conserving the natural and agricultural legacy of the southern Sierra Nevada and San Joaquin Valley. We protect working landscapes, habitats and scenic open space while supporting sustainable economic growth in our communities. Our geographic reach includes primarily Tulare, Fresno, Kern and Kings Counties. Our approach is to engage farmers, conservationists, landowners, the public sector and the business community in a collaborative approach to land and resource conservation in the Sierra Nevada foothills west of federal land boundaries and on the Valley floor. We therefore have a deep and urgent interest in the Tulare County General Plan Update. In this spirit, we offer the following comments on the nature and provisions of this plan update:

1. Scope and Content

The Introduction to the General Plan Update must further clarify both scope and content of the Plan in several respects. First and foremost, we ask that you clarify what is actually included in the Plan and thereby in the requirements for consistency determinations. For example, the current explanation does not adequately cover the land use "diagrams" or the Implementation Measures. Are the many "diagrams" merely illustrative or do they direct land use? Regarding the Implementation Measures, the Plan states that they may be changed without amending the General Plan. This means they are not formally or legally considered to be a part of the Plan. If that be the case, they could be changed, for instance, by staff without any notice or comment or any public discussion at all. However, much of the concrete content of the Plan is in these measures. Everyone should be able to count on them; they should be part of the General Plan. We believe change in Implementation Measures should be subject to public review and comment.

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We ask that the Implementation Measures be made explicitly part of the Plan and that clarification of their status be made explicit in the Introduction to the Plan Update.

2. Foothill Growth Management Plan (FGMP)

From the beginning of the Plan Update process, the Board has repeatedly said that the FGMP is not subject to update this time around. As recently as April of 2008 I have had this in writing from RMA senior staff. However, this Plan Update shows that a "revised" form of the FGMP was actually **adopted** this year, 2010 (Page 1-3)!! If this be true, it was done without public knowledge, notice or participation. We thereby question the legality of this action.

Part II, Chapter 3 indeed shows considerable, significant change from the plan adopted in 1981. For instance, in substance the land use designations Foothill Agriculture (FA) and Foothill Mixed Use (FMU) are entirely new from the perspective of the original FGMP. The FA designation allows one unit for each forty acres above 160 acres, which means that large foothill ranches could be subdivided into large parcel subdivisions that scatter dispersed development throughout the foothills of Tulare County. This is directly counter to the governing idea of the 1981 FGMP which was to focus development in development corridors, leaving about 90% of the foothill area in agricultural use. Foothill Mixed Use is similarly an entirely new concept for the foothills. This category includes, residential, commercial, recreation and light industrial uses where residential and some very, very limited neighborhood commercial uses were allowed under the original FGMP.

Important natural resource considerations such as riparian protection have also been changed beyond recognition. For example, under the 1981 FGMP 100 foot riparian protection zones were required. The General Plan Update only says foothill areas adjacent to a water course shall remain in common open space (Part II Page 3-29), but there is no operational definition of how much land adjacent to a water course shall remain in common open space or how it is to be managed. The presumably complementary language regarding riparian zone protection in Part I is very general except for riparian zones in recreational developments which are required to be 100 feet (Page 8-16). Inexplicably, industrial uses may not be required to protect that same 100 feet of riparian area (Page 8-16).

These changes in allowable foothill land use and development standards amount to a complete rethinking of the future of the foothills, done without any public input at all. It is a betrayal of the foothill communities and of all with an interest in the foothills to say one thing, i.e., to say there would be no change in the FGMP as part of this general plan update, and then to do another, i.e., make those substantial changes without any public input. We therefore ask that the process be backed up, that Part II Chapter 3 of the Plan Update be shifted to Part III and dealt with subsequently in a fully open public process just as the other areas identified in Part III that are not yet adopted.

3. Agricultural Land Mitigation

We agree with Plan policies regarding conservation easements (Page 3-5) but urge that the stronger implementation language at 3.3.1 (Page 3-9) be adhered to. The County should indeed take the lead in establishing a comprehensive agricultural land mitigation program to offset impacts of agricultural land conversion to urban uses. Further, we would be happy to participate in the establishment of criteria for the locations of agricultural conservation easements (Page 3-10) and we applaud the monitoring and annual reporting requirements (Page 3-10). We note that the latter two are Implementation Measures which apparently are not part of the General Plan. We believe they should be.

4. Smart Growth

We applaud the policies outlining a start toward Smart Growth, but once again believe that the more specific language in the Implementation Measures should be included in the Plan itself. Accordingly, we believe that, as appropriate, smart growth principles should be incorporated as conditions of project approval (Page 4-33); that a cluster development ordinance should be prepared (Page 4-36); and that Open Space and Land Conservation contracts should be reinstated (Page 4-34). We believe that these first few steps toward Smart Growth should only be the beginning, not the end, of progress in this direction. We look forward to working with the County to strengthen our community's further development of Smart Growth policies.

5. Biological Resources:

We are heartened that the "...County shall support..." the preservation and management of wetland and riparian plant communities, the establishment of mitigation banking programs, and the conservation and management of oak woodland communities (Page 8-10). We are disappointed that these policies are so general as to be without any real force or effect. Once again, the Implementation Measures include specific language that should be a part of this General Plan Update, specifically, resource determinations by qualified professionals, e.g., biologists; designation of Resource Conservation Areas; a mitigation banking program; dedication of riparian and wetland areas; preservation of vernal pools; replacement planting of native oaks; and possible adoption of an oak woodlands management plan pursuant to the Oaks Woodland Conservation Act of 2001 for the purpose of qualifying for State funding (Pages 8-21 through 8-24).

The latter is of particular interest and particular disappointment to us at SRT. Starting five years ago, at the request of this Board of Supervisors, specifically Jim Maples, SRT attended a number of meetings regarding oak preservation and proposed language

consistent with this Act. Despite repeated communications starting in 2005, nothing has come of this effort. We ask that the feasibility study of adoption of an oak management plan be set aside and that the language we proposed for developing it simply be adopted. Failing this, we at SRT stand ready to participate in whatever process is necessary to get a countywide oak management plan done. Losing our County's oakwoodlands through delay or sheer negligence is not an acceptable option to us.

We are further concerned that the needs of the aggregate industry appear to trump all or most environmental resource considerations, especially in riparian areas. Generally, requirements accommodating the mining industry account for fully one third of ERM Implementation Measures. While these measures may not be a part of the general plan, such an imbalance suggests a general bias in favor of the mining industry. There are specific instances of bias as well. Implementation Measure 30 (Page 8-27) requires that development of areas adjacent to waterways with aggregate potential be planned so as not to hinder future extraction of commercially important minerals. Yet Measure 9 (Page 8-23) requires that the Zoning Ordinance require "... dedication of buffers as public open space for riparian and wetland areas for development or other discretionary permits where the development or activity will impact a riparian area." Aggregate mining is subject to permit therefore these two appear to be in conflict. Will such conflicts be "resolved" through staff rewrites of Implementation Measures without public involvement, review and comment? Once again, the ambiguous status of the Implementation Measures is problematic. We ask that this be clarified in the final version of the General Plan Update.

6. Water Resources

The Water Resources section is more complete than the last draft and generally easier to understand. That said, we are concerned that non-restrictive language in some sections gives this General Plan Update little force and effect regarding water. For example, the document admits that Tulare Lakes Basin, much of which lies within Tulare County, accounts for fully 56% of the total Statewide overdraft (Page 11-3), thereby defining the magnitude of the County's overdraft problem. Yet, Plan direction regarding water quality and supply is largely "promote," "support," "encourage", and/or "should" (Page 11-6 through 11-10). Surely in a county where water is such an issue we can do better than this!

While we are disappointed by generally weak language, we applaud the apparently strong language of a few of these policies, e.g., the requirement for a Will-Serve letter and actual evidence of sustainable water supply for new development applications (Page 11-9). On the other hand again, we are concerned that there is no definition of "major" for WR-2.1 (Page 11-8): "All major land use and development plans shall be evaluated as to their potential to create surface and groundwater contamination...from point and non-point sources." (Emphasis added). We believe that in the absence of a definition, the word "major" should simply be deleted. As a county, we should be unambiguous about

our water requirements and in no doubt as to the water quality and quantity implications of new development.

Once again, the specifics of the Implementation Measures seem to us to hit the mark where the policies fail for lack of specificity. We recommend in this case—Water—that every one of the Implementation Measures be adapted and incorporated as Plan policy. Regarding Measure 27, we recommend that the study be broadened to include defining the system of water supply, transfer, and recharge areas countywide. Looking only at the areas of inadequacy prevent full problem solving and the possibility of synergy. We further believe that such a countywide study would lead to development of a system of “green infrastructure” starting with protected riparian areas on federal land, continuing onto the Valley floor, and dedicated to water supply and quality enhancement, habitat and recreational values. Of note: Before the Technical Advisory Committee was disbanded, this idea of “green infrastructure” was supported by such widely divergent views as those of public land managers and representatives of aggregate mining. We believe integrative conservation is an idea whose time has come. We stand ready to participate in whatever public forum is established for the purpose.

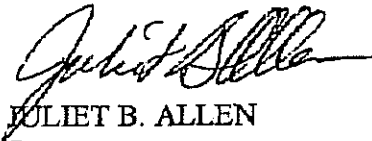
7. Urban and Wildland Fire Hazards

Section HS-6 (Page 10-10 through 10-12) gives the barest outline of a wildland fuels policy. Since several of our preserves are located in the foothills in high hazardous fuels areas, we are concerned about these policies, particularly in the context of the possibility of large parcel subdivision of the entire foothill area. We are concerned about fires originating on other’s property and burning onto ours. Specifically, we are concerned that HS-6 does not state policies that would adequately prevent fires originating in structures/property and burning onto adjoining wildland properties. We are particularly concerned that HS-6.2 “promotes” but does not “require” fire resistant materials in fire hazard areas. We recommend that such materials are required. We similarly believe that HS-6.6 requiring fire management plans should apply to all large parcel subdivisions since inevitably most of the land will be left in wildland vegetation and will probably not be managed. Finally, we recommend that HS-6.15 be expanded to include fuel related hazards on private lands because much is accomplished through such entities as Fire Safe Councils whose projects are often premised on partnering public and private efforts to benefit public and private lands.

In summary, we believe this General Plan Update document is better organized and more understandable than the previous drafts, for which we thank you and the staff of the RMA. There is a good reason this hugely complicated update has taken a great deal of time. However, we have major objections and recommendations as detailed above. We believe a Plan should support good decision-making, but doubt this one, as written, can do so because it is ambiguous and vague.

We thank you for the opportunity to comment on the General Plan Update. We note that while we have confined our comments to the Plan itself and submitted them after comments were due for the DEIR, you personally (Telephone call with yourself, David Bryant, 5/26/10) assured us that our comments would be included with all other comments on the Plan Update as part of the official record. We understand that a published point for point response will not be published with the FEIR, and we agree that in fact there is little response of a technical nature even possible given the nature of our comments. We look forward to participating further in a thorough public vetting through the public hearing process and to a much improved Plan at the end of that process.

Sincerely yours,



JULIET B. ALLEN

Secretary

Board of Directors

Sequoia Riverlands Trust