



July 11, 2018

Santa Barbara County Board of Supervisors
105 East Anapamu Street, Fourth Floor
Santa Barbara, CA 93101

Re: Comments on Suggested CCC Staff Modifications to the Gaviota Coast Plan.

Dear Chairman Williams and Members of the Board:

Thank you for the opportunity to comment on the Gaviota Coast Plan modifications proposed by the Coastal Commission staff and the County's response. The Association represents the 136 privately owned parcels that comprise the 14,500-acre Hollister Ranch. The Association staff and many individual owners fully participated in the 68 Gaviota Plan Advisory Committee ("GavPAC") meetings and the many subcommittee meetings for specific issue areas. Many compromises were made, but in the end, we believed that we had a Plan the community could live with and the goals of balancing the Gaviota Coast's unique sensitive resources, public recreation, and, the working landscapes of the agricultural operations in the Gaviota area had been reasonably achieved.

However, in April, we were presented with the Coastal Commission Staff's modifications to the Plan for the Coastal Zone. These modifications went well beyond what we believe – and the Coastal Act dictates¹ - is the limited legal scope of the CCC's role of making an administrative determination of whether the County-approved plan conforms to Coastal Act on the basis of broadly stated goals and instead ventures into determining detailed and precise changes. The proposed modifications exceed that role as defined under the Coastal Act and instead rewrite specific, precise language carefully developed over years of local effort designed to achieve an important balance of elements. Many of the Coastal Commission's staff's proposed modifications in fact undermine the historic rural character of the Gaviota Coast and threaten the unique agricultural, environmental and cultural resources of the area. Limiting agricultural practices, requiring Coastal Development Permits and Coastal Commission oversight of new agriculture, in particular, will have the unintended consequences of making ranches and farms less viable and encouraging these properties to be sold and converted to rural estate homes where agriculture, if it continues to exist at all, is relegated to the role of bucolic landscaping.

Accordingly, we most appreciate County Staff's identification of four important areas in particular that require revision.

¹ The precise content of each Local Coastal Program shall be determined by the local government in full consultation with the Commission and with full public participation. Public Resources Code §§30500. In making its review, the Coastal Commission is not authorized to diminish or abridge the authority of the local government to adopt the precise content of its Coastal Land Use Plan.

Below are the major issue areas and proposed modifications we have identified that merit attention before the County resubmits the Gaviota Coast Plan to the Coastal Commission.

1. ESH Policies

- a) NS-2 Environmentally Sensitive Resource Protection;
- b) NS-4: Environmentally Sensitive Habitat (ESH) Criteria and Habitat Types;
- c) Policy NS-7, Policy NS-9, Policy NS-10, Policy NS-11 and their Related Actions and Development Standards;
- d) Addition of NS-12: Environmentally Sensitive Habitat Protection (ESH). (COASTAL);

In these modifications, CCC staff proposes major changes to Plan Policies NS-2, NS-4, NS-7, NS-9, NS-10, NS-11, and related Development Standards and Actions. CCC staff also adds a completely new NS-12 that was unsolicited by the County.

The NS-4 modification recommended by the CCC staff is not feasible or realistic and should not be accepted by the Board. We support the County's recommendation to restore the word "Rare" as articulated in Chairman Williams May 15 letter to the Coastal Commission, but we understand that the CCC staff is rejecting that solution for legal reasons. We find four substantial problems with the CCC staff's recommendations:

- They establish all types of chaparral (and potentially coastal scrub and grassland) as ESH on the basis that it *may* meet the definition, not on the basis that this has been established or appropriately mapped.
- They require biological study of an entire parcel of land to support a CDP, even if a permit is being sought for only for a portion of the property.
- They fail to account for historical and existing uses, including roads, grazing and cultivated agriculture.
- They ignore regenerative or restorative grazing and agricultural practices and their potential benefit to the health and stability of ESH.

We suggest that the County support a more precise definition of ESH, backed by biological evidence documented through field study and appropriate mapping. Further we recommend that biological study to establish whether ESH is present should be required only for portions of a property that might affect ESH or ESH buffers, not the entire parcel. Finally we recommend that the ESH policy recognize the potential value of regenerative and restorative grazing and agricultural practices.

Regarding fire protection and public trails, the CCC staff modifications concerning ESH would prevent reasonable fire safety standards from being met and would exempt public trails from any requirements for avoidance, minimization or mitigation. The policy on fire protection conflicts substantially with common sense and the Governor's Executive Order B-52-18, issued on May 10, to protect California communities from wildfire climate change impacts. Among the directives is for the CCC to provide regulatory relief to reduce fire risk in the coastal zone. We do not believe that restrictions against reasonable fire standards within the coastal zone are protective of ESH or good safety policy, nor do we believe they are necessary to conform to the Coastal Act.

Similarly with respect to ESH and trails, the CCC staff recommendations exempt trails from any obligations to protect ESH by defining them as an ESH dependent use. However, not all trails are ESH dependent, and, in any case, all trails should be subject to reasonable avoidance and minimization standards, along with measures to control the timing, intensity or location of access. We do not believe such requirements are contrary to the Coastal Act. The Marin County LCP which is being finalized concurrent with the Gaviota Coast Plan, includes these requirements for trails in its ESH Protection Policy in an LCP provision that was recently approved by the Commission. There is no reason why the Gaviota Plan should not be consistent with what was acceptable in Marin, and, according to the Commission, consistent with the Coastal Act.

Recommended Actions:

1) Policy NS-2: Environmentally Sensitive Habitat Protection (ESH). (COASTAL) should be amended as follows (changes in bold and italics):

“Environmentally Sensitive Habitat (ESH) areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. A resource dependent use is a use that is dependent on the ESH resource to function (e.g. nature study, habitat restoration *and agricultural practices which protect and expand ESH* ~~and public trails~~). Non-resource dependent development, including fuel modification and agricultural uses, shall be sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible; ~~and~~ would preclude reasonable use of a parcel; *would conflict with County Fire Department or Cal Fire safety standards*; ~~is~~ *is* a public works project necessary to repair and maintain an existing public road or existing public utility; *or is necessary to implement, reroute or maintain a public trail*, then the alternative that would result in the fewest or least impacts shall be selected, and impacts shall be mitigated.

2) Restore the word “Rare” to Policy NS-4 in concurrence with Chairman Williams letter to the Coastal Commission dated May 15, 2018, or as an alternative a) provide a more precise definition of what qualifies as ESH on the Gaviota Coast and b)utilize the findings

from required biological study from a CDP application for development to determine whether ESH is present and may be affected.

2. CCC Staff Proposed Modification No. 3: Modification of Protections for Agriculture: Agricultural Element Goals and Policies:

The County included in the Plan certain goals, policies, and implementation measures from the Agricultural Element in order to protect and preserve agricultural viability and agricultural lands in the Plan area. The wording was carefully vetted at all stages of the County review process to avoid conflict with the Coastal Act. The CCC staff has re-written a major goal and many of the policies and development standards in a manner that is incompatible with the County's primary objective – to not just allow, but to encourage, owners of agricultural land to continue to farm and ranch in the Plan area and to discourage uses that impair the success of the agricultural operation.

Recommended Action:

We ask that none of the modifications proposed by the CCC staff for Modification No. 3 be adopted and that this entire Modification be rejected.

3. California Coastal Trail (CCT)

- a) Action REC 7
- b) Dev Std. REC-3.

REC 7 recommends that the County, “strive to acquire easements for the CCT from the eastern end of Hollister Ranch to Jalama Beach County Park.” There are multiple geographic, environmental, financial and legal challenges to achieving this goal and the policy should be amended to acknowledge them, as well as the full range of public access opportunities already offered or planned.

Dev Std REC-3 cites Public Resource Code Section 30610.8 (b) and recommends adding the statutorily required \$5000 in lieu fee for Hollister Ranch development to the Local Coastal Plan, “so that applicants, decision-makers, and the public are aware of this specific provision at it applies to Hollister Ranch.” There is no lack of understanding or clarity that the in lieu fee is required for development within the Hollister Ranch. The fee has been collected for years without issue and inclusion merely duplicates existing statutory policy and practice and potentially exposes the County to liability or an LCP revision should the statute be amended.

Recommended Actions:

- 1) Delete suggested modification Dev STD REC-3: Hollister Ranch Public Access.**
- 2) Modify REC 7: Trail and Access Completion:**

Add the following language as shown in italics to conform with existing and planned public access programs for the portion of the coast from Gaviota State Park to Jalama Beach County Park:

“(#8.) Acquire easements for the California Coastal Trail from the eastern end of Hollister Ranch to Jalama Beach County Park. In recognition of the lack of public roads or highways along this section of coast; the challenging topography and coastal bluff configurations; historic agricultural uses; and the significant sensitive resources present, the coastal trail in this area may include scientific, educational, and managed recreational access programs.”

4. CCC Staff Suggested Modification No. 8: Gaviota Coast Plan Land Use Policies
 - a) Policy LU – 2 Policy Implementation
 - b) Policy LU-13: Bluff-Top Development.

LU – 2 Policy Implementation:

In the County-adopted Plan, Policy LU-2 is the same in the Inland and Coastal areas and simply states that “The Policies and Development Standards of the Gaviota Coast Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law.”

We support the current wording and oppose the proposed changes, both to the Plan and to the Coastal Zoning Ordinance. The proposed modification imposes unwarranted and burdensome pre-conditions to an applicant’s constitutional rights (under both the California and Federal Constitutions) to claim an unconstitutional taking of private property for public use.

We also concur with the County recommendation to maintain the existing long-standing 75-year standard for bluff retreat. This standard, coupled with site-specific analysis, can be factored in to decisions to increase bluff setbacks on a case-by-case basis. Nothing in the Coastal Act suggests that the County’s use of the current setback is incorrect or unlawful.

Recommended Action

Retain the language in the County adopted Plan for Policy LU-2 and LU-13 and reject the CCC staff’s proposed changes as detailed in Modification 13.

5. CCC Staff Suggested Modification No. 13:
 - a) New Definition of “Coastal Resources”
 - b) Permitting requirements for Agricultural Cultivation and Grazing;
 - c) Permitting Requirements for Certain Accessory Structures
 - d) Addition of Proposed new Definitions

e) Changes to the Permit Processing Provisions of the Coastal Zoning Ordinance.

Proposed new Definition of “Coastal Resources”

We support including in the Plan a new definition of a term used so often in the Coastal Act and in the Plan – “Coastal Resources” – but we cannot support the definition suggested by the Coastal Commission unless it includes “agricultural land and agricultural operations.”

The Coastal Act is clear that agriculture and agricultural land are valued and essential coastal resources that must be preserved and protected, yet the proposed definition doesn’t mention agriculture at all. We presume that was an oversight and suggest that it be corrected.

Permitting Requirements for Agricultural Cultivation and Grazing

Your staff has made a reasonable proposal to establish four threshold standards that, if not exceeded, would allow for agricultural cultivation or grazing to occur without a CDP. We feel this is a reasonable process by which to balance the protection of viable agriculture and natural resources on the Gaviota Coast.

The ability of agriculturalists to determine the location and method of agricultural improvements is critical to the success of agricultural operations. The proposed modification to require a CDP for the cultivation or grazing of ‘new’ agricultural areas would be a serious infringement on the ability of agriculturalists to flexibly respond to land management issues, and the vagaries of market conditions, weather, and climate. Moreover, the proposed threshold standard of 10 years to arbitrarily determine whether a site is considered ‘recently’ cultivated or grazed does not speak to the appropriateness of a particular site for agricultural improvement or any potential environmental effects.

At a minimum, the “fallow” period for determining whether existing agriculture is considered “recent” should extend to a period of at least 20 years and a process should be established to provide for a categorical exemption for existing, historical agriculture within the coastal zone.

Permitting Requirements for Certain Accessory Structures

We agree with the County’s position that accessory structures continue to be included in the category of “principal permitted uses.”

One of the key goals of the Coastal Act, which is especially important on the Gaviota Coast, is the continuation of viable agriculture. To meet this goal, accessory structures, both residential and agricultural, should continue to be treated as essential components of both residential and agricultural activities and should be included as “principally permitted uses.” Depriving accessory structures from principal permitted use status exposes nearly all residential and agricultural development on agricultural parcels to unwarranted and excessive process, delay,

cost, and potential appeal to, and denial by, the Coastal Commission. The process is particularly burdensome for owners of agricultural land because the delay and expense are likely to convince the owners not to pursue an application, thereby undermining the efficiency and viability of the agricultural operation.

Additions of Proposed New Definitions

We oppose all of the proposed new definitions that purport to replace existing definitions in the County's Coastal Zoning Ordinance. There is no justification for the Coastal Commission to create new definitions to replace those already in the certified Local Coastal Plan. For those terms already defined in the County's Land Use Development Code (LUDC) but not in the Coastal Zoning Ordinance, we suggest that the LUDC definitions be used rather than new ones provided by the Coastal Commission.

Changes to the Permit Processing Provisions of the Coastal Zoning Ordinance.

The proposed modification adds a requirement that an application for any CDP must contain a "detailed biological study of the site" for any new development "on a lot that *potentially* supports an ESH area." For the Plan area and the proposed extensive new ESH definitions and overlay maps, this would mean that a biological study would be required for almost all CDP applications, no matter how low in impact. The cost of such a study could be crippling for a small rancher/farmer. Determinations about the existence of habitat and the appropriate avoidance and mitigation measures are already made as part of the permit approval process *on a case-by-case basis* utilizing the expertise of a biologist. The County should not accept this proposed change to the Plan and County staff has recommended such. This level of detail is already in County ordinances and it is standard protocol for all CDP applications in suitable habitat for sensitive native species.

Likewise it should be made clear in the processing provisions that a biological study is required only for the site for which a permit is being sought and not the entire parcel.

Recommended Actions:

1) New Definition of Coastal Resources: Add "agricultural land and agricultural operations" to the definition of "Coastal Resources."

2) Permitting requirements for Agricultural Cultivation and Grazing: Support Staff's proposal to establish four threshold standards that, if not exceeded, would allow for agricultural cultivation or grazing to occur without a CDP.

Furthermore, consistent with the County's recommendations delete the requirement for a Coastal Development Permit for grazing, as shown on Table 18-2.

3) Permitting Requirements for Certain Accessory Structures: Support the County Staff's position that accessory structures should be included in the definition of "principal permitted uses". Further, we also respectfully request that the definition of principal permitted use be modified to commence with "*A use or structure that carries out the designated land use . . .*"

4) Proposed New Definitions: Please reject all of the proposed new definitions contained in Modification 13 and keep the definitions already approved in the Local Coastal Plan.

5) Support County Staff's recommendation regarding the requirement for a biological study as part of any CDP, including a clarification that a study is required only for the site itself and not the full parcel.

We appreciate the hard and thoughtful work by County staff in formulating your response, and we thank you for the opportunity to offer our comments.

Sincerely,

A handwritten signature in black ink that reads "Monte R. Ward". The signature is written in a cursive, slightly slanted style.

Monte R. Ward, President
Hollister Ranch Owners Association

Attachment:
Governors Executive Order B-52-18

CC: Members of the Board of Supervisors via e-mail

Executive Department

State of California

EXECUTIVE ORDER B-52-18

WHEREAS California's 33 million acres of forestland and 1,256 square miles of urban forest canopy capture and clean our water supply, provide rich biodiversity, support local economies, provide recreational and educational opportunities, and serve as spiritual and cultural centers for indigenous and local communities across the state; and

WHEREAS forested lands are the largest land-based carbon sink in California with trees and shrubs drawing carbon from the atmosphere and storing it in their cellulosic structure and in forest soils; and

WHEREAS consistent with California's greenhouse gas emissions goals the state's forests should be maintained as a net sink rather than a source of greenhouse gas and black carbon emissions; and

WHEREAS long-term human intervention, including the practice of excluding fire in fire-dependent ecosystems, has resulted in a deterioration of forest health statewide and, in some cases, loss of forest cover; and

WHEREAS these conditions, coupled with drought and the stressors associated with a warming climate, have dramatically increased the size and intensity of wildfires, exposed millions of urban and rural residents to unhealthy air, and led to more than 129 million dead and dying trees since 2010, primarily in the Sierra Nevada; and

WHEREAS recent wildfires have been the largest, deadliest, most destructive and costliest in state history; and

WHEREAS water supply for the State Water Project and other municipal and agricultural systems has been impacted by increased sediment and accelerated snow melt caused by wildfire and tree mortality; and

WHEREAS the current pace and scale of prescribed fire, fuel reduction, and thinning of overly dense forests average approximately 250,000 acres per year and are far below levels needed to restore and maintain forest health; and

WHEREAS the diversity of California's forests and tree species and unique climates require regionalized strategies to identify the areas that pose the greatest threat to forest health and offer the best solutions; and

WHEREAS there is a need to incentivize innovation in the California forest product and building industries in order to improve the ecological and economic sustainability of California forests; and

WHEREAS the Forest Carbon Plan has been developed by state agencies to provide consensus forest practices that will achieve resilient forests that can withstand and adapt to wildfire, drought and a changing climate, safeguard the state's water supply, and ensure the state's forests operate as a carbon sink.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby issue the following orders to become effective immediately:

Improving Forest Management and Restoration

1. The Department of Forestry and Fire Protection shall work with all relevant federal, state and local agencies, California Native American tribes, and other affected parties to implement the forest practices called for in the Forest Carbon Plan.

2. The Natural Resources Agency shall take all necessary steps to double the total statewide rate of forest treatments within 5 years to at least 500,000 acres per year. To accomplish this goal the Agency will work with the Department of Forestry and Fire Protection, the Department of Parks and Recreation, the Department of Fish and Wildlife, the State Water Resources Control Board, State Conservancies, and all other relevant agencies.

3. The Department of Forestry and Fire Protection shall increase new landowner agreements and memoranda of understanding, such as Good Neighbor Authority agreements, to accelerate forest restoration thinning and prescribed fire projects across jurisdictions, and shall integrate fire prevention activities into landscape forest restoration efforts in and near Wildland Urban Interface areas.

4. The Department of Fish and Wildlife shall integrate the goals of this Executive Order in its restoration programs, mitigation-related land conservation, and conservation planning.

Providing Regulatory Relief

5. The Natural Resources Agency, the Department of Forestry and Fire Protection, the State and Regional Water Boards, the Department of Fish and Wildlife, and the California State Air Resources Board shall reduce barriers to entry for forest health and fuels reduction projects, including working with the California Coastal Commission to facilitate permitting in the coastal zone, reducing liability exposure for landowners, and providing financial and permitting assistance for landowners of under 5,000 acres.

6. The Natural Resources Agency, the Board of Forestry and Fire Protection, the Department of Forestry and Fire Protection, the Department of Fish and Wildlife, State and Regional Water Boards, and the Department of Conservation shall have in operation by October 1, 2018 a new online timber harvest permitting system, and shall synchronize and expedite the regulatory review of permits under the Forest Practice Act and related timber harvest permitting processes.

7. All relevant state agencies shall make cultural and biological resources data readily accessible online to accelerate the implementation and environmental review of fuels reduction projects.

Reducing Barriers for Prescribed Fire

8. The California Air Resources Board with assistance from local air districts and the Department of Forestry and Fire Protection shall increase the opportunities for prescribed fire projects through coordinating staff and equipment availability, accelerate prescribed fire projects that are permit-ready, identify weather conditions suitable for prescribed fire, and institute a real-time air quality and smoke monitoring program for prescribed and wildland fires.

9. The Department of Forestry and Fire Protection and the California Air Resources Board shall develop a publicly available online clearinghouse for permitting of prescribed fire projects on all non-federal lands, which shall include an automated system for prescribed fire project permit submission and approval.

Boosting Education and Outreach to Landowners

10. The Department of Forestry and Fire Protection shall provide educational programs and outreach to private landowners and other interested parties on forest restoration, fuels reduction project development, and permitting.

11. The Department of Forestry and Fire Protection shall develop a training program to educate and certify government, tribal, academic, and non-government organization staff to increase the number of qualified individuals available to implement prescribed fire projects.

12. The Labor and Workforce Development Agency shall work with relevant state agencies and local workforce development boards to develop pilot training programs in forest thinning and biomass processing in areas where there is inadequate labor capacity to support such activities.

Supporting Wood Products Innovation

13. The Office of the State Fire Marshal, the Department of Housing and Community Development, the Division of the State Architect, the California Building Standards Commission, and the Office of Statewide Health Planning and Development shall review the approved Tall Wood Building Proposal of the International Code Council's Ad Hoc Committee on Tall Wood Buildings and shall consider proposing its adoption into the California Building Standards Code in the subsequent intervening code cycle.

14. The Department of General Services, in collaboration with other state agencies, shall identify at least three building projects in which to utilize manufactured wood products as both structural and aesthetic components.

15. The Board of Forestry and Fire Protection, working with the University of California and California State University, shall establish a Joint Institute for Wood Products Innovation to perform wood products research, development, and testing; and shall accelerate research, development and adoption of advanced forest management and wood products manufacturing.

16. The California Public Utilities Commission is requested to review and update its procurement programs for small bioenergy renewable generators to ensure long-term programmatic certainty for investor-owned utilities and project developers, as well as benefits to ratepayers.

IT IS FURTHER ORDERED that agencies under my direct executive authority cooperate in the implementation of this Order, and it is requested that entities of State government not under my direct executive authority assist in its implementation as necessary.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 10th day of May 2018.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State