Open-Space Element

Background

The open-space element guides the comprehensive and long-range preservation and conservation of "open-space land" (§65563). Open-space land is defined in the code as any parcel or area of land or water that is essentially unimproved and devoted to open-space use (§65560(b)).

Along with the housing element, the open-space element has the most detailed statutory intent (see §65561 and 65562) and, next to land use, is the broadest in scope. Because of this breadth, open-space issues overlap those of several elements and the open-space element is commonly combined with other elements.

For example, the land use element's issues of agriculture, natural resources, recreation, enjoyment of scenic beauty and (to a certain extent) public grounds are covered by open-space provisions. "Open-space for the preservation of natural resources" and "open-space used for the managed production of resources" encompass the concerns of the conservation element. "Open-space for public health and safety" covers issues similar to those found in the safety element.

Court Interpretations

Open-Space Plan Requirement:

The California Court of Appeal held in Save El Toro Assn. v. Days (1977) 74 Cal. App. 3d 64 that because the City of Morgan Hill had not adopted an open-space plan, the city could not acquire, regulate or restrict open-space land or approve a subdivision map. Mere adoption, however, does not protect a local jurisdiction from the adverse consequences of a law suit challenging an open-space element. An open-space element must also meet the specifications of the Government Code.

Status of the Open-Space Element:

Open-space elements have equal legal status with all other elements. The California Court of Appeal in Sierra Club v. Kern County (1981) 126 Cal. App. 3d 698, voided a precedence clause that gave a land use element priority over an open-space element on the grounds that it violated §65300.5 (requiring that elements of a general plan comprise an integrated, internally consistent and compatible statement of policy).

What is Open-Space:

No Oil, Inc. v. City of Los Angeles (1988) 196 Cal.App.3d 223 interprets the meaning of the term "open-space for the managed production of resources." A citizens' group challenged the city's approval of oil drilling zones in a coastal area designated as open-space by the Brentwood-Pacific Palisades district plan. Absent specific contradictory language in the district plan, the court held that because oil recovery is the managed production of a natural resource it was therefore consistent with the plan's open-space areas. In light of this decision, OPR strongly suggests that local general plans specify the types of land use which are intended to comprise open-space.

Relevant Issues

The following topics are to be addressed, to the extent that they are locally relevant:

Open-space for the preservation of natural resources including, but not limited to:

- Areas required for the preservation of plant and animal life including habitat for fish and wildlife;
- Areas required for ecologic and other scientific study; rivers, streams, bays and estuaries; and, coastal beaches, lake shores, banks of rivers and streams, and watersheds;

Open-space used for the managed production of resources including, but not limited to:

- Forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber:
- Areas required for recharge of ground water basins;
- Bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and,
- Areas containing major mineral deposits, including those in short supply.

Open-space for outdoor recreation including, but not limited to:

- Areas of outstanding scenic, historic and cultural value.
- Areas particularly suited for park and recreation purposes, including access to lake shores, beaches, and rivers and streams;
- Areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

Open-space for public health and safety including, but not limited to:

- Areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.
- Open-space areas designed for fuel break and fuel reduction zones, helispots, and fire access. Openspace fire safety standards and policies can be implemented by the adoption of open-space zoning regulations. Such regulations would help eliminate the owner-by-owner agreements and public agency financing now necessary for construction and maintenance.
- Identify location of historic natural hazards boundaries such as, inundation areas, landslide paths, debris flows, past wildfires, and earthquake faults.

Demands for trail-oriented recreational use (Public Resources Code §5076). (Cities and counties must consider such demands in developing specific open-space programs.)

Retention of all publicly-owned corridors for the future use: i.e., abandoned rail line, utility corridors, or easements.

The feasibility of integrating city and county trail routes with appropriate segments of the California Recreational Trails System (Public Resources Code §5076). (See the California Recreational Trails Act, commencing with Public Resources Code §5070.)

Ideas for Data and Analysis

The following are suggested topics for the data collection and analysis necessary to the development of open-space policies.

Open-Space for the Preservation of Natural Resources

- Inventory of natural vegetation, fish and wildlife and their habitats, including rare and endangered species (Map) (CO, LU)
 - Inventory plants, natural communities and special animals using the California Department of Fish and Game's "Natural Diversity Data Base." The data base covers all areas of the state and produces overlay printouts for use with U.S.G.S. quadrangle maps. Contact the Natural Heritage Program of the

California Department of Fish and Game.

- List the types of animals that might be found in a particular habitat, the time of year they might be found there, and their activities (e.g., breeding) using information from the "Wildlife Habitat Relationships Program." Contact the Wildlife Management Division of the California Department of Fish and Game.
- Inventory existing and proposed areas for ecologic and other scientific study
- Examine any adopted Habitat Conservation Plans or Natural Communities Conservation Plans
- Inventory oak woodlands (CO)
 - Identify existing oak woodlands where the density of trees is five or more oaks per acre and Blue, Engelman, Valley or Coast Live oak species dominate (map)
 - Assess the effects of past land use decisions upon oak woodlands and identification of factors causing any decline in the oak woodlands
- Consult with the Department of Fish and Game and the U.S. Fish and Wildlife Service regarding species on the threatened or endangered species lists
- Inventory water resources, including rivers, lakes, streams, bays, estuaries, reservoirs, ground water basins (aquifers), and watersheds (map) (CO)
 - Map water bodies
 - Identify the uses of waterways and other bodies of water (e.g., transportation, harbors, and domestic, industrial, agricultural, and recreational use)
 - Delineate the boundaries of watersheds, aquifer recharge areas and the depth of ground water basins
 - Analyze seasonal factors in water availability
- Assess the quality of various bodies of water, water courses, and ground water (CO)
 - Generally delineate the boundaries of and describe unique water resources (e.g., salt-water and fresh-water marshes and wild rivers)
 - Map beaches, lake shores and river and stream banks
 - Review plans prepared by the state for designated wild and scenic rivers (map)

Open-Space for Resource Management

- Inventory forest resources (LU, CO)
 - Describe the type, location, amount, and ownership of forests with a value for commercial timber production, wildlife protection, recreation, watershed protection, aesthetics, and other purposes (map)

- Describe the type, location, amount, and ownership of land and timber resources subject to Timberland Production Zoning (map)
- Inventory agricultural resources, including rangeland (LU, CO)
 - Identify the location, amount, and ownership of land in agricultural production (map)
 - Describe the agricultural production in the planning area by crop type
- Inventory soil resources (CO)
 - Location, acreage, and extent of different soil types and farmland soils (including identification of prime farm land) in the planning area by U.S. Natural Resources Conservation Service's Land Capability Classification system or storie index ratings (see "Useful Definitions And Information" in the section of this chapter dealing with the conservation element) (map)
 - Identify areas subject to soil erosion
- Inventory ground water recharge areas (map) (CO)
- Inventory water bodies that are important for the management of commercial fisheries (map) (CO)
- Inventory mineral resources (LU, CO)
 - Identify the type, location, extent, and quality of mineral resources, including oil and gas (map)
 - Describe the location and extent of geothermal resources (map)
 - Describe the location of mineral resource areas, classified and designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act (map)

Open-Space for Outdoor Recreation

- Inventory areas of outstanding scenic beauty (map)
- Inventory historic and cultural resources, including archaeological sites and historically and architecturally significant structures, sites, and districts (map) (Note: because of the possibility that archaeological sites may be vandalized, the exact locations of the sites must not be publicized.)
- Assess the demand for public and private parks and recreational facilities and inventory areas particularly suited to parks and recreational purposes (LU)
 - Describe the type, location, and size of existing public (federal, state, regional, and local) and private parks and recreational facilities (map)
 - Review federal, state, regional, and local plans and proposals for the acquisition and improvement of public parks (map)
 - Assess present and future demands for parks and

recreational facilities

- Inventory points of public access to lake shores, beaches, rivers and streams (map) (LU)
- Inventory scenic highway corridors
 - Identify state highways included in the Master Plan of State Highways Eligible for Official State Designation as Scenic Highways, local highways of scenic significance, and National Scenic Byways and All-American Roads as designated by the U.S. Forest Service. (map)
 - Assess identified scenic highway corridors and their appropriate boundaries, scenic features, and relationship to surroundings, the incompatible, existing development within the corridor, the proposed realignments or improvements, and the potential for future public and private development within the corridor
- Inventory recreational trails and areas and an assessment of the demand for them (map) (LU)
- Inventory trails proposed by and developed under the California Recreational Trails Plan of 1978 (California Department of Parks and Recreation -- see Public Resources Code §5076 and 5070 et seq.)

Open-Space for Public Health and Safety

- Review the general geology and seismic history of the region and the planning area (S)
- Assess the potential for surface rupture (S)
 - Geological evaluation of the potential for displacement along active and potentially active faults in the planning area (map)
 - Location of Earthquake Fault Zones designated by the State Geologist under the Alquist-Priolo Earthquake Fault Zoning Act (see Chapter 5) (map)
- Assess the potential for ground shaking (S)
 - Identify active and potentially active faults in the region (map)
 - Review historical data on seismic ground shaking within the planning area
 - Geological evaluation of the potential for ground shaking based on a maximum credible earthquake (map)
- Assess the potential for ground failure (S)
 - Geological evaluation of the potential for seismically induced landslides, mudslides, liquefaction, and soil compaction (map)
- Assess slope stability (CO, S)
 - Review historical data on landslides and mudslides
 - Geological evaluation of the potential for landslides and mudslides (map)
- Assess the potential for cliff erosion (S)

- Review historical data on cliff erosion
- Geological evaluation of the potential for cliff erosion (map)
- Assess the potential for land subsidence (S)
 - Review historical data on land subsidence resulting from extraction of ground water, gas, oil and geothermal resources and from hydrocompaction and peat oxidation
 - Geological evaluation of the potential for further subsidence (map)
- Identify flood-prone areas using: (LU, CO, S)
 - National Flood Insurance Program maps published by the Federal Emergency Management Agency;
 - Information from the U.S. Army Corps of Engineers;
 - State Reclamation Board designated floodway maps (for the Sacramento and San Joaquin Valleys only);
 - Dam failure inundation maps prepared pursuant to §8589.5 (available from the Office of Emergency Services);
 - Locally prepared maps of flood-prone areas, repetitive flood damage sites; and/or,
 - Historical data on flooding including information from conversations with long-time local residents.
- Identify watersheds and key areas for the protection of water quality and reservoirs (map) (CO)
- Assess the risk of wild land fires (S)
 - Identify classify areas of varying fire hazard severity based on fuel loading (vegetation), weather and slope, and historical data (map)
 - Identify the developments, facilities, and people in and near hazardous areas
 - Evaluate the adequacy of access to hazardous areas (e.g., types of roads, dead-end roads)
- Identify areas necessary for the protection and enhancement of air quality (map)
- Identify areas with naturally occurring shallow gas deposits

Ideas for Development Policies

Here are some ideas for what might be covered by open-space element policies:

- Protection of fish and wildlife and their habitats, including rare and endangered species (CO)
- Policies promoting and consistent with, adopted HCPs and NCCPs (CO)
- Protect rare and endangered plants (CO)
- Development in or near existing and proposed areas of ecologic or other scientific study
- · Protect and preserve oak woodlands and the manda-

- tory replacement planting of native oaks where oak woodlands are proposed for alteration (CO)
- Protect, use, and develop water bodies and water courses (e.g., rivers, lakes, streams, bays, harbors, estuaries, marshes, and reservoirs) (CO)
- Land use characteristics in watersheds (LU, CO)
- Protect beaches, lake shores and river and stream banks (CO)
- Protection aquifer recharge areas, including specification of minimum parcel sizes (LU, CO)
- Protect water quality (CO)
- Protect designated wild and scenic rivers (CO)
- Protect forestry resources, including specifications for compatible uses and minimum parcel sizes (LU, CO)
- Protect, use and develop agricultural lands (e.g., field crops, orchards, grazing, etc.), including specifications for compatible uses and minimum parcel sizes (LU)
- Use of timberland production zoning (LU, CO)
- Encourage the use of public advisory committees to develop landscape level goals, standards and measures for protecting plant and wildlife communities, and sensitive watersheds (OS)
- Prevent soil erosion (CO, S)
- · Preserve ground water recharge areas
- Protect water bodies and watersheds that are important for the management of commercial fisheries (CO)
- Land use relationships in areas containing major mineral deposits -- including policies, plan proposals, and standards developed under the Surface Mining and Reclamation Act (see Chapter 6) (LU, CO)
- Protect areas of outstanding scenic beauty (LU)
- Protect archaeological sites (LU)
- Preserve historically or culturally significant sites (LU)
- Type, location, acquisition, development, and management of public and private parks and recreational areas (LU)
- Framework for park exactions under the Subdivision Map Act (Quimby Act -- §66477(d)) (LU)
- Protect and improve access to lakeshores, beaches, rivers and streams (LU)
- Protect local scenic highway corridors
- Protect, improve, develop, and maintain recreational trails and related facilities
- Coordinate trails with access to waterways required under the Subdivision Map Act
- Integrate local trails with state and federal trail systems (see Public Resources Code §5076)

- The type, location, and intensity of development in areas of seismic hazards (LU, S)
- The type, location, and intensity of land uses in areas with unstable soils (LU, CO, S)
- Policies for non-structural floodplain management approaches (LU, CO)
- The type, location and intensity of land uses within flood-prone areas (LU, CO, S)
- The type, location and intensity of development in areas subject to inundation from dam failures (LU, S)
- The type, location, and intensity of land uses in fire-hazard areas (S)

Ideas for Open-Space Action Programs

Every local open-space element is required to contain a specific action program (§65564). What follows are some ideas for action programs to preserve open-space. While the first item on the list (i.e., open-space zoning) is a state requirement for counties and general law cities, the other ideas are suggestions only and are meant to stimulate thinking about action programs. More detailed suggestions can be found in OPR's publication *Putting Action into the Open-Space Element*.

- Open-space zoning pursuant to §65910 (e.g., exclusive agriculture zones, large-lot zones, overlay zones for hazards areas, etc.)
- Public acquisition of open-space (see Chapter 5)
- Private acquisition of open-space (e.g., non-profit land trusts or conservancies)
- Preferential assessments (see Chapter 5)
- Application of the Quimby Act to subdivision approvals (see §66477)
- Provisions for open-space in specific plans (see Chapter 5)
- Provisions for open-space in development agreements (see Chapter 5)
- Transfer of development rights

- Open-space in planned unit developments
- Action Programs for open-space within urbanized areas:
 - 1. Connect existing open-spaces to the population with the greatest necessity for these open-spaces. These can be facilitated by:
 - a. Extending the hours of existing recreational facilities by lighting them at night
 - b. Creating a "vacant lot" task force to examine ways to allow publicly owned vacant parcels to convert to interim, passive use parks and community gardens
 - c. Expanding parks and schools and assist schools to convert asphalt to turf
 - d. Funding and expanding various types of parks and recreation programs
 - 2. Impose impact fees on new development where justified:
 - a. Include open-space acquisition in capital improvement programs
 - Employ land use controls to impose reasonable and proportional impact fees to acquire openspace

Technical Assistance and Information

The following state agencies may provide information or assistance for the preparation of the *open-space element:* Air Resources Board, California Coastal Commission, State Coastal Conservancy, Department of Conservation (Division of Land Conservation, Division of Oil, Gas, and Geothermal Resources, and Division of Mines and Geology), Department of Fish and Game, Department of Forestry and Fire Protection, Department of Parks and Recreation, Seismic Safety Commission, Department of Water Resources, and Wildlife Conservation Board.

Open-Space Element

§65302(e): [The general plan shall include] an open-space element as provided in Article 10.5 (commencing with [Government Code] §65560).

§65560: (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to §65563.

- (b) "Open-space land" is any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in this section, and which is designated on a local, regional or state open-space plan as any of the following:
- (1) Open-space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lake shores, banks of rivers and streams, and watershed lands.
- (2) Open-space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.
- (3) Open-space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lake shores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- (4) Open-space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

§65561: The Legislature finds and declares as follows:

- (a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.
- (b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.
- (c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.
- (d) That in order to assure that the interest of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of open-space lands.

That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

§65562: It is the intent of the Legislature in enacting this article:

- (a) To assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.
- (b) To assure that every city and county will prepare and carry out open-space plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive open-space program.

§65563: On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction.

§65564: Every local open-space plan shall contain an action program consisting of specific programs which

Conservation Element

Background

The conservation element provides direction regarding the conservation, development, and utilization of natural resources. Its requirements overlap those of the open-space and land use elements, as well as the safety and circulation elements. The conservation element is distinguished by being primarily oriented toward natural resources.

Population growth and development continually require the use of finite non-renewable resources as well as those which are renewable. One role of the conservation element is to establish policies which reconcile conflicting demands on those resources. In recent years, some jurisdictions have adopted policies relating to mitigation banking and conservation easement programs. as well as the state and federal Endangered Species Acts in their conservation elements. Other local jurisdictions have incorporated policies relative to Natural Community Conservation Planning (NCCP) programs. NCCP is a broad-based approach to the regional and area-wide protection of plants and animals and their habitats while allowing for compatible and appropriate economic activity. This and other programs such as those under the Williamson Act (§51230 et. Seq.) and the Timberland Productivity Act (§51100 et. seq.) provide important implementation tools.

Court and Attorney General Interpretations

As of this writing the conservation element has not been the specific subject of either court decisions or legal opinions of the California Attorney General.

Relevant Issues

To the extent they are relevant, the following issues must be addressed with regard to the conservation, development, and utilization of natural resources:

- Water and its hydraulic force
- Forests
- Soils
- · Rivers and other waters
- Harbors
- · Fisheries
- Wildlife
- Minerals
- · Other natural resources

The conservation element may also cover the following optional issues:

- The reclamation of land and waters;
- The prevention and control of the pollution of streams and other waters:
- Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan;
- Prevention, control, and correction of the erosion of soils, beaches, and shores;
- · Protection of watersheds:
- The location, quantity and quality of rock, sand and gravel resources and other minerals of statewide or local significance;
- · Flood control, floodplain management, and
- Biologic diversity and it implications for ecological sustainability of plant and wildlife habitats.

Ideas for Data and Analysis

Evaluating and quantifying a city's or county's natural resources, including the condition and sustainability of natural resources systems, is necessary for the preparation of a comprehensive conservation element. Analyses should be based upon sound ecological principals cognizant of the relationships between natural communities and the importance of the natural environment to land use planning. The following information represents ideas for data and analysis which should be given consideration in the development of locally relevant policies for the conservation, development and utilization of natural resources.

Water

- Inventory water resources, including rivers, lakes, streams, bays, estuaries, reservoirs, ground water basins (aquifers), and watersheds (Map) (LU, OS)
- Identify the boundaries of watersheds, aquifer recharge areas, and ground water basins (including depths) (Map) LU, OS)
 - Assess local and regional water supply and the related plans of special districts and other agencies
 - Analyze the existing land use and zoning within said boundaries and the approximate intensity of water consumption
- Map the boundaries and describe unique water resources (e.g., salt water and fresh water marshes and wild rivers) (LU, OS)
- Assess the current and future quality of various bodies of water, water courses, and ground water (LU, OS)

- Inventory existing and future water supply sources for domestic, commercial, industrial, and agricultural uses (LU, OS)
- Assess existing and projected demands upon water supply sources, in conjunction with water suppliers (LU, OS)
 - Including: agricultural, commercial, residential, industrial, and public use
- Assess the adequacy of existing and future water supply sources, in conjunction with water suppliers. (LU, OS)
- Map riparian vegetation (LU, OS)
- Assess the use of water bodies for recreation purposes (LU, OS)

Forests

- Inventory forest resources including a comprehensive analysis of conservation needs for forests, woodlands and the interrelationship they have with watersheds (Map) (LU, OS)
 - Describe the type, location, amount, and ownership of forests with a value for commercial timber production, wildlife protection, recreation, watershed protection, aesthetics, and other purposes
 - Project alternative land uses within resource areas including density and intensity of development
 - Describe the types, location, amount, and lot sizes of land and timber resources subject to Timberland Production Zoning (see Chapter 5)
 - Identify areas of five acres or more containing oak woodlands made up of Blue, Engelman, Valley or Coast Live oak species (map)

Soils

- Inventory soil resources (Map) (LU, OS)
 - General classification of soils (including identification of prime agricultural land) in the planning area by the Storie Index or the U.S. Natural Resources Conservation Service's Land Capability Classification System (See "Useful Definitions and Information: "in this chapter)
 - Identify areas subject to soil erosion, landslides
 - Map land within Agricultural Preserves and/or subject to Williamson Act Contracts
 - Identify additional areas potentially qualifying for inclusion in Agricultural Preserves

Harbors

Assess the adequacy of port, harbor, and water-related transportation facilities and the need for expansion and improvements (LU, CI)

- Historical data on the use of facilities
- Projection of future demand based on new or expanded economic activities and recreational
- Review harbor and port district plans for improvements

Fisheries

- Identify water bodies and watersheds that must be protected or rehabilitated to promote continued recreational and commercial fishing - including key fish spawning areas
- Evaluate water quality, temperature, and sources of contaminates
- · Identify physical barriers (man-caused or natural) to fish populations within the watershed, then propose alternatives and set priorities

Wildlife

- Inventory natural vegetation, fish and wildlife and their habitats, including rare, threatened, and endangered species (Map) (OS, LU)
 - Inventory plants, natural communities and special animals using the California Department of Fish and Game's "Natural Diversity Data Base," The data base covers all areas of the state and produces overlay printouts for use with U.S.G.S. quadrangle maps. Contact the Natural Heritage Program of the California Department of Fish and Game (www.dfg.ca.gov/Nddb/rarefind.html)
 - Identify the types of animals that might be found in a particular habitat, the time of year they might be found there, and their activities (e.g., winter range, breeding, etc.) using information from the "Wildlife Habitat Relationships Program." Contact the Wildlife Management Division of the California Department of Fish and Game (www.dfg.ca.gov/ wmd/cwhr/whrintro.html)
 - Consult with the California Department of Fish and Game and U.S. Fish and Wildlife Service regarding listed species
 - Analyze any adopted Habitat Conservation Plan or Natural Communities Conservation Plan for pertinent policies (OS)
- Assess the potential effects of development on the continuity of plant and wildlife habitats.
 - Analyze the potential for development patterns to fragment plant and wildlife habitat.
 - Analyze the regional trends in development to determine their effects on natural resources.

Minerals Including Rock, Sand and Gravel Resources

- Inventory mineral resources. (Map) (LU, OS)
 - Identify the type, location, extent, and quality of mineral resources, as well as oil, gas, and geothermal resources (OS)
 - Locate mineral resource areas classified or designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act (Map) (LU, OS)
 - Identify existing mining areas and oil, gas and geothermal wells (and associated developments) (Map) (LU, OS)

Reclamation of Land

- Inventory lands adversely affected by mining, prolonged irrigation, landfill activities, the storage or disposal of hazardous materials, erosion, etc., for which reclamation may be feasible (Map) (LU, OS)
- Review existing mines for compliance with approved plans of operation (LU)
- Review previous reclamation projects for consistency with the approved standards of the reclamation plan
 - The Department of Conservation, Office of Mine Reclamation, may be contacted for information concerning mining activities, reclamation standards, and permitted mining sites (www.consrv.ca.gov/omr/index.html)

Pollution of Water Bodies

- Examine the existing water quality in aquifers, streams, and other bodies of water
- · Identify existing and potential water pollution sources
 - Inventory hazardous materials dumps, ponds and storage sites (using information plans developed pursuant to Health and Safety Code §25500 et seq.)
 - Identify proposed, existing, and abandoned landfill sites (map)
 - Examine the results of groundwater tests conducted in the vicinities of landfills and hazardous materials dumps, ponds, tanks, and storage areas
 - Examine regulations regarding the use, storage and disposal of hazardous materials
 - Inventory existing and proposed land uses that could contribute to the pollution of streams and other waters
- Identify the need for community sewage collection and treatment
- Assess the capacities of sewers and the treatment capacities of sewage treatment plants
 - Information concerning water quality, wastewater

management, and other water related topics may be obtained from any of California's nine Regional Water Quality Control Boards (www.swrcb.ca.gov/ loc_link.htm)

Reclamation of Water

Identify polluted water sources for which reclamation is feasible

Erosion

- Identify areas subject to erosion using soils data from the U.S. Natural Resources Conservation Service (map)
- Assess historical data regarding beach and shore erosion
- Identify areas subject to potential beach and shore erosion (map)

Flood Control

- Identify flood-prone areas using among other things: (Map) (LU, S)
 - National Flood Insurance Program maps published by the Federal Emergency Management Agency
 - Information available from the U.S. Army Corps of Engineers;
 - State Reclamation Board designated floodway maps
 - Dam failure inundation maps prepared pursuant to California Government Code §8589.5 (available from the Office of Emergency Services)
 - Locally prepared maps of flood-prone areas
 - Historic data on flooding including information from conversations with long-time local residents
- Identify present and possible flood control works, their effects and effectiveness and their costs including: (Map) (LU, S)
 - Dams
 - Reservoirs
 - Levees
 - Flood walls
 - Sea walls
 - Channel alterations
 - Diversion channels and weirs
- A description of federal, state and local agencies involved in flood control including information such as (LU, S):
 - Jurisdictions;
 - Regulatory powers;
 - Existing floodplain regulations such as presidential or gubernatorial executive orders, interstate compacts, and statutes

- The Federal Emergency Management Agency's National Flood Insurance Program; and,
- Available funding and technical assistance
- Identify existing and planned development in floodplains including:
 - Structures, roads, utilities;
 - Construction methods or designs to protect against flooding; and,
 - Compliance with existing regulations for flood control
 - (See Appendix C: Floodplain Management Guidelines)

Other Natural Resources (examples)

- Inventory agricultural resources, including grazing land (LU, OS)
 - Identify location, amount, and ownership of land in agricultural production (map)
 - Describe agricultural production in the planning area by crop type
 - Identify farmlands in accordance with the U.S. Natural Resources Conservation Service's land inventory and monitoring criteria, as shown on the Important Farmland Inventory Series Maps, prepared by the California Department of Conservation. (See "Definitions: Natural Resources" in this chapter.) (map)
 - Inventory irrigated versus non-irrigated agricultural land use
- · General Inventory of wetlands
- Assess air quality, consistent with regional air quality and transportation plans (OS)(CI)
 - Analyze air quality trends
 - Assess existing air quality
 - Analyze potential impacts on air quality of alternative plan proposals and implementation measures
 - Identify air quality impacts from vehicle emissions
 - Identify air quality impacts from all other sources
- Inventory energy producing resources
 - Inventory resources, including wind, solar, hydroelectric, and biomass (using forest, domestic, and agricultural wastes)
 - Inventory energy conservation opportunities, including transportation economies, urban design (i.e., land use patterns), and residential, commercial, and industrial conservation programs

Ideas for Development Policies

The conservation element should contain objectives, policies, principles, plan proposals and standards for the conservation, development and utilization of a

- jurisdiction's natural resources. Policies should be specific enough to cover the individual resources yet broad and inclusive enough to include the natural systems from which they are produced. For example, the following information represents the subjects which should be considered during the preparation of the conservation element and included as development policies to the extent they are locally relevant:
- The protection, use, and development of bodies of water and water courses (i.e., rivers, lakes, streams, bays, harbors, estuaries, marshes, and reservoirs) (OS)
- The type and intensity of development in or adjacent to water bodies and courses (LU, OS)
- The protection of and development in watersheds and aquifer recharge areas (LU, OS)
- Enhancement and protecting the quality of surface water resources and preventing contamination
- General preservation of wetlands, including jurisdictional wetlands as well as salt water and fresh water marshes consistent with federal and state requirements (OS)
- Protection of wild rivers and their watersheds (OS)
- Protection or improvement of water quality (OS)
- Provision of domestic, industrial, and agricultural water (OS)
- Conservation of water supplies (ground and surface)
- Conservation of riparian vegetation (OS)
- Designation and utilization of hydroelectric power generating sites (map) (LU)
- Management and protection of forestry resources (LU, OS)
- Conservation of forests for wildlife protection, recreation, aesthetic purposes, etc. (LU, OS)
- Protection and preservation of oak woodlands (OS)
- Application of timberland production zoning (LU)
- Rezoning of land zoned for timberland production (LU)
- Minimize conflict between agricultural and urban land uses through transitions in land use designations(LU)
- Management and use of agricultural soils (LU, OS)
- Erosion control and prevention (OS, S)
- Encourage the use of public advisory committees to develop landscape level goals, standards and measures for protecting plant and wildlife communities, and sensitive watersheds. (OS)
- Development and improvement of port, harbor, and waterway facilities (CI)
- The protection of water bodies and watersheds that are important for the management of commercial and

- recreational fishing (LU, OS)
- Protection of fish and wildlife and their habitats (OS)
- Protection of plant species and their habitats. (OS)
- Preservation and protection of rare, threatened, or endangered species within the planning area, including candidate species and species of special concern, consistent with state and federal regulations and law (OS)
- Promotion of congruency and cooperation with the management plans and policies of other local, state, or federal agencies, or non-profit foundations or groups involved with the preservation of resources
- Recognition and implementation of enacted Habitat Conservation Plans (including multi-species plans) and Natural Communities Conservation Programs (OS)
- The protection, use, and development of mineral deposits, including oil and gas and geothermal resources. (This should include policies developed under the Surface Mining and Reclamation Act (see Chapter 6)) (OS)
- Development adjacent to or near mineral deposits, mining sites, and oil, gas, and geothermal developments (LU, OS)
- Land reclamation in areas where mining, prolonged irrigation, landfill activities, hazardous materials storage or disposal, erosion, etc., have occurred (LU)
- Establishment of resource conservation areas. (OS)
- · Protection of water quality
- Elimination of existing water pollution sources
- Development, improvement and timing of major sewer, water and storm drainage projects needed to maintain water quality (LU, CI)
- Siting of landfills in relation to water bodies (among other considerations)

- Siting of hazardous materials storage and disposal facilities with regard to nearby water bodies (and other considerations) (LU)
- Control of hazardous materials in areas where water pollution is possible
- Reclamation of polluted water bodies
- Erosion control (OS, S)
- Flood control (LU, OS, S)
- Conservation, development and utilization of other natural resources such as:
 - farm and grazing lands (LU, OS)
 - air quality (LU, CI, OS)
 - energy resources (H)
- Protection or improvement of air quality through coordinated efforts with other public agencies and jurisdictions (LU, CI, OS)
- Enhancement and protection of archaeological, historic, and paleontological resources

Technical Assistance and Information

The following state agencies may provide information or assistance for the preparation of the conservation element: California Environmental Protection Agency, Department of Boating and Waterways, California Coastal Commission, State Coastal Conservancy, Department of Conservation (Office of Mine Reclamation - Division of Land Conservation), Energy Resources-Conservation and Development Commission, Department of Fish and Game, Department of Food and Agriculture, Department of Forestry, Department of Parks and Recreation (Resource Protection Division), Reclamation Board, Department of Water Resources, Wildlife Conservation Board, Office of Emergency Services, and Office of Planning and Research.

Useful Definitions And Information

Conservation: The management of natural resources to prevent waste, destruction, or neglect.

Erosion: The process by which soil and rock are detached and moved by running water, wind, ice, and gravity.

Habitat: The natural environment of a plant or animal.

Important Farmland Series Maps: Maps maintained by the California Department of Conservation under the Farmland Mapping and Monitoring Program (www.consrv.ca.gov/olc/ farmland.html) to show farmland and urban areas in California. These maps are based in part on modern soil surveys published by the Natural Resources Conservation Service, and initially cover all or part of 45 counties within California. The maps and associated acreage data are for information only, and do not constitute a state prescription for local land use. The maps use eight classifications: "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," "Grazing Land," "Urban and Builtup Land," "Other Land," and a separate overlay category of "Land Committed to Non-agricultural Use," is also maintained. The Department of Conservation has detailed definitions of these classifications. Generally they are defined as follows:

Prime Farmland: Farmland with the best combination of physical and chemical features able to sustain long term production of agricultural crops. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. The land must have been used for the production of irrigated crops at some time during the two update cycles prior to the mapping date.

Farmland of Statewide Importance: Farmland similar to "Prime Farmland," but with minor shortcomings, such as greater slopes, or with less ability to hold and store moisture. The land must have been used for the production of irrigated crops at sometime during the two update cycles prior to the mapping date.

Unique Farmland: Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. The land must have been cropped at some time during the two update cycles prior to the mapping date.

Farmland of Local Importance: Land, of importance to the local economy, as defined by each county's local advisory committee and adopted by its Board of Supervisors. Farmland of Local Importance is either currently producing, or has the capability of production, but does not meet the criteria of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. Authority to adopt or to recommend changes to the category of Farmland of Local Importance rests with the Board of Supervisors in each county.

Grazing Land: Land on which the existing vegetation is suited to the grazing of livestock. This category is used only in California and was developed in cooperation with the California Cattlemen's Association, the University of California Cooperative Extension Service, and other groups interested in knowing the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.

Urban and Built - Up Land: Land occupied by structures with a building density of at least one unit to one and one-half acres, or approximately six structures to a ten-acre parcel.

Land Committed to Nonagricultural Use: Land that is permanently committed by local elected officials to nonagricultural development by virtue of decisions which cannot be reversed simply by a majority vote of a city council or county board of supervisors. "Land Committed to Nonagricultural Use" must be designated in an adopted local general plan for future nonagricultural development. he resulting development must meet the requirements of "Urban and Built-up Land" or "Other Land." County boards of supervisors and city councils have the final authority to designate lands in this category.

Water: Water areas with an extent of at least 40 acres.

Land Capability Classification (U.S. Natural Resources Conservation Service): A grouping of soils into classes (I-VIII), subclasses, and units according to their suitability for agricultural use, based on soil characteristics and climatic conditions.

Minerals: Any naturally occurring chemical ele-

ment or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum (Public Resources Code §2005). Gold, sand, gravel, clay, crushed stone, limestone, diatomite, salt, borate, potash, etc., are examples of minerals. Despite the statutory definition of "mineral," local governments may also want to consider geothermal, petroleum and natural gas resources along with their planning for minerals.

Non-Renewable Natural Resources: Inanimate resources that do not increase significantly with time and whose use diminishes the total stock (e.g., minerals, fossil fuels and fossil water).

Prime Agricultural Land: "Prime agricultural land" means the following:

- (1) All land which qualifies for rating as Class I or Class II in the Natural Resources Conservation Service land use capability classifications.
- (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
- (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
- (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
- (5) Land which has returned from the production of unprocessed agricultural plant products an

annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years (§51201 (c)). (NOTE: This statutory definition may be somewhat dated.)

Renewable Natural Resources: Resources that can be replaced by natural ecological cycles or sound management practices (e.g., forests and plants).

Riparian Habitat: The land and plants bordering a watercourse or lake.

Storie Index: A numerical system (0-100) rating the degree to which a particular soil can grow plants or produce crops, based on four factors, including soil profile, surface texture, slope, and soil limitations.

Timber: "Trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock" (§51104(e)).

Timberland Production Zone: An area which has been zoned pursuant to §51112 or §51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses.

Watershed: The total area above a given point on a watercourse that contributes water to the flow of the watercourse; the entire region drained by a watercourse.

Wetlands: Areas that are permanently wet or periodically covered with shallow water, such as saltwater and freshwater marshes, open or closed brackish marshes, swamps, mud flats, vernal pools, and fens. This also includes wetlands under the jurisdiction of the U.S. Army Corps of Engineers which encompasses vernal pools and other areas with hydrology, soils, and vegetation meeting federal regulatory standards.

income, as defined in Section 50093 of the Health and Safety Code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

- (3) "Area median income" shall mean area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for the lower income households in accordance with the provisions of this subdivision for 30 years.
- (4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.
- (i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot which may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, which have a substantial adverse effect on the viability or afferdability of a housing development affordable to low- and moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d).
- (j) When a proposed housing development project complies with the applicable general plan, zoning, and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that

the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

- (1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, unavoidable impact, as provided in written standards, policies, or conditions.
- (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Added by Stats.1982, c. 1438, § 2. Amended by Stats.1990, c. 1439 (S.B.2011), § 1; Stats.1991, c. 100 (S.B.162), § 1, eff. July 1, 1991; Stats.1992, c. 1356 (S.B.1711), § 1; Stats.1994, c. 896 (A.B.3735), § 2.)

Conservation Element

§65302(d): [The general plan shall include] a conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Prevention and control of the pollution of streams and other waters.
- (3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
 - (5) Protection of watersheds.
- (6) The location, quantity and quality of the rock, sand and gravel resources.
 - (7) Flood control.