

Agricultural Conservation/Mitigation Programs in San Joaquin County

San Joaquin County (unincorporated areas)

The program was adopted in November, 2006. It imposes a 1:1 mitigation requirement for the conversion of any ag land to urban uses, but is only applied to applications for a General Plan Amendment or a rezoning. Thus, the ordinance does not apply to the only significant development in the unincorporated area, the Mountain House new town near Tracy (4,700 acres, 16,000 units). For all projects of any size, the mitigation must be in the form of an easement purchased on like land (same soils or better) zoned for agriculture. However, the ordinance allows a project to pay an in lieu fee of \$8,675/acre if a “diligent effort” has been made and an easement cannot be obtained. Lands in the Delta are eligible as mitigation, even though land within the Delta Primary Zone is already protected from development by State law. The ordinance does not address “stacking” of ag and habitat easements on the same land. Fees will be forwarded to a qualified trust for purchase of easements. For ordinance, see Chapter 9-1080 of Title 9 (San Joaquin County Development Title) at www.sjgov.org.

City of Stockton

The program was adopted in 2007, as a result of a settlement of a lawsuit against the City by the Sierra Club. The local building industry and two developers filed lawsuits challenging the legality of the program. The BIA lawsuit alleging that the program was a discriminatory tax imposed on developers was dismissed by a local judge in February, 2009. The original adopted program requires 1:1 mitigation for the conversion of ag land to urban uses. “Stacking” of ag and habitat easements on the same land is allowed if approved by the San Joaquin Council of Governments and the easement manager. Projects over 40 acres are required to purchase and dedicate an easement on land located within central portion of the county, while projects under 40 acres are able to pay an in lieu fee of \$9,600 per acre. In 2008, the City revised the ordinance to allow large projects “in the pipeline” to pay the in lieu fee. The program is expected to preserve some 20,000 acres over 20 years. In 2009, the City announced that since 2007 it had collected from developers and made its first payment, of \$2 million, to the Central Valley Farmland Trust, which has been retained by the City to implement the program. For the text of the ordinance, see “Agricultural Land Mitigation Program” at <http://www.stocktongov.com/cd/PlanningDivision.cfm>.

Cities of Lathrop, Manteca, and Tracy

The cities of Lathrop, Manteca, and Tracy adopted ag mitigation programs in 2005, as a result of the settlement of a water transfer lawsuit against the cities by the Sierra Club. In addition, two developers in Lathrop have entered into individual settlements with the Sierra Club. The mitigation programs adopted by the three cities require that approximately 11,000 acres of future development will pay \$2,000/acre for ag mitigation. Half of the mitigation (\$1,000/acre) will be paid to the Central Valley Farmland Trust. The other \$1,000/acre for each for the future projects will be collected by the cities and may be passed to CVFT or other trust, or may be retained by the cities to be applied to local easements or other ag mitigation. In Lathrop, the very large River Islands project (3,800 acres, 11,000 homes) agreed in a separate legal settlement with the Sierra Club

to pay \$2,200/acre to Central Valley Farmland Trust for every acre developed, easements, or to purchase ag lands or easements in the vicinity of the project at a 1:1 ratio. Out of the mitigation requirement, the developer has paid the CVFT a payment of \$200,000, and agreed to another payment of \$875,000 when the project breaks ground. Another Lathrop project (Central Lathrop Specific Plan on 1,500 acres, 6,500 homes) entered into a settlement with the Sierra Club and has mitigated with the purchase of a 1,000 acre farm outside Tracy, with the easement held by CVFT.

San Joaquin Local Agency Formation Commission (LAFCO)

Imposes no ag mitigation requirement for the conversion of ag land to urban uses related to annexations or other applications.

Central Valley Farmland Trust

Central Valley Farmland Trust (CFVT) was established in 2004 and operates in Sacramento, San Joaquin, Stanislaus, and Merced counties. The CFVT incorporated existing trusts in the four counties and benefited from early funding from San Joaquin County developers. CFVT has been retained by various jurisdictions such as City of Stockton to implement local ag mitigation programs. CFVT currently manages easements on nearly 11,000 acres of farmland, representing 19 separate landowners. See www.valleyfarmland.org.

San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)

The San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), administered by the San Joaquin Council of Governments (SJCOG), is not strictly an agricultural conservation program. However, many of the habitat easements that are purchased or facilitated by the program are targeted for the protection of Swainsons hawk or other sensitive species habitat that results in the conservation of certain ag lands, such as alfalfa and row crops, but not vines or orchards. The SJCOG manages approximately 3,400 acres of habitat lands under easement in the central portion of the county, and a 3,200-acre San Joaquin kit fox grassland easement in the Tracy hills. See www.sjcog.org.