



June 10, 2008

Humboldt County
Planning Commission
Community Development Department
3015 H Street
Eureka, CA 95503

Dear Commissioners and Staff:

Humboldt Baykeeper thanks the Humboldt County Planning Commission and staff of the Humboldt County Planning Department for the opportunity to comment on the proposed General Plan Update. Humboldt Baykeeper recognizes the hard work and complexity of updating the Plan which will guide our County as it moves into the future.

Humboldt Baykeeper works towards protecting and restoring water quality and related resources in Humboldt County. We are a member of the Healthy Humboldt Coalition, and we endorse the Healthy Humboldt Coalition's Guiding Principles.¹

On behalf of the Board and staff of Humboldt Baykeeper, we would like to submit the following comments on Humboldt County's General Plan Update.

Introduction

Policies contained in Humboldt County's current General Plan (the 1984 "Framework Plan") have contributed to negative impacts to beneficial uses, leading to the listing of numerous local water bodies by the US EPA as Threatened and Impaired under Section 303(d) of the Clean Water Act, for example. Substantially degraded water quality has resulted from the inadequate policies in the Framework Plan, and failure to modify these policies will result in unacceptable harm to Humboldt County water resources, environmental quality, and the health and happiness of our communities.

The guiding principles adopted by the Board of Supervisors in 2004 should be used to develop a General Plan Update that includes unambiguous natural resource protections,

¹ <http://www.healthyhumboldt.org/guiding.html>

especially for open space, water resources, water quality, scenic beauty and salmonids; ensures efficient use of water and sewer services and focuses development in those areas and discourages low-density residential conversion of resource lands and open space; and contains long-term agriculture and timber land protections such as increased restrictions on resource land subdivisions and patent parcel development.

Humboldt Baykeeper supports the adoption of a General Plan Update that focuses most future development in areas already served by municipal water and sewage, roads, public transit, and other public infrastructure. Development that relies on municipal water supplies reduces environmental impacts from surface water diversion and groundwater depletion. Focusing development in areas served by municipal sewer systems reduces the need for individual septic systems, which can degrade water quality and pose public health hazards. Limiting the expansion of road systems and reducing the need for driving by ensuring that new development is close to public transit and urban centers will preserve water quality by reducing runoff of gas and oil, heavy metals, and sediment, as well as limiting the number of new stream crossings that can pose fish passage barriers and other impacts to salmonids.

Whether these impacts are positive or negative will depend on which policies and goals are adopted, and the implementation of the policies, goals, standards and implementation measures through adoption of ordinances. It is essential that the Preferred Alternative for the Water Resources Element contain the best protections possible for local natural resources, such as salmonid habitat, water quality, and available water quantity, while providing for future population growth as appropriate. Humboldt Baykeeper supports the most environmentally protective provisions, while accommodating the 0.6% percent annual growth rate projected by the state of California to be expected in Humboldt County in the next 20 years. Humboldt Baykeeper supports focusing future growth within existing communities, while minimizing the conversion of open space and resource lands, such as timberlands and agricultural lands.

Humboldt Baykeeper submits the following detailed comments on the Water Resources Element and related elements of the General Plan Update relevant to water quality, aquatic habitat, and coastal resources. These comments include general underlying principals that need to be incorporated into Humboldt County's General Plan, as well as specific changes that need to be included in the policies, standards, and implementation measures already outlined in the Preliminary Hearing Draft prepared and circulated for the December 20, 2007 workshop.

Public Trust Resources

Humboldt County has a vast array of resources that fall within the historical coverage of the Public Trust Doctrine. This includes Humboldt Bay, as well as local streams and rivers such as the Eel, the Mad, and the Van Duzen. This doctrine provides that public trust lands, waters and living resources are held in trust for the benefit of the public. Any decisions or future implementation of General Plan policies must recognize and consider this important management responsibility, and not favor one user group over others.

Salmonid Impacts

According to the Humboldt Bay Watershed Steelhead and Salmon Conservation Plan (RCAA 2005), the limiting factors for salmonids in Humboldt Bay include:

- Suspended sediment levels, especially in Elk River and Freshwater Creek;
- Degraded floodplain capacity and function;
- Loss of habitat due to fill placement and construction of levees and tidegates;
- Degraded in-stream habitat especially in low gradient reaches that are essential for salmonids;
- Reduced channel capacity and altered channel morphology;
- Lack of large woody debris in middle and lower reaches leading to a reduction in rearing habitat;
- Diminished riparian habitat which has led to erosion, bank destabilization, lack of cover and complexity necessary for fish habitat.

Many of the policy alternatives in the General Plan Update—particularly in the Water Resources Element—have the potential to significantly impact salmonids and their habitat. These impacts need to be considered in any plan or project and should receive special consideration in the General Plan currently being developed due to both their economic importance to our community as well as their aesthetic and intrinsic value to the County.

Water Quality

Specific impacts on water quality that require consideration and should be addressed by the General Plan that do not fall into other categories outlined below include impacts from failing septic systems and water supply programs. Changes to the implementation measures identified in the December 20, 2007 Preliminary Hearing Draft include:

WR-IM6: failing septic systems that are demonstrated to be causing a negative impact to natural resource values, as well as health and safety should be actively abated.

WR-IM21: include consideration of natural resource needs and values in development of long term plans for public water supply systems.

Riparian Buffers

To accomplish policies WR-P12 through WR-P16, the county should incorporate no-disturbance buffer zones of 200, 150, and 75 feet for major rivers, fish-bearing streams, and all other streams, respectively. Setbacks on agricultural lands should be included to limit agricultural exemptions in floodplain, riparian, and wetland buffers. Riparian buffers zones help filter pollution from a variety of sources, including fecal coliform, agricultural and horticultural chemicals, and sediment. Riparian corridors also protect stream banks from erosion, provide storage areas and protection from flood waters, provide food and habitat for fish and wildlife, and preserve open space and aesthetic surroundings.

The following changes to S-P12 should be made as indicated with additions in **bold** and deletions in ~~strikethrough~~):

S-P12 Natural vegetation. Natural vegetation within ~~and immediately adjacent to the bankfull stream channel~~ **riparian and wetland protection zones** shall be maintained except for flood control and public safety purposes.

Riparian buffer zone ordinances should be developed to preserve riparian areas of perennial and ephemeral streams. Riparian areas provide storage area for flood waters, preserve water quality by filtering sediment, protect stream banks from erosion, protect drinking water and groundwater recharge, provide food and habitat for fish and wildlife including aquatic species, and protect beneficial uses and recreational opportunities.

Wetland Buffers

Wetland areas can control flooding and stormwater runoff, provide areas for groundwater recharge, filter out water pollutants, and preserve habitat for many native species of fish, wildlife and plants while providing recreational opportunities and open space. We support the following language encouraging restoration in the Safety Element, but would add wetlands as key habitats for such activities, as follows:

S-P15 Restoration Projects. The County shall encourage restoration projects aimed at reducing erosion and improving existing habitat values in Streamside Management Areas **and wetlands, particularly in the coastal zone.**

A wetland buffer zone ordinance should be developed to preserve hydrologically-connected areas, including uplands that contribute to wetland ecosystem function.

Stormwater Runoff

Stormwater runoff is one of the most ubiquitous sources of pollutants to our local waterways. The variety and concentration of pollutants carried by our heavy rainfall results in long-lasting harm to our environment. Increases in peak flows related to increases in impermeable surfaces lead to erosion and sedimentation, and these cumulative impacts to water quality should be addressed cumulatively rather than on a project-by-project basis. Though the management of non-point source pollution can be a daunting task, there are many options currently available to assist in reducing the negative impacts of stormwater runoff. Some specific recommendations follow.

- Management of water pollution from vehicles and landscaping chemicals is integral to protection of water quality and needs to be a focus of stormwater management policies in the General Plan.
- Analysis of erosion and sedimentation from roads, stream crossings, and peak flows must be required for any discretionary project presented to the County prior to approval. Specific identifiable and enforceable standards must be included in the General Plan and implementing ordinances.
- WR-P11 should require the use of filtration devices to not only separate oils and salts from storm water “where warranted by the size of the project” but

should instead require such devices for any commercial parking lot, regardless of size, filtration should be designed using the Best Available Technology, and filter oils and salts at a minimum.

- WR-P17: should include provisions to reduce storm water flows from County Facilities through the use of Low Impact Development techniques as well as minimizing sedimentation, pollution, and erosion potential.
- WR-P19: should require the quality of treated water to conform with beneficial use standards to the **maximum** extent feasible.

In-Stream Flows and Water Diversions

We support implementation measure WR-IM38, which would require that subdivision and building permits for residential development of a new in-stream domestic water source be conditioned upon providing a copy of a valid Streambed Alteration Agreement Permit from the Department of Fish and Game. This implementation measure is described on page 13-16 of the Dec. 20, 2007 version of the Water Resources Element; however it does not appear in the Staff Analysis or in the Plan Alternatives Comparison Chart. This implementation measure should be included in the Preferred Alternative to reduce impacts to salmonids from domestic and agricultural water diversions. Additional subdivision of parcels without the Streambed Alteration Agreement Permit and associated consultation with the Department of Fish and Game is likely to result in significant direct, indirect, and cumulative impacts to salmonids and other aquatic species.

Development should be focused in areas served by public water systems with required evaluation of any development that would use public water systems, including considerations of the impacts of such increased use on the existing and potential beneficial uses of the public water systems source (i.e. the source of diversion or extraction).

WR-P14 currently allows for the modification of natural stream beds with the utilization of adequate mitigation measures; this policy needs to be strengthened to disallow the modification of natural stream beds and flow except as consistent with maintaining or enhancing the natural function of the stream bed and only allowing use of mitigation measures as necessary to comply with state and federal law.

Water Export

A much stronger policy, implementation measure, and ordinance should be put in place to prohibit major water export out of the County.

The following language should be added to WR-P34: Both current and future needs for water use, both for human consumption and natural resource protection, in Humboldt County must be considered when any proposal for water export from the county is considered.

The following language should be added to WR-P55: Any permitted export of water from Humboldt County must have a date certain of expiration, not more than 5 years from the effective date, and must include discretionary review prior to renewal.

In addition, the following changes to WR-IM34 should be made as indicated with additions in **bold** and deletions in ~~striketrough~~):

WR-IM34. The County shall require that exports not damage the County's environmental and economic setting by ensuring that "no unreasonable effect" occurs in the transfer and withdrawal of water resources pursuant to Section 1810 of the Water Code.

"No unreasonable effect" shall be defined as the following:

- The action would not contribute to the decline in **or hinder the recovery of** the population of any sensitive or protected plant, fish, or wildlife species;
- The action would not reduce water levels in any existing public or private groundwater wells to levels that preclude withdrawal by existing users or would substantially increase the costs of such withdrawal;
- The action would not contribute to any impacts on ~~water quality~~ **existing or potential beneficial uses, such as that reduces reducing** water quality below health standards or federal/state water quality standards;
- The action would not contribute to effects on water quality that would result in a deficiency by the water treatment agency's ability to treat water to appropriate standards;
- The action would not reduce available groundwater or surface water resources to levels that would make access and/or use of these waters uneconomical for development planned in accordance with this General Plan; and/or
- The action would not directly or indirectly discharge contaminants into surface or groundwater resources.

Flood Plain Protection

Add the following Goal to the Flood Hazard section of the Safety Element:

S-G__: To protect new and existing structures from flood hazards in order to minimize economic damages and threats to public health and safety, and to prevent adverse impacts on floodplains, and maintain their beneficial function for flood water storage and transport and for biotic resource protection.

The following activities should be restricted in all classes of flood plain areas, riparian areas, wetlands, and groundwater recharge areas: grading, land clearing, building, tree or shrub removal, vegetation clearing, deposition of debris, use of pesticides, and new septic systems or expansion of existing septic systems.²

² Santa Cruz County ordinance Chapter 16.30, Riparian Corridor and Wetlands Protection.

Groundwater Recharge Areas and Source Water Protection

Source water protection involves preventing the pollution of the groundwater, lakes, rivers, and streams that serve as sources of drinking water for local communities. Source water protection ordinances are necessary to safeguard community health and reduce the risk of contamination of water supplies. Drinking water supplies from aquifers and wells (groundwater) can be protected by establishing Wellhead Protection Zones and Aquifer Protection Areas.³

Drinking water sources, whether they be from ground water, surface water, or both, are a vulnerable natural resource that needs to be protected. Source water planning should be done on a scale that ensures protection of the whole recharge zone for that source of water. For groundwater, overlay zoning districts should encompass the entire area that recharges any aquifer.

Protecting open space and resources lands from suburban sprawl will allow water to percolate through the soil and help maintain natural cycles of groundwater replenishment. Focusing future development in areas within existing communities will help protect both the quality and quantity of groundwater.

Local Coastal Plan

Local Coastal Plans (LCPs) that govern the Coastal Zone in unincorporated areas of the county should be noticed for public review and comment as stand-alone documents separate from the General Plan Update. Humboldt Baykeeper is particularly concerned about protecting coastal resources and we hereby request notification of public review and comment periods for the County's LCP amendments and/or updates.

The California Environmental Quality Act (CEQA)

CEQA requires the preparation of an Environmental Impact Report ("EIR") for any project that has the potential to significantly effect the environment. The Preliminary CEQA analysis included in the Preliminary Hearing Draft of the General Plan Update appears to contemplate no CEQA analysis being conducted for the Water Resources Element due to the fact that "All of the proposed alternatives incorporate the existing Framework Plan policies and standards, which address management of water resources. None of the alternatives would introduce any changes that would impose a significant new impact on water resources in Humboldt County." Page 13-48.

Humboldt Baykeeper cannot support the County's apparent attempt to circumnavigate CEQA's requirement for the preparation of an EIR on the sole basis that policies and implementation measures that were part of the 1984 Framework Plan will remain in any alternative chosen for the County. Significant environmental effects may occur from the adoption of this Plan and full CEQA review is required. For example, none of the provisions cited as support for the idea that CEQA review is not required provides

³ Model Ordinances for Aquatic Resource Protection. The Stormwater Manager's Resource Center, http://www.stormwatercenter.net/intro_ordinances.htm.

