

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF COLUSA ESTABLISHING A  
PROCESS OF ENVIRONMENTAL REVIEW FOR STATE AND FEDERAL PLANS,  
PROGRAMS AND PROJECTS**

The Board of Supervisors of the County of Colusa ordains:

Chapter 40 shall be added to the Colusa County Code to read as follows:

**Section 40-1. DECLARATION OF PURPOSE AND INTENT**

- A. The custom, culture and economy of Colusa County are often significantly and adversely affected by federal and state plans, programs and projects. It appears, however, that many of these adverse effects could be eliminated or substantially reduced through an effective, coordinated process of environmental review prior to implementation.
- B. The policy of environmental planning and review in Colusa County, as it relates to federal and state plans, programs and projects, is designed to promote the stated purposes and philosophy of the National Environmental Policy Act (NEPA)<sup>1</sup>

To declare a national policy which will encourage the productive and enjoyable harmony between man and his environment; to promote efforts which will eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the nation...

- C. Federal statutes and presidential executive orders provide the framework for coordinated planning between Colusa County and federal agencies. Federal statutes and regulations require federal agencies to coordinate their initial planning efforts with local government.<sup>2</sup> NEPA requires federal agencies to work in close consultation with local governments and coordinate plans, functions, programs and resources.<sup>3</sup> Further, it is the responsibility of the federal government to assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings;<sup>4</sup> preserve important historic, cultural, and natural aspects of our national heritage, and maintain, whenever possible, an environment, which supports diversity and variety of individual choice.<sup>5</sup>
- D. The Intergovernmental Cooperation Act contains specific coordinated planning requirements for local, state and federal agencies.<sup>6</sup> Presidential Executive Order 12372 requires federal agencies to coordinate actions and projects with local governments so that local impacts arising from federal projects may be identified.

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<sup>1</sup>/ National Environmental Policy Act of 1969, effective January 1, 1970 (42 USC 4321 et seq.). Section 2, Purpose.

<sup>2</sup>/See for example, 16 USC 1601; 43 CFR 1604(a).

<sup>3</sup>/42 USC 4331(a) and (b).

<sup>4</sup>/42 USC 4331(b)(2).

<sup>5/</sup>42 USC 4331(b)(4).

E. In adopting the California Environmental Quality Act (CEQA), the California legislature found and determined that;

There is a need to understand the relationship between the maintenance of high quality ecological systems and the general welfare of the people of the state.<sup>7</sup>

It is the intent of the legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.<sup>8</sup>

F. The California legislature has further determined under CEQA that "all public agencies shall adopt by ordinance, resolution, rule or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations..."<sup>9</sup>

G. In order to carry out these important policies and objectives for federal and state plans, programs and projects, which may significantly affect the quality of the human environment in Colusa County, it is necessary for all such agencies to comply with the provisions and policies of this ordinance, including any rules and regulations promulgated hereunder, as well as the applicable provisions of NEPA and CEQA.

H. The overriding purpose of this ordinance is to assist federal and state agencies in coordinating their planning activities with Colusa County consistent with our respective obligations under NEPA and CEQA. Further, public agencies engaged in activities which may be otherwise exempt from NEPA or CEQA are nonetheless invited and encouraged to participate voluntarily in this process.

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<sup>6/</sup> 42 USC 4231.

<sup>7/</sup> California Environmental Quality Act, Pub. Reso Code Section 21000(c).

<sup>8/</sup> California Environmental Quality Act, Pub. Res. Code Section 21000(g).

<sup>9/</sup> California Environmental Quality Act, Pub. Res. Code Section 21082.  
Section 40-2. **ENVIRONMENTAL POLICY**

The Colusa County Board of Supervisors finds and declares:

- A. The protection of the custom and culture in Colusa County is important to the present and future preservation of environmental quality for its people.
- B. The assurance for all Colusa County citizens of a safe, healthful, productive, and culturally and aesthetically supportive environment is essential to the quality of life and human environment.
- C. Maintenance of a quality environment for the people of Colusa County, now and in the future, is a matter of public concern.
- D. There is a need to understand the relationship between the maintenance of nature and the general welfare of the people who live, work and play in Colusa County, including the use of its natural resources.
- E. The capacity of the environment is limited. It is the intent of the Board of Supervisors to take immediate steps to protect the critical thresholds, which are necessary to maintain the quality of the environment and to protect the economic stability of the county, which supports its custom and culture.
- F. Every citizen of Colusa County has a responsibility to contribute to the preservation of these standards and the enhancement of the environment. Effective management of natural resources requires systematic and coordinated efforts between public and private interests to enhance environmental quality and maintain economic stability.
- G. State and federal agencies promoting plans, programs and projects that may adversely affect private citizens who contribute to the economic stability of Colusa County, shall assure that major consideration is given to protecting the environment without depriving county citizens of a decent home.

Section 40-3. **OBJECTIVES OF ENVIRONMENTAL PLANNING & REVIEW**

- A. The Colusa County Board of Supervisors has identified six (6) primary objectives:
  - 1. To disclose to decision makers and the public significant environmental consequences of proposed actions of state and federal governmental agencies on nature, society, custom and culture, property rights, and economic stability of Colusa County.
  - 2. To identify means to mitigate or eliminate adverse impacts to the environment, including nature, society, custom and culture, property rights, and the economic stability of Colusa County.
  - 3. To prevent injury to this environment by requiring implementation of feasible alternatives or mitigation measures.

4. To foster and encourage intergovernmental coordination and cooperation.
5. To encourage and enhance public participation and education in the environmental review process.
6. To plan and manage natural resources consistent with environmental and community standards and for the public good.

#### Section 40-4. **CRITERIA AND PROCEDURES**

- A. In order to achieve the objectives expressed in Section 3, above, the following procedures shall apply to all projects involving state or federal agencies;
  1. Interagency agreements are necessary to a coordinated process of environmental review. Such agreements shall include the development of a system of timely notification to the county of agency actions, plans, programs and projects, which have the potential to affect the environment. An interagency agreement, which proposes to comprehensively address the goals and objectives of this ordinance, may be utilized as an alternative to the procedures established herein upon notification to and acceptance by the Colusa County Board of Supervisors.
  2. Consistent with the obligations of the proponent agency to coordinate and consult with the county government, an Initial Assessment Report (IAR) shall be prepared whenever there is an indication that the plan, program or project of that agency may have an adverse impact on the environment as defined in paragraph 2, Section 3 of this ordinance. To avoid redundancy, the IAR may be included as a separately titled component of other written environmental assessments required under NEPA and CEQA,<sup>10</sup> provided that all other requirements of this ordinance are met. The IAR shall include, (a) a description of the plan program or project; (b) the environmental setting; (c) an assessment of potential environmental impacts; (d) a description of mitigation measures proposed to reduce or eliminate environmental impacts; and (e) the consistency of the plan, program or project with the Colusa County General Plan.
  3. Based on conclusions and findings contained in the IAR and such other data as may be necessary to a determination, the Board of Supervisors and the federal or state proponent agency-- shall, within thirty (30) days of receipt of the IAR, jointly determine whether to conduct a Coordinated Environmental Review and Assessment (CERA) or find that the plan, program or project presents no significant environmental impacts.
  4. If the Colusa County Board of Supervisors and the proponent agency determine to conduct a CERA, it shall be prepared as a written report by the proponent agency and submitted to the Colusa County Board of Supervisors. To avoid redundancy, the CERA may be included as a separately titled component of other written environmental assessments, statements or reports required under NEPA and CEQA. As relevant to the goals of the plan, program or project, the discussion and analysis should include the following:

<sup>10</sup>/ See for example, 40 C.F.R. Part 1506, Section 1506.2, 1508.9 (NEPAJ; California Pub. Res. Code Section 21083.5 (CEQA); and Title 14 Cal. Code Reg. 15221(a) and 15222 [CEQA Guidelines].

- A. Impacts on county natural resources and environmental quality, including;
  - (1) impacts on forest and timber resources;
  - (2) impacts on range or dry land crops;
  - (3) impacts on watershed resources;
  - (4) impacts on private surface and groundwater rights and irrigated cropland;
  - (5) impacts on air, water (including surface and groundwater), energy and soils;
  - (6) impacts on integrated resource planning and management in which the county, private parties and/or other public agencies are involved;
  - (7) impacts on multiple use, sustained yield and range resource laws and regulations;
  - (8) impacts on private investment in public land and resources;
  - (9) impacts on the production and enjoyable harmony between man and his environment, stimulation of the health and welfare of man, and support of diversity and variety of individual choice as assured under NEPA;
  - (10) impacts on hunting, fishing and other outdoor recreation.
  
- B. Impacts on county society, custom and culture, governance, schools and other local public services, including;
  - (1) impacts on culture due to population loss;
  - (2) impacts from proposed or foreseeable limitations or restrictions on cultural beliefs and practices, and maintenance of cultural and community cohesion and kinships;
  - (3) impacts on cultural and community aesthetics, including historical natural resource vistas, river ways and landscapes;
  - (4) impacts on the ability of local government to protect the health, safety, social and cultural well being of its citizens;
  - (5) impacts on the ability of local government to promote local environmental values, resource protection and development;

- (6) impacts on the ability of local government to finance local public programs and services through bonding, lending and other financing mechanisms;
- (7) identification of tax revenue loss to local government and schools;
- (8) impacts from identified tax revenue loss on the ability of local governments and schools to deliver public services;
- (9) impacts on local emergency medical services, law enforcement, fire protection and nuisance abatement;
- (10) impacts on local government infrastructure, including transportation, public community water systems, including those provided through irrigation and reclamation districts, and landfill services;
- (11) cumulative and long term impacts on local community stability and well being;

C. Impacts on local economy, customs, services and businesses, which shall include;

- (1) impacts on private, investment backed expectation;
- (2) impacts on the economic value of privately held water rights and real property;
- (3) direct and cumulative impacts on employment and wages;
- (4) direct and cumulative impact on agriculture and related industries;
- (5) direct and cumulative impacts on local retail and service industries;
- (6) impacts on housing and related residential services such as water, sewer, sanitation and energy;
- (7) impacts on thresholds for business demand and markets;
- (8) direct and cumulative impacts on community stability and well being related to private ability to maintain current and future debt service.

D. Takings Implication Assessment. The CERA shall identify and assess impacts of the plan, program or project on private property rights in the county utilizing the criteria established in Presidential Executive Order 1263.0, entitled "Governmental

Actions and Interference with Constitutionally Protected Property Rights", and the Attorney General's guidelines, entitled:

"Evaluation of Risks and Avoidance of Unanticipated Takings".

In addition, this component of the CERA shall include discussion and analysis of the following:

- (1) whether the plan, program or project constitutes an actual physical intrusion or actual taking of private property;
- (2) potential for loss of economic value or investment backed expectation;
- (3) related impacts on custom and culture;
- (4) whether the agency action conforms to constitutionally protected property rights and commonly accepted notions of fairness and due process.

E. Mitigation. For the purposes of this component of the CERA it is the policy of the County of Colusa that public agencies should not approve plans, programs or projects as proposed if feasible alternatives or mitigation measures exist which would, if implemented, reduce or eliminate significant impacts on the environment, as defined in paragraph 2, Section 3 of this ordinance. As relevant to the goals of the plan program or project, proposed mitigation measures should:

- (1) identify each impact which the mitigation measure is intended to address;
- (2) identify the party or agency responsible for the implementation and monitoring of the proposed mitigation measure;
- (3) Specify, for each mitigation alternative, (a) how impacts may be avoided by not taking particular action; (b) how impacts may be minimized by limiting the degree or magnitude of the proposed action; (c) how impacts may be rectified through repair, rehabilitation or restoration of the affected environment; (d) how impacts may be reduced or eliminated over time through preservation and maintenance over the life of the proposed action; and (e) how the agency could compensate for the impact by providing substitute resources of equal economic value;
- (4) Specify, for each mitigation measure, its (a) legal authority; (b) technical feasibility; (c) fiscal and

economic feasibility; and (d) social, political and cultural feasibility;

- (5) Draft a detailed mitigation-monitoring plan, which shows as to each mitigation measure specific objectives and performance standards to ensure implementation of mitigation measures during the life of the plan, program or project.

**F.** Cumulative Effects. Because the monitoring and maintenance efforts of state and federal agencies have historically proved inadequate to measure effectively the cumulative and long term effects of their plans, programs and projects, these impacts remain unmeasured in any sense that will admit to remedial action. This is especially true for the impacts on multiple uses of natural resources and economic stability. To provide a necessary tool for addressing these issues, the county shall develop and make available local economic studies containing unit cost and other indices for the purpose of measuring economic impacts. One of the primary reasons for enacting the procedures contained in this ordinance and the commitment of county resources for the development of accurate data is to assist public agencies to identify systematically both present and cumulative impacts associated with their actions and to develop effective and feasible mitigation measures and alternatives so that these adverse impacts may be eliminated or substantially reduced.

**G.** Public Participation. Another key component of effective environmental review is public participation in the process. During the preparation of environmental documentation for plans, programs and projects which are subject to this ordinance, Colusa County and the proponent federal or state agency shall provide opportunities for the involvement of Colusa County citizens, residents, local governments, schools, utilities, civic, business and other community groups. Such opportunities shall be provided through noticed public hearings and meetings, or other methods calculated to give actual notice of and a meaningful opportunity to participate in the environmental review and assessment.

#### Section 40-5. **GENERAL REQUIREMENTS**

In addition to the procedures contained in this ordinance, the county shall:

- A. adopt such administrative rules and regulations deemed necessary to carry out its objectives;
- B. establish an oversight committee or other organization to assure that the intent and purposes of the procedures established by this ordinance are maintained;

C. develop such environmental and resource related cooperative agreements, memorandums of understanding, joint policy statements, and joint letters of intent with appropriate state and federal agencies, so that the goals and objectives of this ordinance, the Colusa County General Plan, and the Permanent Land Use Management Plan of Colusa County may be carried out.

Section 40-6. **SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance or the application thereof to any person or circumstances is declared invalid or unconstitutional by the decision of a court of competent jurisdiction, that decision does not affect the validity of the remaining portions of this ordinance. The Board of Supervisors declares that it would have adopted this ordinance irrespective of the fact that any section, subsection, clause, phrase or portion is unconstitutional or invalid.

Within 15 days after passage of this ordinance, the county clerk shall cause it to be published at least once in a newspaper of general circulation published and circulated within the County of Colusa.

The foregoing ordinance was introduced at a general meeting of the Colusa County Board of Supervisors on \_\_\_\_\_, 1993 and adopted at a meeting held on \_\_\_\_\_, 1993 by the following vote:

Ayes:  
Nays:  
Absent:

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KAY K. NORDYKE, Chairman  
Colusa County Board of Supervisors

ATTEST:

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KATHLEEN MORAN, Clerk/Recorder  
and ex-officio Clerk to the  
Board of Supervisors

APPROVED AS TO FORM:

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William James Murphy  
Colusa County Counsel

