



KASSOUNI LAW

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VIA ELECTRONIC MAIL

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Re: Response to Appeal of Approval of Mitigated Negative Declaration
and Use Permit; Project: Rancho Lake LLC Cannabis Cultivation (UP
21-15 / IS 21-16); Appellant: 276 Ranch LLC (Luchetti Family)

Dear Chair and Members of the Board of Supervisors:

I. INTRODUCTION

This response is submitted on behalf of Rancho Lake, Inc. and Comstock Ranch, LLC, in opposition to the appeal filed by 276 Ranch LLC challenging the Planning Commission's approval of the Major Use Permit and adoption of the Mitigated Negative Declaration for the Rancho Lake cannabis cultivation project. The appellant contends that the County violated the California Environmental Quality Act (CEQA) and asserts that preparation of an Environmental Impact Report is required. The administrative record does not support these claims.

The County properly conducted an Initial Study and determined that all potential environmental impacts would be less than significant with mitigation. The appellant has not identified substantial evidence supporting a fair argument that the Project may result in a significant environmental effect. Instead, the appeal relies on speculation, disagreement with expert conclusions, and generalized concerns. Under established CEQA law, such assertions are insufficient to require preparation of an Environmental Impact Report. Accordingly, the appeal should be denied and the Planning Commission's approval upheld.

II. LEGAL STANDARD

A. CEQA Framework

CEQA establishes a three-tiered process for environmental review. If a project is not exempt, the lead agency must conduct an initial study to determine whether the project may have a significant effect on the environment. If there is no substantial evidence that the project may have a significant effect, the agency must adopt a negative declaration or mitigated negative declaration. If substantial evidence supports a fair argument that the project may have a significant environmental effect, an Environmental Impact Report is required. (Pub. Resources Code, § 21080, subd. (c); Cal. Code Regs., tit. 14, § 15064, subd. (f)(1); *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 380–381.)

B. The Fair Argument Standard and Substantial Evidence

Under the fair argument standard, an Environmental Impact Report is required only if substantial evidence in the record supports a fair argument that the project may have a significant environmental effect. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75; Guidelines, § 15064, subd. (f)(1). Substantial evidence must be “reasonable in nature, credible, and of solid value.” Pub. Resources Code, § 21080, subd. (e)(1).

Speculation, unsubstantiated opinion, and narrative do not constitute substantial evidence. Pub. Resources Code, § 21080, subd. (e)(2); Guidelines, § 15384, subd. (a). Courts have consistently held that generalized fears, unsupported assumptions, and disagreement with an agency’s conclusions do not satisfy the fair argument standard. See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417.

Although the fair argument standard is a low threshold, it is not meaningless. A project opponent must present evidence that a significant environmental effect may occur, not merely that it is conceivable. *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 192.

III. PROJECT DESCRIPTION AND CEQA FINDINGS

The Project consists of approximately 19.6 acres that has historically been used for agricultural purposes, including hay production and cattle grazing. The Project includes associated agricultural infrastructure and relies on an existing groundwater well.

The County's Initial Study evaluated all relevant environmental issue areas and determined that potential impacts would be reduced to less than significant levels through mitigation measures and conditions of approval. Based on this analysis, the County properly adopted a Mitigated Negative Declaration.

IV. RESPONSE TO GROUNDS FOR APPEAL

A. Water Resources and Hydrology

1. Appellant's Claim

The appellant contends that the hydrological analysis is inadequate, fails to account for cumulative groundwater extraction, and may result in impacts to neighboring wells and Putah Creek. The appellant further contends that the Project may impair its asserted water interests and that the County improperly relied on deferred mitigation.

2. Substantial Evidence Supports the County's Determination

The administrative record squarely refutes these assertions. The record contains a Hydrogeologic Assessment Report prepared by a qualified hydrogeologist evaluating groundwater availability, recharge, and potential impacts to nearby wells and surface waters. That analysis concludes that the aquifer underlying the Project site is a resilient, well-recharged alluvial system capable of sustaining the Project's annual demand without causing significant declines in groundwater levels or measurable impacts to Putah Creek or neighboring wells. An agency is entitled to rely on the opinions of its experts where those opinions are supported by facts and analysis. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 393.

The record further demonstrates that long-term monitoring in the Coyote Valley Groundwater Basin reflects stable groundwater conditions with seasonal fluctuations that consistently recover during the wet season. This baseline condition is critical under CEQA because impacts must be evaluated relative to existing environmental conditions, not hypothetical worst-case scenarios. The County's analysis properly applied this framework.

3. Cumulative Impacts Were Properly Evaluated

The appellant's claim that cumulative groundwater extraction was not evaluated is directly contradicted by the record. The hydrological analysis considered cumulative groundwater use across the Coyote Valley Groundwater Basin, including agricultural, domestic, and environmental demands, not merely nearby cannabis operations.

The appellant's argument improperly attempts to narrow the cumulative impacts inquiry to a subset of nearby cannabis operations, which is inconsistent with CEQA's requirement to evaluate cumulative impacts in a geographically appropriate context. The County's basin-wide analysis reflects the proper scope of review.

4. Empirical Evidence Refutes Claims of Well Interference

The record contains site-specific empirical data that directly addresses the potential for well interference. As documented in the hydrological materials, a nearby well identified as Ag-2 was pumped at a rate of 650 gallons per minute for 82 days, resulting in extraction of approximately 76,752,000 gallons, which is nearly five times the Project's annual water demand. During this extended pumping period, a nearby monitoring well located approximately 600 feet away experienced a drawdown of only 1.7 feet, and groundwater levels recovered approximately 95 percent within three hours after pumping ceased.

This real-world data provides substantial evidence that the aquifer responds predictably and recovers rapidly, and it demonstrates that the Project's substantially lower level of groundwater extraction will not result in significant impacts to adjacent wells. The appellant offers no comparable empirical data to rebut this evidence.

5. The Project Does Not Affect Putah Creek or Appellant's Water Rights

The Hydrogeologic Assessment Report specifically evaluated potential hydrologic connectivity between the Project well and Putah Creek and concluded that the Project will not result in measurable impacts to creek flows. Because no measurable impact to Putah Creek is anticipated, there is no basis to conclude that the Project will interfere with the appellant's claimed water rights associated with that watercourse.

The appellant's assertion that its water rights may be impaired is therefore unsupported by evidence demonstrating any physical environmental effect. CEQA requires evidence of environmental impact, not legal or economic concerns regarding water rights.

6. The Appellant's Critique of Testing Methodology Is Unsupported

The appellant criticizes the use of a six-hour pump test and asserts that longer-duration testing would be required to evaluate drought conditions. This argument ignores the broader analytical framework employed in the Hydrogeologic Assessment Report, which incorporates aquifer characteristics,

recharge rates, basin-wide conditions, and comparative pumping data in addition to pump testing.

The appellant does not identify any evidence demonstrating that the methodology used is unreliable or that it produces erroneous conclusions. Nor does the appellant present an alternative analysis based on site-specific data showing that significant impacts would occur. Absent such evidence, the appellant's critique amounts to disagreement with the methodology, which does not constitute substantial evidence. See *Laurel Heights Improvement Assn. v. Regents of University of California*, *supra*, 47 Cal.3d at p. 393.

7. Monitoring and Reporting Do Not Constitute Deferred Mitigation

The appellant contends that the Project relies on improper deferred mitigation through monitoring and reporting. This characterization is incorrect. The Project includes specific mitigation measures addressing hydrological impacts, including requirements derived from applicable regulatory programs and conditions of approval that ensure water use remains within sustainable limits.

Monitoring and reporting are appropriately used to verify compliance with established mitigation measures and performance standards. They do not substitute for mitigation, but rather ensure that mitigation remains effective over time. CEQA permits such measures where, as here, the underlying impact has been reduced to less than significant based on substantial evidence.

8. The Appellant's Evidence Does Not Satisfy the Fair Argument Standard

The appellant relies on generalized assertions that impacts may occur under certain conditions and on critiques of the applicant's analysis that are not supported by competing empirical data. These assertions do not rise to the level of substantial evidence because they are speculative and lack a factual foundation tied to the Project site.

Courts have repeatedly held that speculation and unsubstantiated opinion are insufficient to trigger the preparation of an Environmental Impact Report. *Gentry v. City of Murrieta*, *supra*, 36 Cal.App.4th at p. 1417. Even under the fair argument standard, the appellant must present evidence that a significant impact may occur, not merely that it is conceivable.

9. Conclusion

The County's determination that hydrological impacts will be less than significant is supported by substantial evidence, including expert analysis, basin-wide evaluation of groundwater conditions, and empirical pump testing data. The

appellant has not presented substantial evidence demonstrating a reasonable possibility of significant impact. Accordingly, there is no fair argument requiring preparation of an Environmental Impact Report with respect to hydrology and water resources.

B. Traffic and Emergency Evacuation

1. Appellant's Claim

The appellant contends that the Project fails to adequately analyze traffic impacts and emergency evacuation conditions, including cumulative evacuation constraints associated with the Grange Road corridor and a potential connection to the Guenoc Valley Resort. The appellant further asserts that the Project will exacerbate emergency access limitations in a wildfire-prone area.

2. Substantial Evidence Supports the County's Determination

The administrative record demonstrates that the County evaluated transportation and access conditions and determined that traffic impacts would be less than significant. The Project generates a limited number of daily vehicle trips, consisting primarily of employee commutes and periodic deliveries, with an estimated 24 daily trips under normal operations and up to 40 trips during peak periods. These trip levels are modest and do not approach thresholds typically associated with significant transportation impacts.

The Project site is accessed via existing roadways that connect to a state highway, and the Project includes improvements that enhance internal circulation and accessibility. These characteristics support the County's conclusion that the Project will not substantially degrade roadway operations or create hazardous conditions.

3. Agency Consultation and Jurisdictional Considerations

The record further reflects that the County consulted appropriate public safety agencies regarding emergency access and evacuation. The South Lake County Fire Protection District indicated that evacuation issues fall within the jurisdiction of the Lake County Sheriff and the Office of Emergency Services, and no responsible agency identified a significant impact associated with the Project.

CEQA does not require an agency to speculate regarding potential impacts where the agencies with jurisdiction have not identified a concern. The absence of any such finding by responsible agencies constitutes substantial evidence supporting the County's determination.

4. The Appellant's Reliance on Hypothetical Future Conditions Is Improper

The appellant's argument relies in part on a proposed evacuation route associated with the Guenoc Valley Resort. That route has not been established and remains speculative. CEQA analysis must be based on reasonably foreseeable conditions associated with the Project, not on uncertain future infrastructure or unrelated projects.

The appellant also asserts cumulative evacuation concerns without identifying evidence demonstrating that the Project's modest traffic generation would materially affect evacuation conditions. Generalized concerns regarding rural road capacity do not constitute substantial evidence of a significant impact.

5. Conclusion

The record contains substantial evidence supporting the conclusion that traffic and emergency access impacts will be less than significant. The appellant has not presented evidence demonstrating a reasonable possibility of a significant impact. Accordingly, there is no fair argument requiring preparation of an Environmental Impact Report with respect to traffic or emergency evacuation.

C. Biological Resources

1. Appellant's Claim

The appellant contends that the biological resources analysis is outdated and inadequate, asserting that it fails to properly evaluate sensitive species and does not reflect current site conditions.

2. Substantial Evidence Supports the Adequacy of the Biological Analysis

The administrative record demonstrates that biological resources were evaluated through a Biological Resources Assessment and Botanical Surveys Report prepared by qualified biologists. The surveys included multiple field visits conducted during appropriate seasonal windows, including surveys in February, April, and June, which are standard periods for identifying both plant and wildlife species.

The appellant has not identified any change in site conditions that would invalidate these surveys. The Project site has remained in active agricultural use, including grazing, and therefore continues to reflect the baseline conditions evaluated in the biological reports.

3. Mitigation Measures Ensure Less Than Significant Impacts

The Project incorporates multiple mitigation measures and conditions of approval specifically designed to protect biological resources. These include requirements for pre-construction surveys conducted by qualified biologists to identify any special-status plant or animal species and to implement appropriate avoidance and minimization measures.

Such measures are widely recognized as effective tools for reducing potential impacts to less than significant levels. The inclusion of these measures provides substantial evidence supporting the County's determination.

4. Appellant's Assertions Do Not Constitute Substantial Evidence

The appellant's claim that the biological analysis is "outdated" is not supported by evidence demonstrating that the surveys are inaccurate or incomplete. Nor does the appellant present any competing biological analysis identifying specific species or habitats that were overlooked.

Disagreement with the conclusions of qualified experts does not constitute substantial evidence under CEQA. Absent evidence demonstrating a factual deficiency in the analysis or a reasonably foreseeable significant impact, the appellant's assertions are insufficient to support a fair argument.

5. Conclusion

The record contains substantial evidence supporting the conclusion that biological resource impacts will be less than significant with mitigation. The appellant has not presented substantial evidence demonstrating otherwise. There is therefore no fair argument requiring preparation of an Environmental Impact Report on this issue.

D. Fire Safety and Wildfire Risk

1. Appellant's Claim

The appellant asserts that the Project fails to comply with fire safety standards, including Public Resources Code sections 4290 and 4291, and that it introduces additional ignition risks that could increase wildfire hazards.

2. Substantial Evidence Supports Compliance with Fire Safety Requirements

The Initial Study evaluated wildfire risks associated with the Project and incorporated mitigation measures and conditions of approval designed to ensure

compliance with applicable fire safety regulations. These measures address access, defensible space, water availability, and operational practices.

The Project also includes improvements that enhance site accessibility for emergency responders and provide additional on-site resources that can be utilized in the event of a wildfire. These features support the conclusion that the Project will not result in a significant increase in wildfire risk.

3. The Appellant's Assertions Lack Evidentiary Support

The appellant's claim that the Project introduces numerous ignition sources is not supported by any technical analysis or quantified assessment of risk. The appellant does not identify any specific deficiency in the Project's fire safety measures or demonstrate how the Project would fail to comply with applicable standards.

Under CEQA, generalized assertions regarding potential hazards do not constitute substantial evidence. Without factual support demonstrating a reasonably foreseeable increase in wildfire risk, the appellant's claims cannot satisfy the fair argument standard.

4. Conclusion

The record contains substantial evidence supporting the County's determination that wildfire impacts will be less than significant with mitigation. The appellant has not presented substantial evidence to the contrary. Accordingly, there is no fair argument requiring preparation of an Environmental Impact Report on wildfire or fire safety issues.

E. Odor, Air Quality, and Land Use Compatibility

1. Appellant's Claim

The appellant asserts that the Project will generate significant odor impacts and that the County's analysis is inadequate because it relies on non-site-specific data and fails to account for the scale of the Project. The appellant further contends that the Project lacks engineered odor control systems and that the introduction of additional information during the administrative process required recirculation.

2. Substantial Evidence Supports the County's Determination

The administrative record demonstrates that the County evaluated air quality and odor-related impacts in the Initial Study and determined that such impacts would

be less than significant with implementation of mitigation measures and operational controls. These measures include an Odor Management Plan, operational restrictions, and compliance with applicable local and state regulatory requirements governing cannabis cultivation activities.

CEQA does not require an agency to conduct highly technical or speculative modeling where the record otherwise contains substantial evidence supporting a conclusion of less than significant impact. Agencies are entitled to rely on standard regulatory frameworks, industry practices, and experience with comparable projects in assessing odor impacts. Courts have consistently recognized that an agency's reliance on expert judgment and regulatory compliance is sufficient where supported by the record. See *Laurel Heights Improvement Assn. v. Regents of University of California*, *supra*, 47 Cal.3d at p. 393.

3. The Appellant's Scaling and Dispersion Arguments Are Theoretical and Do Not Constitute Substantial Evidence

The appellant's central argument is that odor impacts will increase proportionally with the size of the cultivation area and that data derived from smaller-scale operations cannot be extrapolated to the Project. This argument is not supported by site-specific evidence demonstrating that the Project will result in a significant environmental effect.

CEQA does not require an applicant to disprove every theoretical model of potential impact. Rather, the question is whether substantial evidence demonstrates a reasonable possibility of a significant effect. The appellant has not presented any site-specific odor measurements, dispersion modeling tied to the Project location, or empirical data demonstrating that odor concentrations will reach levels constituting a significant impact.

Courts have repeatedly rejected attempts to rely on generalized theories or abstract modeling assumptions in the absence of factual evidence tied to the project site. See *Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th at p. 928. The appellant's scaling argument is precisely the type of speculative reasoning that CEQA excludes from the definition of substantial evidence.

4. The Record Supports the Effectiveness of Odor Management Measures

The Project includes an Odor Management Plan that establishes operational practices designed to minimize odor generation and off-site migration. Such plans are standard in cannabis cultivation projects and are widely accepted by regulatory agencies as effective tools for controlling odor.

The appellant's assertion that "engineered" systems such as carbon filtration are required reflects a policy preference, not a CEQA requirement. Outdoor agricultural operations are not typically subject to enclosed or mechanical odor control systems, and CEQA does not mandate the use of any particular technology absent evidence demonstrating that existing measures are insufficient.

The County reasonably concluded, based on the record, that the combination of operational controls, site conditions, and regulatory oversight would ensure that odor impacts remain less than significant.

5. The Appellant Has Not Demonstrated a Significant Environmental Impact

The appellant's concerns regarding odor largely relate to potential nuisance conditions affecting nearby properties. CEQA, however, is concerned with substantial adverse changes in the physical environment. The appellant has not presented evidence demonstrating that odor from the Project will result in such a change.

Courts have distinguished between generalized complaints about potential nuisance conditions and evidence of a significant environmental impact. Absent evidence that odor will rise to a level that substantially degrades environmental quality, such concerns do not trigger the requirement for an Environmental Impact Report. See *Gentry v. City of Murrieta*, *supra*, 36 Cal.App.4th at p. 1417.

6. The Recirculation Argument Lacks Merit

The appellant also contends that the introduction of additional information during the administrative process required recirculation. Recirculation is required only where new information is added that reveals a new significant impact, a substantial increase in severity of a previously identified impact, or a feasible mitigation measure that clearly would reduce significant impacts but was not previously adopted. CEQA Guidelines, § 15088.5, subd. (a).

The appellant has not identified any such information in the record. The additional materials referenced do not demonstrate a new or more severe impact, nor do they undermine the County's conclusions. Accordingly, recirculation was not required.

7. Conclusion

The record contains substantial evidence supporting the County's determination that odor and air quality impacts will be less than significant with mitigation. The appellant's arguments rely on theoretical assumptions, policy preferences, and

unsupported critiques rather than evidence demonstrating a reasonably foreseeable significant impact. Because the appellant has failed to present substantial evidence supporting a fair argument, there is no basis to require preparation of an Environmental Impact Report with respect to odor or air quality.

V. CONCLUSION

The administrative record demonstrates that the County conducted a thorough environmental review and properly concluded that all potential impacts would be less than significant with mitigation. The County's decision is supported by substantial evidence, including expert technical analysis and mitigation measures that reduce all potential impacts to less than significant levels. The appellant has failed to identify substantial evidence supporting a fair argument that the Project may have a significant environmental effect.

CEQA does not require an Environmental Impact Report based on speculation, disagreement, or hypothetical impacts. Because the appellant has not met its burden, it is respectfully requested that the Board of Supervisors deny the appeal, uphold the Mitigated Negative Declaration, and affirm the Planning Commission's approval of the Major Use Permit.

Respectfully submitted,

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