



November 16, 2020

Paul Getzelman
Chair, Monterey County Planning Commission
1441 Schilling Place
Salinas, CA

Subject: Workshop on Moss Landing Community Plan Update

Dear Mr. Getzelman and members of the Planning Commission:

LandWatch Monterey County submits the following comments on the draft plan for your consideration:

1. MOSS LANDING NOT A COMMUNITY AREA

The Moss Landing Community Plan (MLCP) should clarify that the Moss Landing “Community” is not a Community Area within the meaning of GP Policy LU-2.21. Accordingly, it is not intended to be a growth center.

2. DEEP AQUIFER USE

The MLCP states:

It is uncertain if the Pressure Deep Aquifer, located below the Pressure 180/400, is hydraulically connected to the ocean in Monterey Bay, so it is not known whether pumping from this aquifer would lead to the onset of seawater intrusion into the Pressure Deep Aquifer.

It is in fact now known that pumping from the Deep Aquifers induces seawater intrusion into the upper aquifers (the 400-Foot and 180-Foot Aquifers) because those upper aquifers are sources of recharge to the Deep Aquifers and are hydrologically connected through well perforations. For example, MCWD explains:

Preliminary findings regarding the Deep Aquifer in the Ord Community area indicate that there is some vertical connectivity between the Deep Aquifer and the overlying aquifers. According to the Deep Aquifer Investigative Study, WRIME, May 2003, increased pumping of the Deep Aquifer would be expected to increase the rate of seawater intrusion in the middle and upper aquifers (MCWD, Urban Water Management Plan, 2015, p. 50.)

The MCLP statement should be revised to state instead:

Although is uncertain whether the Pressure Deep Aquifer, located below the Pressure 180/400, is hydraulically connected to the ocean in Monterey Bay, it is vertically connected to the upper aquifers and increased pumping would increase the rate of seawater intrusion to those aquifers.

3. SGMA REQUIRES SUSTAINABILITY BY 2040

The MLCP states:

The State of California Sustainable Groundwater Management Act (SGMA) requires that solutions to overdrafted aquifers be identified and implemented. A plan is required to be adopted by 2020 for the Pressure 180/400 Aquifer Subarea, which SGMA identifies as being in critical overdraft. Solutions identified through the SGMA planning process are required to be implemented by 2040.

It is not correct to imply that SGMA merely requires implementation of solutions by 2040. SGMA requires that solutions be implemented so that sustainability is attained by 2040. The statement should be revised to provide:

The State of California Sustainable Groundwater Management Act (SGMA) requires that solutions to overdrafted aquifers be identified and implemented. A plan is required to be adopted by 2020 for the Pressure 180/400 Aquifer Subarea, which SGMA identifies as being in critical overdraft. Solutions identified through the SGMA planning process must be implemented so that sustainability will be attained by 2040.

Further, the statement should be revised to state the plan for the 180/400 Aquifer Subarea was adopted in 2020 by the Salinas Valley Basin Groundwater Sustainability Agency Board of Directors.

4. NEW POLICY TO PERMIT WATER TRANSFERS

The MLCP proposes a new policy 5.2.5.C.4 as follows:

Historic consumptive groundwater use that has been perfected by prior appropriation and/or pursuant to prior court adjudicated rights may be transferred (pursuant to state law and upon agreement of all parties) by the holder of those appropriative rights from one property to another property within the boundaries of the Moss Landing Community Plan area.

It is not clear why this policy has been proposed. We have the following concerns:

- If water transfers are permitted by state law, this policy should not be necessary.
- Although the policy would condition water transfers on the agreement of “all parties,” it is unclear what parties must actually agree to such a transfer. For example, would the transfer be subject to agreement of a water user who owned property other than the benefitted property who believed that the transfer would affect his interests in groundwater?
- The policy is potentially in conflict with other water related policies, such as North County Land Use Policy 4.3.5.4, which provides that “[w]here there is limited land, water, or public facilities to support development, coastal dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses.” It should not be permissible to transfer water use from a low priority to a high priority use.

5. FEASIBLE VS. POSSIBLE

The MLCP states in policy 5.2.6.F.3:

Develop and maintain retaining walls, or bulkheads, or other appropriate erosion control measures along the eastern bank of the North Harbor, with natural protection methods used where possible, and provide natural protection methods where feasible to stabilize the west bank of the North Harbor, between the harbor mouth and Jetty Road, as a means of preventing further erosion and improving berthing capacity

Unless there is some defined difference in the terms “possible” and “feasible” the policy should probably just use the term “feasible.”

6. RESIDENTIAL WATER USE LOWER PRIORITY

The MLCP discussion of residential land use in section 5.4.1 should clarify that residential use is subject to water availability and shall not interfere with higher priority water uses for coastal dependent uses and agriculture. The following should be added:

Residential use shall be subject to North County Land Use Plan Policy 4.3.5.4 that prioritizes water use for coastal-dependent agriculture, recreation, commercial and industrial over residential and other non-coastal-dependent uses.

7. MOSS LANDING BUSINESS PARK

The MLCP discussion of the Moss Landing Business Park in section 5.4.3.B.3 should add the following qualification to clarify that commercial uses are only to serve local needs and industrial uses must be coastal-dependent:

Uses in the Moss Landing Business Park shall be subject to North County Land Use Policy 4.3.5.5, which provides that non-coastal-dependent commercial facilities shall be limited to that necessary to serve local neighborhoods and communities. Uses in the Moss landing Business Park shall also be subject to the limitations of industrial uses in North County Land Use Policy 4.3.6.F.

The discussion of the Moss Landing Business Park Special Treatment Area in section 5.4.8.B implies that these constraints are being lifted by stating as follows:

The intent of this overlay is to establish the parameters for development of the Moss Landing Business Park, including allowing flexibility in the types of uses allowed while restricting the development intensity of the site. Proposed land uses are expanded beyond coastal-dependent limitations currently in place as the only portion of the property on or adjacent to the sea is a strip of land located between Highway 1 and the harbor that will have significant development constraints

The underlined language should be stricken because it implies that the industrial uses need not be coastal-dependent and/or that the commercial uses need not be purely local-serving.

Similarly, Policy 5.4.9.H.2.a includes uses for the Moss Landing Business park that are not coastal-dependent, as follows:

Uses are limited to coastal-dependent uses, coastal-related industrial uses, manufacturing that furthers State of California goals for affordable housing and greenhouse gas reduction, and uses related to the following Coastal Act priority uses: Natural Resource Preservation and Protection, and Agricultural Uses (including research, commercial cannabis activity and aquaculture).

The underlined language should be stricken.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. DeLapa". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "DeLapa".

Michael D. DeLapa
Executive Director