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June 21, 2007

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Mr. Tom Herman, Chair
County of Humboldt Planning Commission
3015 H Street
Eureka, CA 95501

RE: General Plan Update- Group 5

Dear Chairman Herman:

On behalf of Green Diamond Resource Company, thank you for the opportunity to comment on this group of chapters for the General Plan Update process. We know that this is a long and complicated process and we appreciate the amount of work that staff has undertaken.

Given the time limitation for the presentation, the key sections of our comments will presented to the Commission tonight; however, we respectfully require that all of our written comments be part of the official record.

We will address each chapter separately, but would like to provide some general comments that are applicable to all of the chapters. First, we do not support the voting system used in the matrix. We believe the GP Update process should be driven by careful consideration of the Alternatives by the policy makers (the Commission and the Board of Supervisors) based on testimony from landowners, experts, interest groups, the general public and staff. We do not believe it should be driven by popular vote.

As the Update process moves forward it is becoming more evident that the Chapters are often interrelated, with several different chapters affecting the same resource lands. It is very difficult to analyze impacts to these lands or the environment without understanding the cumulative effects of the entire Update process. For instance, how can the combined effects of the open space, conservation, and biological resources be properly evaluated when the chapters on timberlands, agricultural lands and water resources have not yet been finalized?

Chapter 12- Conservation and Open Space

At page 12-2 the chapter includes a list titled "Open Space for the Managed Production of Resources." We believe it is an important distinction that as a result of our ongoing forest management activities we produce a sustainable harvest of timber that is converted to wood products. This provides economic stability to the local economy while maintaining open space, wildlife habitat and water. We believe this chapter should also address the need to conserve our County's resource based industries by supporting solutions to reduce the regulatory burden on agricultural and timberland owners.

We support the stated "Program Goals" at page 12-6 that includes the statement "General Plan implementation programs that provide methods of preservation without undue regulations are desirable." Landowners that wish to participate in conservation easement programs should be able to do so based on their own goals and objectives as a "willing seller" working with a "willing buyer." However, not all landowners are willing to commit future generations to a permanent deed restriction.

We believe the best way to conserve resource lands may be through programs and agreements that provide long term regulatory predictability and certainty. An example of such an agreement is the 50 year Aquatic Habitat Conservation Plan Green Diamond recently completed with the US&FWS and NOAA- Fisheries. This is an agreement between a private landowner and the federal wildlife and fisheries agencies for the long management of our lands for the benefit of listed species under specified management practices. Although the term "conservation" pertains to wildlife, the effect of the AHCP is to conserve the long term use of lands for timber management and resource protection. The term "open space" does appear in our AHCP.

Plan Alternatives Chart: We are concerned that Alternatives A and B may result in regulations that place additional restrictions and regulations on resource lands resulting in reduced income and lower land values. We are particularly concerned the policy CO-P1 (page 12-14) that establishes "timberland buffers" to insure separation of existing communities. Policy CO-P2 calls for "permanent protection for particularly important working landscapes through conservation easements and other mechanisms." We believe conservation easements should be open market transactions between willing sellers and buyers and not promoted by the threat of regulation. We are also concerned with the potential implications of the term "other mechanisms."

We are also very concerned about OS-IM5 (page 12-15) that allows the County transfer development rights away from open space lands. This would have a serious effect on land values and ability to "bank" or the use of these development rights is not clearly defined.

The chapter ends with the following conclusion: "If Alternatives A or B are followed, the impacts will be minimal. If Alternatives C or D are selected, the impacts to open space will be significant." The analysis contained in this chapter does not support this conclusion. This conclusion is even more troubling since it does not consider the discussion regarding open space lands in other chapters. This is very significant since the two most significant chapters potentially affecting open space - Timberlands and Agriculture- have not been finalized and are therefore not part of the staff analysis.

Chapter 14- Biological Resources

The stated goal of this chapter is to "maximize where feasible, the long term public and economic benefits from the biological resources within the County by maintaining and restoring fish and wildlife habitats. The management of biological resources is the responsibility of the State Department of Fish and Game, with exception of species listed under the federal Endangered Species Act (FESA). Terrestrial species and freshwater fish listed under the FESA are overseen by the US Fish and Wildlife Service; listed

anadromous fish species are overseen by the NOAA Fisheries (National Marine Fisheries Service).

Any project that requires a permit from a state or local agency is required by CEQA to conduct an assessment of the project to determine if significant adverse effects to the environment will occur as a result of the project, and to mitigate any identified impacts below the threshold of significance. Timber harvesting projects are assessed and approved through a "functional equivalent" process where the THP is considered to be the same as an EIR. The THP review and assessment includes a multi-disciplinary panel that consists of CDF, DFG, Water Quality and the California Geological Survey. DFG is the responsible agency for biological resources in the THP review process.

When the County issues a building permit it must assure that biological resources are being properly assessed and protected. This may include a review of the project by a qualified biologist and consultation with DFG and federal agencies.

Within the first two pages, this chapter defines terms Sensitive and Critical Habitats. The source of these definitions is not provided, nor is the method for determining the spatial extent and location of these habitats. The federal Endangered Species Act defines critical habitat as: *Specific geographic areas, whether occupied by a listed species or not, that are essential for its conservation and that have been formally designated by rule published in the Federal Register.* This is substantially different than the definition found on pages 14-2 & 3.

At page 14-2 it also states that the National Environmental Protection Act (NEPA) required the protection of "sensitive habitats." NEPA applies on federally managed lands (such as the Six Rivers National Forest), where a federal permit is required, or to a project supported by federal funds. NEPA does not apply to private lands.

Section 14.4 (page 14-3) identifies activities within sensitive areas that are exempt from the conditions and requirements of this policy including "timber management conducted under a THP or NTMP, or activities exempt from local regulation per PRC 4516(f)." This statement recognizes the primacy of the State Forest Practice Act over local jurisdictions for the regulation of timber harvesting and associated activities.

At page 14-6, under "Streamside Management Areas," BR-S7 and BR-S8 include retention requirements associated with timber harvesting. The County does not have the authority to dictate standards for a timber harvest conducted under a state permit.

Comparison of Alternatives Chart (page 14-11): The Goal and Policy statements use several terms that are not defined, but are in the current Framework. Terms such as "Important Habitats" (BR-P1) and "Critical Species" (BR-P2) are not defined and are terms not used by other regulatory agencies. The policy for the development in stream channels (BR-P3) does not state the requirement for a Section 1600 Agreement from DFG that would have primacy over the County's jurisdiction.

At page 14-12 the chart describes "Biological Resources Maps" (BR-P6) but these maps are not defined. Who maintains these maps and how is new information added to these maps? The DFG also maintains maps of biological resources called the Natural

Diversity Data Base (NDDDB). Are the County maps more up to date and accurate than the NDDDB?

At BR-S11 (page 14-20) the chart summarizes "Other Sensitive and Critical Habitats." The description uses the terms "rare" and "unique", for the State and Federal Endangered Species Acts. In the current version of these acts, species may as candidate, threatened or endangered. The key issue is for the County to defer questions to the State and Federal wildlife agencies where there are questions pertaining to potential impacts on listed species.

Preliminary Environmental Impact Analysis: At page 14-22, second paragraph, the analysis states "in areas zoned for timber production (which make 52% of the land area in the County) where timber harvesting occurs pursuant to a Timber Harvest Plan, the County has almost no influence over potential environmental impacts of those land use decisions." Timber harvesting projects are regulated by the State and must meet the requirements of the Forest Practices Act and other applicable State and Federal regulations. Although the timber harvesting plan (THP) is considered the functionally equivalent to an EIR, the THP review and approval process must still comply with CEQA. Also, the County does not have jurisdiction over any timber harvesting operation conducted under an approved State permit regardless of the zoning (as long as the operation is three acres or larger).

At the bottom of page 14-24 it reads "Glossary and Definitions [to be added]." Definitions of key terms are critical to understanding the scope and impact of proposed standards and measures. It is not possible to properly review and assess the impacts of this chapter without the definitions.

Based on our review of the alternatives (within the limitations of not knowing the definitions of key terms), it appears that Alternatives A and B would substantially increase prescriptive regulations pertaining to development near streams and watercourses. Alternative C includes nearly all of the same policies, goals, standards and measures as A and B except for the streamside and wetland measures. Alternative D includes all but four of the same requirements as Alternative C, and one additional (BR-S9) for erosion control within Streamside Management Areas. It is not clear if the current Streamside Management Area Ordinance (June 2002) would still be in effect under Alternative C.

Regardless of the alternative selected, the projects permitted through the County must meet the requirements of CEQA and therefore include a biological assessment. The County cannot approve a development permit that is not consistent with the requirements of CEQA, including protection of listed fish and wildlife species. The involvement of "referral agencies" such as DFG, USF&WS and NOAA- Fisheries provide the County staff the input to properly assess the potential impacts of the proposed project and develop mitigation measures to minimize impacts.

Chapter 15.1- Cultural Resources

We believe that Alternative A may be overly burdensome and costly, and prefer Alternatives C or D over Alternative B. Regardless of the Alternative selected, this

chapter should be amended to recognize that consistent with the requirements of CEQA, harvesting permits issued by CDF include a review of archeological/historical resources. This includes an archeological record check at Northwest Information Center (administered by the Yurok Tribe and Sonoma State University) and a field review of the proposed harvest area to verify that archeological or historical features are not present. If such features are found, appropriate measures are taken to protect the site and the site is recoded with the Information Center.

CDF administers an archeological training course that is required for anyone (except a professional archeologist) conducting archeological surveys. Foresters are also required to contact local Tribal representatives and request if they have any knowledge of sites in the area of the proposed timber harvest. Based on the current process for review and protection of archeological/historic sites under timber harvesting permits, the Cultural Resources chapter should clearly state that properly permitted timber harvesting and associated activities are exempt from the County measures.

There is one change that should be considered to at page 15.1-7 under CU-P5. The last portion of "A" in this measure reads "representatives of the cultural resources community and relevant experts;" should be changed to "or relevant experts".

Chapter 15.2- Scenic Resources

This chapter is of great concern because it potentially has far reaching effects that cannot be properly assessed due to a lack of clear definitions. This chapter also appears to overlay the Agriculture and Timberlands chapters without a clear understanding of precedence.

At page 15.2-1 (last paragraph) states: "*Policies in the plan for protecting scenic qualities of forestlands are limited to supporting the continued timber production uses of these lands, and discouraging their conversion to residential or industrial use. State laws governing timber harvest regulations significantly narrow the scope of the scenic protection measures the County may apply to forest lands.*"

We concur with these statements with some reservations. Within the "urban study area" boundaries it is highly likely some future conversion of timberlands will occur as there is simply no where else to for residential development. This chapter should recognize that eventuality.

The recognition that the County has very little regulatory control over timberlands is a key theme, as the harvest of timber on non federal lands is regulated by the State. However, the County has the opportunity to provide comments on individual timber harvesting plans during CDF's review and approval process.

The recommendation to consider five State Highways or State Routes as officially State designated Scenic Highways may be a significant policy action that needs to be fully understood. Such a recommendation should not be included as part of the Update process unless all the potential impacts are fully disclosed and considered.

At page 15.2-4, SR-P3 defines "Scenic Roadway Protection"; however, nowhere does the chapter define a "scenic roadway" (as compared to a scenic highway). At page 15.2-5 buffers are identified for "scenic roadway plan standards"; however, allowable activities within these buffers are not clear. Do these buffers regulate timber harvesting?

Also at page 15.2-5 (item SR-S1) there is a discussion regarding the "natural landforms protection." This section states: "Natural landforms, including slope, visible contours of hill tops and treelines, bluffs and rock outcroppings, shall suffer the minimum feasible disturbance compatible with development of any permitted use." It is difficult to harvest a stand of trees and not affect the treeline. It is also impossible to develop and use a rock pit without altering the landform- especially if that rock pit is a rock outcropping. We are concerned that generalized language of this nature may provide future staff or the general public with expectation of regulatory control over currently permitted activities or activities that are regulated by the State.

Standard SR-S4 (page 15.2-7) describes development within "community separators." Item 3 states "minimize the removal of trees and other vegetation." Does this mean that landowners cannot harvest trees to develop their property or manage the forests with these currently unmapped "community separators?" What if trees must be harvested to meet the 100 feet CDF fire clearance standard? It is impossible to assess the impact of this provision without the mapped locations of these separators.

"Implementation Measures" in section 15.2.2 (page 15.2-7) includes measure SR-IM2 "Identification and Protection of Heritage Landscapes and Forested Hillslopes." This measure calls for the mapping of the "heritage landscapes" in the Ferndale and Arcata Bottoms, and the forested hillslopes between Eureka and Arcata, and provide protection measures to protect the scenic quality of these areas. It is not possible to assess the impact of this proposal as there is no definition of either "heritage landscapes" or "forested hillslopes," and these features are not mapped or delineated. Also, does this proposed measure have primacy over the State Forest Practice Rules for the regulation of timber harvesting and the intent of TPZ zoning?

There is also confusion in the document regarding "scenic roadways" verses "officially designated Scenic Highways." At page 15.2-2 the chapter recommends five separate State Highways to be officially designated as State Scenic Highways. However, at SR-S3 (page 15.2-5) the term "Scenic Roadway" is used without further definition. Are these the same as Scenic Highways? What are the State's requirements for the designation and protection of Scenic highways? If the "scenic roadways" are different than the Scenic Highways, where are these roads located?

15.2.6 Staff Analysis and Alternatives (starting at page 15.2-9): This section describes the four different alternatives, with Alternative "A" being the most restrictive and Alternative B being the second most restrictive. We believe it is not possible to adequately assess the potential impacts of these two Alternatives given the lack of definitions and the unknown area of coverage for identified protection measures. We are therefore opposed to the adoption of either Alternative A or B and favor Alternative D, or Alternative C with changes that are identified below.

At page 15.2-13 under "Alternative C" it states: "Alternative C does not include the heritage landscape protection measures of Alternative B." However, the Plan Alternative

Comparison Chart at page 15.2-21, SR-IM2 includes Alternative C in the "Identification and Protection of Heritage Landscapes and Forested Hillslopes" measures. The chart should be corrected to exclude Alternative C from this Implementation Measure.

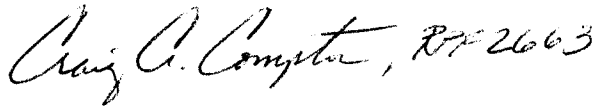
We are also not clear why the "Standards" (SR-S1 and SR-S2) in the chart at pages 15.2-16 & 17, are not assigned to any of the Alternatives. Do they apply to all of the Alternatives, or none of the Alternatives?

With the following changes we believe Alternative C should be considered as a suitable compromise to the other Alternatives.

- Goal SR-G1: add the following to the current language; "Conserve, enhance, and protect scenic areas where feasible increase the..."
- SR-PL: Exclude this policy statement from Alternative C
- SR-S1 and SR-S2: Do not include these standards in Alternative C
- SR-IM2: Exclude this implementation measure form Alternative C
- FRWK 3542.2: Include this language in Alternative C

Thank you for the opportunity to provide these comments.

Sincerely,


For

Gary C. Rynearson, RPF 2117
Manager Forest Policy and Sustainability

CC: Bonnie Neely, Chair, Humboldt County Board of Supervisors