

DEPARTMENT: Planning

BY: Alvaro Arias, Assoc. Planner
PHONE: 742-1218

RECOMMENDED ACTION AND JUSTIFICATION:

Resolution Approving Land Conservation Act Application No. 2009-078 with Findings, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Gary and Leisa Belser for a 529-acre Parcel Located on Pendola Garden Road in Mariposa; APN 011-240-005.

Justification is provided in the Staff Report, Attachment A.

Action is based upon the recommendations of the Planning Commission and the Agricultural Advisory Committee.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

No actions have been taken by the Board on the subject property.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Deny creation of the Agricultural Preserve.

Contract must be executed and recorded prior to 5:00 p.m. on Thursday, December 31, 2009 in order for tax advantages to be effective for the 2009 tax year.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		Attachments:
Additional Funding Needed: \$		A. Staff Report to the Board with Attachments
Source:		(as listed on Page 1 of Staff Report)
Internal Transfer		
Unanticipated Revenue	_____ 4/5's vote	
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
() General () Other		

CLERK'S USE ONLY:

Res. No. 09-584 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

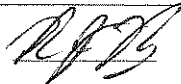
COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: 

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution

No. 2009-584

A resolution approving Land Conservation Act Contract Application No. 2009-078, APN 011-240-005, Gary and Leisa Belser, applicants.

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was received on June 8, 2009 from Gary and Leisa Belser for a property located at 6557 Pendola Garden Road in Mariposa, also known as Assessor Parcel Number 011-240-005; and

WHEREAS the property has been used for agricultural purposes for a minimum of three years; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory Committee meeting of September 10, 2009; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Agricultural Advisory Committee did hold their meeting on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and their own knowledge of county-wide agricultural operations; and

WHEREAS based on the requirements of Resolution 77-157 the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors establish a new Agricultural Preserve on the subject property and enter into a new Land Conservation Act Contract with the applicant; and

WHEREAS a duly noticed Planning Commission public hearing for the project was scheduled for the 9th day of October 2009; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they find this project exempt from the provisions of the California Environmental Quality Act; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they approve Land Conservation Act Contract Application No. 2009-078; and

WHEREAS the Planning Commission recommendation for project approval was based upon the findings set forth in the Staff Report as presented to the Planning Commission at the public hearing of October 9th, 2009; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 1, 2009; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt from the provisions of the California Environmental Quality Act.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves Land Conservation Act Contract Application No. 2009-078, establishing an agricultural preserve and executing a Land Conservation Act Contract.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings set forth in Exhibit 1 of this resolution.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project for the property as set forth in the legal description contained within Exhibit 2 of this resolution.

BE IT FINALLY RESOLVED THAT the Mariposa County Board of Supervisors hereby directs the Chairman of the Board to execute the Land Conservation Act Contract for this property.

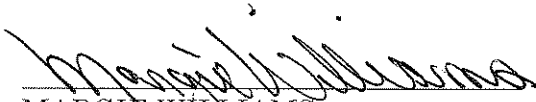
THIS RESOLUTION is duly passed and adopted this December 1, 2009 by the following vote:

AYES:	ABORN, TURPIN, BIBBY, CANN, ALLEN
NOES:	NONE
EXCUSED:	NONE
ABSTAIN:	NONE




BRAD ABORN, Chairman
Mariposa County Board of Supervisors

Attest:



MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:



STEVEN W. DAHLEM
County Counsel

EXHIBIT 1
PROJECT FINDINGS AND CONDITIONS
FOR
Land Conservation Act Contract Application No. 2009-078

FINDINGS

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan's purpose.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the county. This project will result in the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve will contain 529 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). The project complies with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The parcel has been used for agricultural purposes for at least three years, and the agricultural uses have been profitable.
3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines

EXHIBIT 2
LEGAL DESCRIPTION

ALL THAT PORTION OF SECTION 4 IN TOWNSHIP 5 SOUTH, RANGE 17 EAST, M.D.B.&M., LYING WEST OF THAT LINE DESCRIBED BETWEEN CORNERS 40 THROUGH 51 ON THAT DOCUMENT, RECORDED JANUARY 30, 1940 IN VOLUME 7, PAGE 178, MARIPOSA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE S. 89° 31' E. 89.87 FEET TO A POINT ON SAID LINE BETWEEN SAID CORNERS 40 AND 41; THENCE ALONG SAID LINE N. 22° 45' W. 1435.27 FEET; THENCE N. 18° 24' 2. 324.70 FEET; THENCE N. 25° 44' W. 613.40 FEET; THENCE N. 8° 11' W. 145.20 FEET; THENCE N. 00° 18' W. 426.50 FEET; THENCE N. 16° 48' W. 542.50 FEET; THENCE N. 21° 15' W. 587.10 FEET; THENCE N. 12° 49' W. 574.20 FEET; THENCE N. 38° 29' W. 76.20 FEET; THENCE N. 16° 28' W. 825.30 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 4; THENCE S. 89° 32' W., ALONG SAID NORTH LINE, 1124.0 FEET, MORE OR LESS, TO THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE WESTERLY ALONG SAID NORTH LINE, 2640 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SECTION 4; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 4, 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE EASTERLY, ALONG THE SOUTH LINE OF SAID SECTION 4, 5280 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE "DRY CREEK LODGE", DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 1, BEING THE NORTHWEST CORNER OF THE LOT, PIECE OR PARCEL OF LAND HEREIN REFERRED TO AND DESCRIBED AS THE "DRY CREEK LODGE", FROM WHENCE A WHITE OAK TREE, 12" IN DIAMETER BEARS SOUTH 6° 41' WEST 24.80 FEET AND FROM WHENCE A WHITE OAK TREE, 7" IN DIAMETER, BEARS SOUTH 46° 55' WEST 35.20 FEET, AND FROM WHENCE THE QUARTER SECTION CORNER ON THE COMMON BOUNDARY LINE BETWEEN SECTION 4, TOWNSHIP 5 SOUTH, RANGE 17 EAST, AND SECTION 33, TOWNSHIP 4 SOUTH, RANGE 17 EAST, M.D.B.&M. (AS THE SAID SECTIONS, TOWNSHIP AND RANGE ARE SO DELINEATED IN THAT CERTAIN PATENT OF THE TRACT OF ALSO KNOWN AS "LAS MARIPOSAS", FROM THE UNITED STATES OF AMERICA TO JOHN C. FREMONT, DATED THE 19TH DAY OF FEBRUARY, 1856, AND RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE SAID COUNTY OF MARIPOSA ON THE 23RD DAY OF MARCH, 1857, IN BOOK "D" OF DEEDS AT PAGES 70 TO 88 INCLUSIVE AND ALSO RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE SAID COUNTY OF MARIPOSA ON THE 23RD DAY OF DECEMBER, 1857 IN BOOK "M" OF PATENTS AT PAGE 1 TO 17 INCLUSIVE, RECORDS OF THE SAID COUNTY OF MARIPOSA, NORTH 35° 29' WEST 547.78 FEET; AND RUNNING THENCE SOUTH 37° 30' EAST 1,500.00 FEET TO CORNER NO. 2 BEING THE SOUTHWEST CORNER OF THE SAID DRY CREEK LODGE; THENCE NORTH 52° 30' EAST 350.00 FEET TO CORNER NO. 3 OF SAID DRY CREEK LODGE FROM WHENCE A WHITE OAK TREE 14" IN DIAMETER BEARS SOUTH 1° 00' EAST 76.20 FEET, AND FROM WHENCE THE SOUTHEAST CORNER OF A RECTANGULAR PARALLELOGRAM OF WHICH THE DRY CREEK LODGE IS A PART, AND OF WHICH THE SIDE LINES ARE 600.00 FEET, IN LENGTH, BEARS NORTH 52° 30' EAST 250.00 FEET; THENCE PARALLELING THE WESTERLY LINE OF A ROAD COMMONLY KNOWN AS "COW AND CALF ROAD" NORTH 11° 50' WEST 577.20 FEET TO CORNER NO. 4 OF THE SAID DRY CREEK LODGE; THENCE NORTH 37° 30' WEST 979.75 FEET TO CORNER NO. 5 OF THE SAID DRY CREEK LODGE, FROM WHENCE A WHITE OAK TREE, 24" IN DIAMETER, BEARS NORTH 85° 40' EAST, 63.40 FEET, AND FROM WHENCE A WHITE OAK TREE 24" IN DIAMETER BEARS NORTH 86° 30' WEST 23.00 FEET; AND

THENCE SOUTH 52° 30' WEST 600.00 FEET TO THE POINT OF COMMENCEMENT; MAGNETIC VARIATION 17° 40' EAST AND BEING A PORTION OF THE NORTHEAST QUARTER OF THE SAID SECTION 4, AND KNOWN AS THE "DRY CREEK LODGE".



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
KEVIN CANN
JIM ALLEN

DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING to Consider a Resolution Approving Land Conservation Act Application No. 2009-078 with Findings, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Gary and Leisa Belser for a 529-Acre Parcel Located on Pendola Garden Road in Mariposa; APN 011-240-005

RESOLUTION 09-584

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 1, 2009

ACTION AND VOTE:

11:12 a.m. Kris Schenk, Planning Director;

A) PUBLIC HEARING to Consider a Resolution Approving Land Conservation Act Application No. 2009-078 with Findings, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Gary and Leisa Belser for a 529-Acre Parcel Located on Pendola Garden Road in Mariposa; APN 011-240-005

BOARD ACTION: Kris Schenk introduced the item. Alvaro Arias, Associate Planner, presented the staff report. Staff responded to questions from the Board relative to the applicant understanding that the contract runs with the property for the full term; relative to future changes in the use with the training and sale of horses and being able to comply with the Williamson Act Contract terms with the cattle; clarification of there not being any patents and whether that applies to mining claims – staff will review this issue before finalizing the contract; clarification that this property is owned by one owner and there will only be one contract; relative to consideration of the financial implication to the County of approximately a \$7,600 reduction in taxes for this contract; relative to the status of enforcement of the contracts; whether the Board can deny an application if it meets all of the criteria and clarifying that this application was reviewed by the Agricultural Advisory Committee and the Planning Commission. Becky Crafts, Assessor, responded to questions from the Board relative to the financial impact of the contracts and non-renewals on the tax rolls and the enforcement issues.

The public portion of the hearing was opened and input was provided by the following:

Ruth Catalan stated she agrees with Supervisor Cann and Becky Crafts relative to the financial impact considerations and enforcement issues; and she feels that there are people taking advantage of the Williamson Act. She does not feel that this application is for a viable Williamson Act operation. She feels there should be a moratorium on approving contracts until there is enforcement.

The public portion of the hearing was closed and the Board commenced with deliberations relative to the application and the issues that were raised, including the need for enforcement. Staff responded to

a question from the Board relative to the change in the contracts to address underlying historic parcels. (M)Allen, (S)Turpin, Res. 09-584 was adopted approving Land Conservation Act Application No. 2009-078 with findings, approving the creation of a new Agricultural Preserve and approving execution of a new Land Conservation (Williamson) Act Contract with Gary and Leisa Belser as recommended/Ayes: Unanimous. Supervisor Bibby clarified that this project is exempt from CEQA. The hearing was closed.

Cc: Kris Schenk, Planning Director
Becky Crafts, Assessor/Recorder
Keith Williams, Treasurer/Tax Collector/County Clerk
File