

# Memorandum

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**TO:** Honorable Mayor &  
City Council Members

**FROM:** Lee Price, MMC  
City Clerk

**SUBJECT:** The Public Record  
October 18 - 25, 2006

**DATE:** October 26, 2006

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**ITEMS TRANSMITTED TO THE ADMINISTRATION**

**ITEMS FILED FOR THE PUBLIC RECORD**

- (a) Notification letter from Sprint Nextel to Consumer Services Division, David Rowland dated October 12, 2006 regarding CA2249 Cambrian Park.
- (b) Letter from the Department of Navy Base Realignment and Closure Program Management to the Restoration Advisory Board dated October 19, 2006 to attend a meeting.
- (c) LAFCO's Revised Draft Agricultural Mitigation Policies for review to City Clerk Lee Price received via email on October 26, 2006.

Lee Price, MMC  
City Clerk

LP/np

Distribution: Mayor/Council  
City Manager  
Assistant City Manager  
Assistant to City Manager  
Council Liaison  
Director of Planning  
City Attorney  
City Auditor  
Director of Public Works  
Director of Finance  
Public Information Officer  
San José Mercury News  
Library



Sprint Nextel  
12657 Alcosta Boulevard, Suite 300  
San Ramon, CA 94583  
Fax: (925) 904-4059

Public Record a.

RECEIVED  
Sari Jose City Clerk

2006 OCT 23 A 9 12

**NOTIFICATION LETTER**

Consumer Services Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Attn: David Rowland

October 12, 2006

**RE: CA2249 Cambrian Park**

This is to provide the Commission with the notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") that:

(a)  The cellular company has obtained all requisite land use approval for the project described in Attachment A.

**FIXED WIRELESS** – Providing wireless telecommunication service ONLY

(b)  That no land use approval is required because \_\_\_\_\_

(c)  Abandoned Site

Modification

Revised/Corrected Letter

A copy of this notification letter is also being provided to the appropriate local governmental agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact me, Joni Norman, Site Development Manager, SF Bay for the Northern California Market of Nextel of California, Inc. at (925) 904-3954.

Very truly yours,

Joni Norman

Attachment

cc: City of San Jose  
200 East Santa Clara, 3<sup>rd</sup> Floor  
San Jose, CA 95113  
City Manager

City of San Jose  
200 East Santa Clara, 3<sup>rd</sup> Floor  
San Jose, CA 95113  
City Planning Department

City of San Jose  
200 East Santa Clara, 3<sup>rd</sup> Floor  
San Jose, CA 95113  
City Clerk

# ATTACHMENT A

## 1. Project Location: NEW BUILD

Site Name: CA-~~1195~~<sup>2249</sup> Cambrian Park

Site Address: 1833 Potrero Drive

Location: San Jose, CA

County: Santa Clara

Assessor Parcel Number: 442-31-001

Latitude: 37°16' 21" N (NAD 83)

Longitude: 121° 55' 8.39" W (NAD 83)

## 2. Project Description:

Number of Antennae to be installed: Twelve, four foot panel antennas

Building Design: Tower

Building Appearance: PGE Transmission Tower

Tower Height: 104 feet

Top of Antenna Height: 101 feet

Building Size(s): 13' L X 9' W X 8'H

## 3. Business addresses of all Local Government Agencies:

City of San Jose  
200 East Santa Clara, 3<sup>rd</sup> Floor  
San Jose, CA 95113

## 4. Land Use Approval:

On September 26, 2006, Sprint Nextel obtained zoning approval from the City of San Jose for the construction of a PCS Wireless Facility, pursuant to Application No. AD06-582

Public Record  
b



RECEIVED  
San Jose City Clerk

OCT 23 P 3: 11

DEPARTMENT OF THE NAVY  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE WEST  
1455 FRAZEE ROAD, SUITE 900  
SAN DIEGO, CA 92108-4310

5090  
Ser BPMOW.rcw  
19 Oct 2006

Déar Fellow Restoration Advisory Board (RAB) for Former NAS Moffett Field Members:

It is my pleasure to invite you to attend the meeting of the former NAS Moffett Field RAB on Thursday, Nov. 9, 2006, from 7 to 9:05 p.m. on the fourth floor of the Mountain View City Hall at 500 Castro Street. The proposed agenda, directions to the RAB meeting and draft minutes from the Sept. 14, 2006, RAB meeting are enclosed.

If you have any questions or concerns, please contact me in any of the following ways:

Mr. Rick Weissenborn  
BRAC Environmental Coordinator, Former NAS Moffett Field  
Base Realignment and Closure, Program Management Office West  
1455 Frazee Road, Suite 900  
San Diego, CA 92108-4310  
Phone: 619-532-0952 Fax: 619-532-0995  
E-mail: richard.weissenborn@navy.mil

I look forward to seeing you at the next RAB meeting.

Sincerely,

RICHARD WEISSENBORN  
BRAC Environmental Coordinator  
Former NAS Moffett Field

- Enclosures:
1. Nov. 9, 2006, RAB Agenda
  2. Directions to the RAB Meeting
  3. Sept. 14, 2006, Draft RAB Minutes

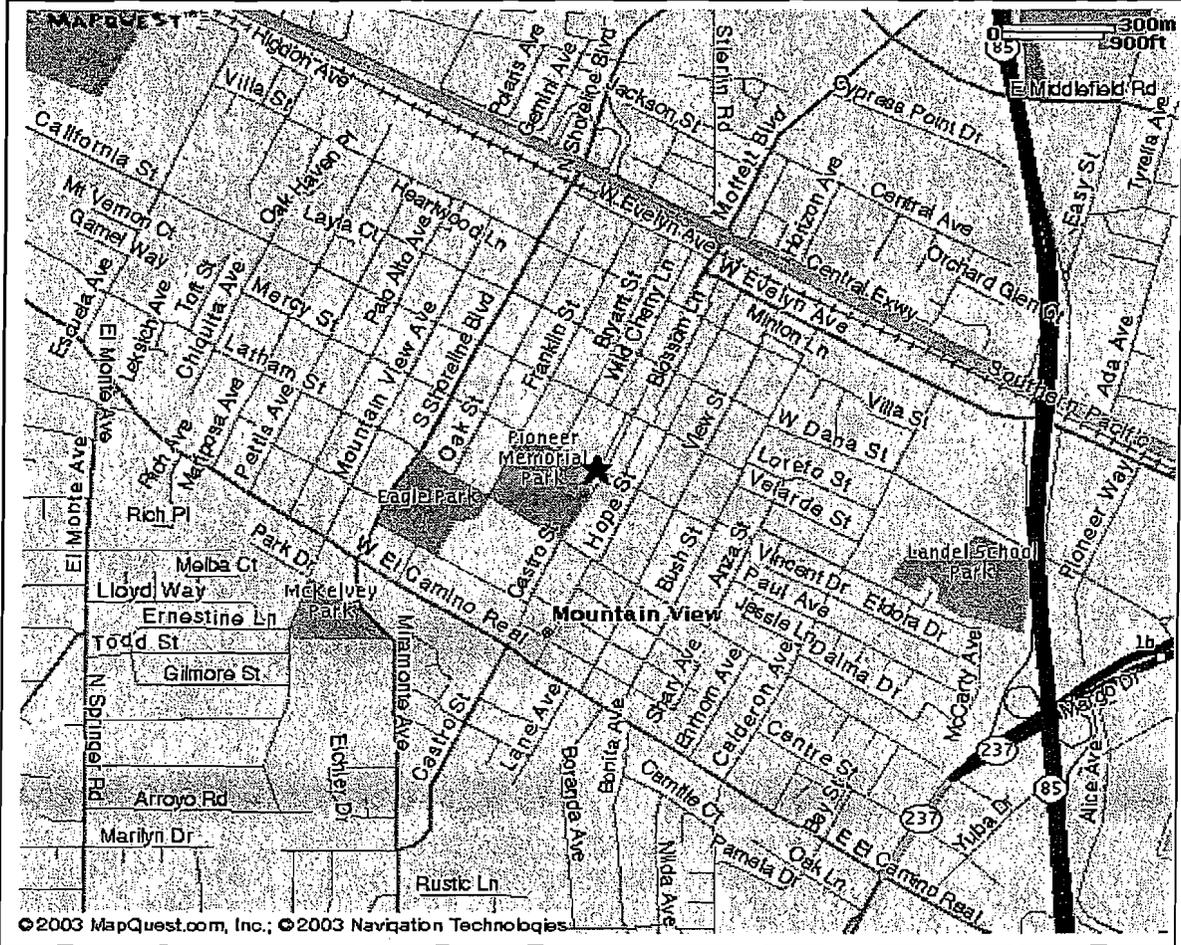


**Former NAS Moffett Field**  
Mountain View, California

**RESTORATION ADVISORY BOARD MEETING  
AGENDA**

- Date/Time:** Thursday, Nov. 9, 2006, 7 to 9:05 p.m.
- Location:** Mountain View City Hall, Fourth Floor  
500 Castro Street, Mountain View, CA 94041
- 7:00 to 7:15** WELCOME AND INTRODUCTIONS  
REVIEW AGENDA  
PRIOR MINUTES APPROVAL (Sept. 14, 2006)  
CIRCULATE DOCUMENT SIGN-UP SHEETS
- 7:15 to 7:25** REGULATORY UPDATE
- 7:25 to 7:55** HANGAR 1 REVISED EE/CA SCHEDULE
- 7:55 to 8:25** MEW COMPANIES AND EPA RI/FS PRESENTATION
- 8:25 to 8:55** NASA SOIL SAMPLING PRESENTATION
- 8:55 to 9:05** RAB BUSINESS:  
RAB RELATED ANNOUNCEMENTS  
NEXT RAB MEETING: Jan. 11, 2007, 7 to 9:30 p.m.  
FUTURE RAB TOPICS
- 9:05 P.M.** ADJOURN

# 500 Castro Street Mountain View, CA 94041-2010



**FORMER NAS MOFFETT FIELD  
RESTORATION ADVISORY BOARD  
MOUNTAIN VIEW CITY HALL, FOURTH FLOOR  
MOUNTAIN VIEW, CALIFORNIA 94041**

*NOTE: A glossary is provided on the last page of these minutes.*

**Subject: RAB MEETING MINUTES**

The Restoration Advisory Board (RAB) meeting for the former Naval Air Station (NAS) Moffett Field was held on Thursday, 14 Sept 2006, at the Mountain View City Hall, Fourth Floor, in Mountain View, Calif. Mr. Bob Moss, RAB community co-chair, opened the meeting at 7:10 p.m.

**WELCOME**

Mr. Moss introduced himself, welcomed everyone in attendance, and asked for self-introductions of those present. The Moffett Field RAB meeting was attended by:

RAB Members	Regulators	Navy	Consultants & Navy Support	NASA	Public & Other
12	4	3	3	2	10

**AGENDA REVIEW AND APPROVAL OF MINUTES**

Mr. Moss reviewed the meeting agenda. It was approved without changes.

Mr. Moss and Ms. Yvonne Fong, U.S. Environmental Protection Agency (EPA) project manager, provided corrections to the 13 July 2006 meeting minutes. The meeting minutes were approved as corrected. Revised meeting minutes are posted on the project website at [www.bracpmo.navy.mil/bracbases/california/moffett/](http://www.bracpmo.navy.mil/bracbases/california/moffett/).

**DOCUMENTS FOR REVIEW**

Mr. Rick Weissenborn, Navy Base Realignment and Closure (BRAC) environmental coordinator and RAB co-chair, reminded everyone that documents are distributed on CD.

Sign-up sheets for the following documents were circulated during the meeting:

#	DOCUMENT	APPROXIMATE SUBMITTAL DATE
1	Draft Site 22 Landfill Post-Construction Operations, Maintenance, and Monitoring Plan Addendum	September 2006
2	Draft Final Addendum to the Revised Final Station-Wide Feasibility Study Site 25	October 2006
3	Draft Site 14 South Progress Report	October 2006
4	Final Groundwater Monitoring Well Installation and Sampling Report Orion Park Housing Area	November 2006
5	Final Former Building 88 Investigation Report	November 2006
6	Draft East-Side Aquifer Treatment System Evaluation Completion Report	December 2006
7	Site 29 (Hangar 1) Action Memorandum	TBA

## **REGULATORY UPDATE**

Ms. Fong provided an update of Moffett Field EPA activities:

- Ms. Fong said the supplemental remedial investigation (RI) compiled by Navy, National Aeronautics and Space Administration (NASA), and Middlefield-Ellis-Whisman (MEW) Companies was released 14 Aug 2006, and EPA is currently reviewing the document. EPA will submit comments within the next two weeks. Ms. Fong requested this topic be added to the 9 Nov 2006 meeting agenda, and EPA will provide more information at that meeting. The final RI is due 45 days after submission of EPA's comments. The proposed plan is scheduled for release winter 2007 and will include a public comment period and public meeting.
  - RAB member Mr. Peter Strauss asked if the Navy still was not participating in the supplemental RI/FS report. Mr. Weissenborn affirmed that is correct.
- Ms. Fong said EPA is updating its community involvement plan and interviewing community members for input. Community members can contact the community involvement coordinator at 415-972-3243 if they are interested in participating.

Ms. Adriana Constantinescu, San Francisco Bay Regional Water Quality Control Board (Water Board) project manager, announced she is no longer assigned to the Moffett Field project. Ms. Constantinescu reviewed Moffett Field cleanup accomplishments during her five and a half years on the project, noting these accomplishments were possible because of the RAB's help. She thanked everyone and introduced Ms. Gina Kathuria, senior water resources engineer, and Mr. Devender Narala, Ms. Constantinescu's replacement. Ms. Kathuria will be replacing Mr. John Kaiser.

Mr. Narala introduced himself and gave a summary of his experience and qualifications.

Mr. Weissenborn announced Ms. Judy Huang, Water Board project manager, is leaving the Water Board and will be working for EPA. Ms. Agnes Farres will be her replacement.

## **HANGAR 1 UPDATE**

Mr. Weissenborn said there are no new developments regarding a revised engineering evaluation/cost analysis (EE/CA) for Hangar 1. He will keep everyone updated when new developments arise.

- Mr. Strauss said NASA submitted a draft implementation plan for the storm water settling basin in August that concluded there were no samples that were above non-detect for polychlorinated biphenyl (PCB) 1268. Mr. Strauss said this seems there is not a problem with contamination from Hangar 1 migrating to the storm water retention pond. Mr. Don Chuck of NASA said he thinks Mr. Strauss' comment is correct if he is referring to the latest implementation plan, and NASA will have more data when they sample the settling basin. Mr. Chuck said NASA has been sampling the settling basin to ensure PCBs originating from NASA property are removed, which is not part of the old drainage system the Navy is addressing in relation to Hangar 1.

Mr. Weissenborn concluded the Hangar 1 update.

## **SITE 27 UPDATE**

Mr. Scott Gromko, Navy remedial project manager, presented remedial action progress for Site 27. He provided background information on the site, and discussed completed actions, current actions, and the anticipated project schedule.

Completed actions for Site 27 include setting up the berm haul road, vehicle turnouts, and sediment stockpile area, and removing sediment from both the Marriage Road and North Patrol Road Ditches. Mr. Gromko described how these actions were completed.

Current actions include de-watering and sediment removal of the Northern Channel, and off-site transport of sediment. Mr. Gromko described how these actions are being completed.

Mr. Gromko said the Navy worked closely with California Fish and Game, the Water Board, and NASA biologists to develop a plan that would have the least amount of impact to the western pond turtles during cleanup. Mr. Gromko described actions taken to protect the turtles. Because there is a lot to learn about the western pond turtle, NASA biologists may put transmitters on some of the turtles, prior to releasing them, in an effort to better study them.

To date, 55,000 cubic yards of sediment have been removed from Marriage Road Ditch, North Patrol Road Ditch, and the Northern Channel. Approximately 20,000 cubic yards of sediment have been hauled to off-site, CERCLA-approved facilities, and roughly 50 western pond turtles have been safely captured and placed in their temporary home, the golf course pond.

The anticipated schedule for the remainder of Site 27 remedial actions is as follows:

- Completion of sediment removal by November 2006
- Completion of debris pile removal by December 2006
- Completion of remedial action project by January 2007
- Completion of remedial action report by July 2007

Following are questions and comments about the presentation:

- Mr. Gromko said the Navy installed a temporary drainage system and pond to help dry the sediment stockpile area for transport off-site. In response to Mr. Strauss' question about where the water drains to, Mr. Gromko said there is a retention pond as part of the drainage system that collects water from the sediment in the stockpile area. The water is tested, and there is an onsite filtration system if needed to filter sediment from the water. The water from the Building 191 pump station is channeled around the Northern Channel. Mr. Gromko also noted there are systems in place to prevent the migration of sediment that may be in the water, such as silt fencing, hay bails, and turbidity curtains.
- Mr. Strauss asked how the Navy protects against dust blowing from the sediment as it dries in the stockpile area. Mr. Gromko said the issue of dust was brought up by NASA and addressed during design of the project. Mr. Gromko said there has not been an issue with dust blowing at the site since the removed sediment material has clays in it, which hold water and prevent dust. In addition, the Navy only keeps sediment removed from the Northern Channel onsite for about 10 days, and for dusty conditions to occur, the sediment would need to be at the site longer. For other areas at the site that may create dust, such as dirt roadways, a water truck is used frequently to prevent dust.
- Mr. Strauss then asked if transporting sediment off-site via rail had been considered. Mr. Gromko said this transportation method was looked at closely, since traffic in the bay area is a concern, but since the railway does not come directly to Moffett Field, it was not feasible. This approach would require double handling by heavy equipment, trucks and excavators, to bring the sediment to a railroad spur and place it on a rail car. The double handling increased any cost saving and time that may be gained by railway transport and disposal.
- Mr. Gromko stated the Navy takes confirmation samples of the remediated areas to ensure all contaminated sediment has been removed. Mr. Moss asked about the status of these confirmation samples. Mr. Gromko said the confirmation samples have been completed for Marriage Road Ditch. In these samples, the naturally occurring metal selenium has been detected. The Navy is working with the Water Board to explain why it is being found. Since the Navy is finding levels higher in clay than in sediment, it leads to the conclusion that it is naturally occurring in the bay area clay.

- In response to a community member's question about the cubic yard capacity of the trucks accessing the site, Mr. Gromko said a 25-ton truck could hold about 15 cubic yards. Mr. Gromko said there are approximately 100 total trucks entering and exiting the site throughout a normal workday. This includes trucks delivering equipment.
- In response to a question about retaining the vehicle turnouts installed on the berm road after cleanup has been completed, Mr. Gromko said because the Navy does not own the site, the property owner will determine whether the berms remain. Currently, U.S. Fish and Wildlife Service would like the vehicle turnout on their property to remain, and Cargill would like the two vehicle turnouts on their property removed. The Navy will revisit the issue with the property owners after the project's use of these vehicle turns has completed.
- In response to a question about cleanup funding, Mr. Gromko said the Navy is incurring 100 percent of the cleanup costs. The Navy is cleaning the site as a responsible neighbor since the contamination migrated from Navy activities on Moffett Field. Prior to beginning the cleanup, the Navy had a number of meetings and obtained access agreements from the property owners to allow access to the site for the cleanup.
- A community member asked if there is an estimate of the half-life for the contaminants, or how long it would take the contaminants to naturally decompose. Mr. Gromko said one of the contaminants of concern, PCBs, needs to be cleaned up because they are a very stable chemical compound and have a long life. In addition, the contaminants of concern are hydrophobic (do not easily dissolve in water), which is why the water is not contaminated - only the sediment is contaminated. Also, there would not be any new sources of contamination because the contaminants came from materials that are rarely used, and they have been removed from upstream sources.

Mr. Gromko concluded the Site 27 presentation, which will be available on the Moffett Field website.

## **MOFFETT FIELD REMEDIATION**

Mr. Wilson Doctor, Navy remedial project manager, presented an update on Sites 1, 22, 28, and the petroleum sites.

Mr. Doctor presented background information on each site and activities completed and ongoing. Completed and ongoing activities for each site include:

Site 1 Landfill: Habitat alteration on Site 1 was conducted between 11 Aug and 22 Aug 2003, and included biological surveys, the installation of flashing and a fence surrounding the site, and the redesign and modification of riprap, berms, road, and energy dissipators. Ongoing activities for Site 1 include quarterly methane monitoring, semiannual groundwater monitoring, regular maintenance, and quarterly landfill inspections with Santa Clara County.

- Mr. Strauss said the Navy installed a drainage ditch on the northern part of Site 1 to test the water that accumulated. He asked if there were any signs of contamination. Mr. Doctor replied that no contamination has been found above levels of concern.

Site 22 Landfill: Current ongoing activities on Site 22 include quarterly methane monitoring, quarterly groundwater monitoring, regular maintenance, and quarterly landfill inspections with Santa Clara County.

- In response to a community member's question, Mr. Doctor said Site 22 is still functioning as a golf course.

Site 28 West-Side Aquifers Treatment System (WATS): Ongoing activities for Site 28 include maintaining WATS, and completed activities include the removal of an air stripper from the system in May 2003, the repair of damaged monitoring wells, and the decommissioning of redundant/unnecessary monitoring wells. Mr. Doctor also described the optimization objectives of WATS.

- Mr. Strauss asked about the status of the rerouting of WATS discharge from the storm water retention pond to Stevens Creek and the biological study. Mr. Doctor said it is planned for completion in the future as part of the assessment of the storm water retention pond.
- Mr. Strauss asked if WATS also treats the plume on MEW property and if this is distinguished from the other contamination sources. Mr. Weissenborn said WATS focuses on Navy-known sources, but the system does treat some of the mixed regional plume.

Petroleum Sites: Recent work completed for the petroleum sites includes the sampling of two underground storage tanks at Shenandoah Housing Area, naphthalene sampling, and Building 29 and Building 55 pipelines investigation. The Navy is recommending closure for the Shenandoah and naphthalene sites as well as the Building 55 pipelines because contamination has not been found above levels of concern. The Navy was recently awarded \$2 million to investigate additional fuel system components at Building 29.

Mr. Doctor concluded the Moffett Field Remediation presentation.

## **RAB BUSINESS**

- Mr. Weissenborn announced the new Moffett Field web page, [www.bracpmo.navy.mil/bracbases/california/moffett](http://www.bracpmo.navy.mil/bracbases/california/moffett).
- Navy documents will be available soon on the Moffett Field web page.

**RAB Schedule** - The next meeting is scheduled for Thursday, 9 Nov 2006, from 7 to 9:05 p.m., at the Mountain View City Hall, Fourth Floor.

The approved RAB meeting schedule for 2007 is as follows:

- January 11, 2007
- March 8, 2007
- May 10, 2007
- July 12, 2007
- September 13, 2007
- November 8, 2007

**Future RAB Topics** – The following topics were identified as potential agenda items:

- Hangar 1
- MEW vapor intrusion study

**Adjourn** – The meeting was adjourned at 8:40 p.m. Mr. Weissenborn can be contacted with any comments or questions:

**Mr. Rick Weissenborn**  
 BRAC Environmental Coordinator, Former NAS Moffett Field  
 BRAC Program Management Office West  
 1455 Frazee Road, Suite 900, San Diego, CA 92108  
**Phone:** 619-532-0952 **Fax:** 619-532-0995 **E-mail:** [richard.weissenborn@navy.mil](mailto:richard.weissenborn@navy.mil)

## **GLOSSARY OF TERMS USED IN THESE MINUTES**

BRAC – Base Realignment and Closure

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act

EE/CA – Engineering Evaluation/Cost Analysis

EPA – U.S. Environmental Protection Agency

MEW – Middlefield-Ellis-Whisman Companies

NAS – Naval Air Station

NASA – National Aeronautics and Space Administration

PCBs – Polychlorinated Biphenyls

RAB – Restoration Advisory Board

RI/FS – Remedial Investigation/Feasibility Study

Water Board – San Francisco Bay Regional Water Quality Control Board

WATS – West-Side Aquifers Treatment System

*RAB meeting minutes are located on the Navy's Environmental Web Page at:  
[www.bracpmo.navy.mil/bracbases/california/moffett/](http://www.bracpmo.navy.mil/bracbases/california/moffett/)*

**LAFCO STAFF WORKSHOP ON REVISED  
DRAFT AGRICULTURAL MITIGATION POLICIES**

LAFCO staff will hold a workshop to discuss the Revised Draft Agricultural Mitigation Policies. The purpose of the workshop is to provide more information and answer questions on the revised draft policies.

Date: Monday, November 13, 2006

Time: 9:30 a.m. to 11:30 a.m.

Place: Lower Level Conference Room  
County Government Center  
70 West Hedding Street  
San Jose, CA 95110

**PLEASE RSVP BY NOVEMBER 8TH, 2006**

We request that participants confirm their attendance with Emmanuel Abello, LAFCO Clerk, at (408) 299-6415 OR e-mail him at [emmanuel.abello@co.sccgov.org](mailto:emmanuel.abello@co.sccgov.org)

**LAFCO PUBLIC HEARING TO CONSIDER AND  
ADOPT AGRICULTURAL MITIGATION POLICIES**

LAFCO is scheduled to consider and adopt the Agricultural Mitigation Policies at a public hearing on December 13, 2006. A staff report along with the Proposed Agricultural Mitigation Policies will be made available on the LAFCO web site at least 7 days prior to the public hearing date.

Date: Wednesday, December 13, 2006

Time: 1:15 p.m.

Place: Board of Supervisors Chambers  
County Government Center  
70 West Hedding Street  
San Jose, CA 95110



Local Agency Formation Commission of Santa Clara County  
[www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)  
County Government Center, 11th Floor, East Wing  
70 West Hedding Street  
San Jose, CA 95110  
(408) 299-5148

**LAFCO's REVISED DRAFT  
AGRICULTURAL  
MITIGATION POLICIES  
FOR REVIEW AND COMMENT**

FIRST CLASS MAIL

# LAFCO'S REVISED DRAFT AGRICULTURAL MITIGATION POLICIES

October 26, 2006

## REQUESTING REVIEW AND COMMENT

Attached for your review and comment are LAFCO's Revised Draft Agricultural Mitigation Policies and proposed CEQA analysis for adopting the policies.

The policies were first distributed for review and comment on August 14<sup>th</sup>. LAFCO staff then held a workshop on August 28<sup>th</sup> in order to discuss the Draft policies. At the October 11<sup>th</sup> LAFCO Meeting, LAFCO staff provided the Commission with a status report on the development of the Agricultural Mitigation Policies as well as a summary of the comments received from various stakeholders. The October 11<sup>th</sup> staff report which includes a discussion of the policies and response to comments along with copies of the comment letters, is available on the LAFCO web site at [www.santacruz.lafco.ca.gov](http://www.santacruz.lafco.ca.gov). The Draft Policies were subsequently revised to address comments received by LAFCO as of October 20<sup>th</sup>.

LAFCO is scheduled to consider and adopt the Agricultural Mitigation Policies at a public hearing on December 13, 2006. In order to ensure that your comments are fully considered prior to the December LAFCO Public Hearing, we respectfully request that you provide your written comments to LAFCO staff no later than November 28<sup>th</sup>.

## WRITTEN COMMENTS

In order to ensure that your comments are fully considered prior to the December LAFCO Public Hearing, we respectfully request that you provide your written comments to LAFCO staff no later than Tuesday, November 28<sup>th</sup>.

Written comments may be submitted via mail, email or fax.

Mail: LAFCO of Santa Clara County  
70 West Hedding Street  
11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

Email: [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org)  
[dunia.noel@ceosccgov.org](mailto:dunia.noel@ceosccgov.org)

Fax: (408) 295-1613

Information on the second LAFCO staff workshop and on the LAFCO public hearing can be found on the other side of this page.

## FOR MORE INFORMATION OR QUESTIONS

If you have any questions, need more information, or if you would like to set up another meeting with LAFCO staff to discuss LAFCO's Revised Draft Agricultural Mitigation Policies, please do not hesitate to contact Neelima Palacherla, LAFCO Executive Officer, at (408) 299-5127, OR Dunia Noel, LAFCO Analyst, at (408) 299-5148.

## THANK YOU

*We wish to thank all those who have participated thus far in the development of LAFCO's Agricultural Mitigation Policies - by attending the LAFCO workshop and LAFCO meeting, meeting with LAFCO staff and/or by sending comments on the draft policies. We sincerely appreciate your time and effort in helping LAFCO develop policies to address this important issue*

## LAFCO'S AGRICULTURAL MITIGATION POLICIES

LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO's current policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's current policies require an explanation for why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

It is the intent of LAFCO to set forth through written policies, LAFCO's standards and procedures for providing agricultural mitigation for LAFCO proposals involving agricultural lands, consistent with LAFCO's current policies and LAFCO's mandate.

### **General Policies**

1. LAFCO's Agricultural Mitigation Policy establishes minimum criteria and standards for providing agricultural mitigation for LAFCO proposals involving agricultural lands.
2. LAFCO requires adequate and appropriate agricultural mitigation for all LAFCO applications that impact or result in a loss of prime agricultural lands. Prime agricultural lands are defined in Policy #5.
3. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt agricultural citywide agricultural mitigation policies and programs that are consistent with this Policy.
4. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with this Policy.
5. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.
6. LAFCO will review these Policies as necessary, and determine if revisions are necessary to clarify and address issues in order to better achieve the stated intent.

### Definition of Prime Agricultural Lands

57. Prime agricultural land as referred to in this policy means agricultural land that meets any of the following qualifications:
- a. Lands that are designated "Prime" or lands of "Statewide Importance" or "Unique Farmland" or lands of "Local Importance" by the State Department of Conservation as shown on the "Important Farmland Map" dated 2004.
  - b. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
  - c. Land that qualifies for rating 80 through 100 Storie Index Rating.
  - d. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
  - e. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
  - f. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

### Mitigation Requirements

- §6. Proposals involving the conversion of prime agricultural lands shall not be approved unless one of the following mitigations is provided at a not less than 1:1 replacement ratio (1 acre preserved for every acre converted) along with the payment of necessary funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and promotion of agriculture on the mitigation lands:
- a. ~~The~~ The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
  - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.

- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund:
1. The acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
  2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of promoting agriculture on the mitigation lands.
97. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity must be located in Santa Clara County, must be lands deemed acceptable to the city and entity and must be consistent with this Policy.
109. ~~The agricultural mitigation must should result in preservation of land that would result in the preservation of land that promote the definition or creation of a permanent urban/agricultural edge and must be:~~
- a. ~~Primeprime agricultural land and of equivalent quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and~~
  - b. ~~Located within the city's sphere of influence in an area planned/envisioned for agriculture that would otherwise be threatened/impacted in the reasonably foreseeable future by development, and~~
  - c. ~~Preferably will promote the definition or creation of a permanent urban/agricultural edge.~~
911. Because urban uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO ~~requires encourages~~ cities with LAFCO proposals impacting agricultural lands to adopt measures to preserve adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. ~~Examples of such measures must include, but are not limited to:~~
- a. ~~The city requiring the e~~Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
  - b. ~~The city adopting~~Adoption of measures such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.

- c. ~~The city developing programs~~ Development of programs to improve the community understanding of the necessity of agriculture in creating sustainable communities and promoting the continued viability of surrounding agricultural land.
- d. ~~Other appropriate measures to satisfy the intent of this policy may also be adopted.~~

### **Agricultural Conservation Entity Qualifications**

129. The agricultural conservation entity must be a city or a public or non-profit agency. The agricultural conservation entity must:
  - a. Be committed to preserving local agriculture and must have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
  - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
  - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and be operating in compliance with those standards.

### **Plan For Mitigation**

143. A Plan for Agricultural Mitigation that is consistent with this Policy must be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO.
142. The Plan for Mitigation shall include all of the following:
  - a. An agreement between the property owner(s) and the city or between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the appropriate mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation in a manner consistent with this Policy. The agreement would be contingent on LAFCO approval. Upon LAFCO's conditional approval of proposal, the agreement must be recorded with the County Recorders' Office against the property to be developed.
  - b. Information on specific measures adopted by the city to demonstrate city's compliance with Policy #11.

- c. All other supporting documents and information to demonstrate compliance with this Policy. A checklist will be developed.

#### **Timing and Fulfillment of Mitigation**

- ~~173.~~ LAFCO will require as a condition of approval that the agricultural lands or conservation easements be acquired and transferred or the in-lieu fees be paid within 2-3 years of the LAFCO's conditional approval. ~~This will provide the property owner with sufficient flexibility to meet the mitigation requirements while ensuring that agricultural mitigation is provided in a timely manner.~~
164. Upon fulfillment of the conditions of approval, LAFCO will issue a Certificate of Completion. The effective date of the boundary change will be the date of issuance of the Certificate of Completion.
175. If the conditions of approval are not met within 32 years, the ~~conditional approval will expire~~ applicant may apply to LAFCO for an extension, not exceeding 1 year. Any further consideration by LAFCO will require a new application.
186. The city will not be able to approve the related city-conducted annexation until the Certificate of Completion for an USA approval is issued.
197. ~~LAFCO will not accept other USA amendment proposals from the city until the agricultural mitigation is provided for the city's previous USA approvals.~~ LAFCO discourages submittal of additional USA amendment proposals involving agricultural lands if agricultural mitigation has not been completed for the city's previous approvals. Status of pending agricultural mitigation will be factor that LAFCO will consider in the evaluation of proposals involving agricultural lands.

## **PROPOSED CEQA ANALYSIS FOR ADOPTING LAFCO'S AGRICULTURAL MITIGATION POLICIES**

### **PROPOSED APPROACH**

LAFCO staff proposes to use the following California Environmental Quality Act (CEQA) approach for adopting LAFCO's Agricultural Mitigation Policies:

- The continuation of agricultural activities on land already in agricultural use is categorically exempt from CEQA.
- All potential environmental impacts associated with establishing agriculture on mitigation lands that are not currently in agricultural use have already been analyzed in a prior EIR (i.e. *Santa Clara County General Plan Environmental Impact Report, December 1994*) and no Supplemental EIR or Subsequent EIR is required.

LAFCO's approval of a boundary change is subject to a separate environmental review process. This separate environmental review process will occur prior to and as part of LAFCO's application review process.

### **BACKGROUND**

The Project is the adoption of LAFCO's Agricultural Mitigation Policies. LAFCO's current policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's current policies require an explanation for why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

It is the intent of LAFCO to set forth through written policies, LAFCO's standards and procedures for providing agricultural mitigation for LAFCO proposals involving agricultural lands, consistent with LAFCO's current policies and LAFCO's mandate to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies.

Under the Draft Policies, agricultural mitigation must result in the preservation of land that:

- Is prime agricultural land of equivalent quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating,
- Is located within the city's Sphere of Influence Boundary in an area planned/envisioned for agriculture, and
- Preferably will promote the definition or creation of a permanent urban/agricultural edge.

Therefore, agricultural mitigation lands will be located on unincorporated lands where agriculture is an existing use and/or where agriculture is an allowed use.

For agricultural mitigation lands that are not currently in agricultural use:

The potential environmental impacts associated with the agricultural use of these unincorporated lands were fully considered in the Environmental Impact Report ("EIR") previously prepared for the Santa Clara County General Plan (1995-2010) and certified by the Board of Supervisors by Resolution dated December 20, 1994. (See, *Santa Clara County General Plan Draft Environmental Impact Report* (File #5722-00-00-94EIR, SCH #94023004), September 1994, Chapter 5B (particularly Impact 8), on file with the Santa Clara County Planning Office.) There is no substantial evidence in the record indicating that the Project will cause any new or substantially more severe environmental impacts than previously studied, thus, no subsequent or supplemental EIR is required pursuant to Public Resources Code section 21166 or the CEQA Guidelines (14 Cal. Code Regs. §§ 15162, 15163). LAFCO finds that no further CEQA review is required for the Project.

For agricultural mitigation lands that are currently in agricultural use:

The "acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas" is categorically exempt pursuant to the Class 25 exemption (14 Cal. Code Regs. § 15325(b).)

LAFCO's Agricultural Mitigation Policies also encourage cities with LAFCO proposals impacting agricultural lands to adopt measures to preserve adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. As previously stated above, potential environmental impacts associated with these policies have already been analyzed in a prior EIR and no Supplemental EIR or Subsequent EIR is required and the continuation of agricultural activities on land already in agricultural use is categorically exempt from CEQA.